

BidZirk, LLC, Daniel
G. Schmidt III, and Jill
Patterson

Plaintiffs,

VS

Philip J. Smith
Defendant. (& Counter)

Civil Action No: 6:06-CV-109-HMH
Joint Motion & Status
Hearing Request

The following is:

A joint set of motions for the court to rule upon

A plea of the court to proceed in a timely fashion with dismissal
so as to give reprieve to Defendant (Smith)

Statements concerning proceedings thus far

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Civil Action # 6:06-cv-00109 **BIDZIRK vs Smith**

Motion for "slander of title" / Motion to strike:

Bidzirk counsel has placed "Lis Pendens" on my condominium. It is currently on the market for sale. This property is owned by my father who has the full lien on the unit. This is not an asset of Philip Smith (defendant).

This discredits any attempt I can make to sell this condominium.

Bidzirk has neither been awarded restitution nor in the process of receiving a trial award. Liens or notice thereof as a potential lien holder are made solely for the purpose of a PROVEN debtor. This matter is decided AFTER a trial not before it.

I ask the court to require this "lis pendens" be removed immediately from REAL PROPERTY SERVICE RECORD and from court record.

This is a prime example that this litigation is designed to harass me.

Motion for "abuse of discovery" / "abuse of deposition":

Bidzirk counsel is contacting irrelevant and emotionally unstable individuals concerning my case. This is putting me in jeopardy of losing all of my income and potentially physical harm. I have already lost my contract with Computer Clinic over concern and association with this lawsuit.

I have been treated with total lack of respect and without dignity in depositions. Counsel is abusing this process solely for the purpose of intimidation in a very malicious manner.

Counsel states that he has "no responsibility or court requirement to treat me as a professional" and that "he has every right to treat me adversely because [he is] the opposing attorney".

Part of due process is being non bias. Part of due process is having professional respectful court representatives. Bidzirk counsel has not respected the court, challenged rulings, made improper and inappropriate filings, and abused due process by delaying the courts with redundancy, tardiness, and frivolity.

Counsel has on several occasions claimed to have served me papers by hand delivery - I have received papers by hand delivery ONCE.

Counsel claims that hand delivery is less expensive than certified mail which I have requested due to the current nature of my living situation.

Counsel inundates my mailbox with paperwork so as to indicate to my neighbors

that I am in trouble. Purposeful embarrassment.

Motion for extension to response concerning "counterclaim denial":

I, Philip Smith, need more time than 10 days from date of mailing to construct a proper response/appeal of the Honorable Judge Cato's ruling denying my counterclaim. Please allow me until November 5th 2006 for this response.

Motion for "Status Hearing":

Philip Smith (defendant Pro Se) requests a status hearing to speak with the judge in this matter to make sure both sides are up to par and aware of dates, procedures, etc.

I would also like to discuss briefly with the judge how this has consumed my life leaving me with no means of income, asset, or time to perform my daily duties to customers.

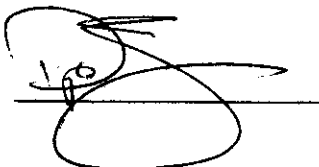
Motion for "Case & Trial Extension":

This case is scheduled for a December court date. Currently, there is a pending appeal in federal court exists regarding an appeal to an injunction that the Honorable Judge Cato ruled in favor of Smith and denied Bidzirk injunctive relief. I find it unfair to have this matter pending in court as it is key to the litigation Bidzirk is trying to pursue. If the higher court finds no reason for the injunction, then there apparently is no defamation and the story was reported as news and news commentary as originally ruled. Even if ruling is made in the next 2 weeks, Philip Smith would need adequate time to prepare and integrate this ruling into testimony. Therefore, Philip Smith requests a trial date extension to a time in February.

Motion to "refile with an attorney":

This has come to the point where I must in some way on my limited income and asset find an attorney as I can no longer bear the burden of Pro Se. I feel the court has allowed this frivolous suit to continue without consideration for the defendant's well being in mind. Bidzirk counsel is clearly doing this case as a belt notch and maliciously pursuing this to antagonize Philip Smith and "get back at him". I feel as if I had an attorney (at this point) I would have this matter behind me and have a proper civil suit in action. Please consider this motion giving me until January to refile. (see above referenced motion)

Philip Smith



10/26/06