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**Bidzirk, LLC Daniel Schmidt III
& Jill Patterson**

Plaintiffs

VS

Philip J Smith

Defendant

Civil Action #

6:06-0109-HMH-WMC

**Response to the motion
for summary judgement**

Plaintiff has almost unlimited amounts of money to spend - while I have nothing. The level of defense that the court is asking me to make (estimated by similar cases researched) reaches into six figures and beyond - and I'm positive that Ty Schmidt (Plaintiff) is close to or beyond \$100,000 spent on the 1 year + interruption of my life.

The court has allowed this charade to continue by means of process rather than logic.

The Plaintiff has no case. The court has unjustly dropped my counterclaim leaving me with no recourse whatsoever. The honorable Judge Catoe universally dismissed all my claims with a blanket, while allowing the Plaintiff just about any absurd claim or request they plea.

The court has not granted me a "status hearing" - which would help me know exactly where I am in this case - because frankly - the Plaintiff is trying to convolute the issue to point where no one involved understands.

The court has allowed the Plaintiff attorney to threaten physical and financial harm in a 5+ hour long deposition taking place in January of 2007.

The appellant court denied the injunction as ruled by two previous court decisions. If there is no injunction necessary is the message from the court that they would allow further financial harm to me the Defendant? Or does it mean what 3 attorneys have told me thus far - the case is over.

The court has allowed Plaintiff attorney to put private detectives on me for no reasonable explanation, has cost me many business partnerships, and has made it impossible for me to function within my business or pursue growth opportunities. Because of this action I am having to explore declaring bankruptcy and potentially losing my condo.

The court has allowed Plaintiff attorney to place a *lis pendens* on my residence with no reasonable expectation of a judgement - I was trying to sell this residence and have had to turn down a buyer AT CLOSING because of this issue.

Therefore, I deny any claim against me for summary judgement. I do not know how to respond to this in any other manner. I also deny any claim that Bidzirk has been harmed by any action I have taken. In fact ... their recent surge in listings only indicates that my article served as a great business tuning for them and my blog has possibly given them \$1000's in free advertising.

Further I assert that since Bidzirk has closed two locations but still advertises 3 locations and growing to 10 locations within two years that they continue to false advertise.

As for any privacy claim that the Plaintiff is making ... if my linked article was an invasion of privacy - why has Ty Schmidt (Plaintiff) placed a link to the same article on his own Bidzirk website. Does this not in and of itself make the article public (even though it was already so by being on the Greenville Journal website). Websites are public domain. I did not take the picture. The picture DOES tie Jill Patterson and Ty Schmidt's marriage to the opening of Bidzirk. Therefore it makes my brief reasonable claim (which fits the definition of NOT being libel) valid.

Furthermore, the court reporter and videographer have priced the deposition records so unreasonably that I have no means of examining the testimony I gave and it will make any defense of mine difficult at best to this evidence if used.

Philip Smith
Defendant

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