

RECEIVED
USDC CLERK, GREENVILLE, SC
2007 MAY 11 P 3:46

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

Plaintiffs

VS

Philip J Smith

Defendant

**Civil Action #
6:06-0109-HMH-WMC**

**Appeal of scheduling
order**

**Request for sanctions
against Plaintiff attorney**

**Request for extension of
discovery for Defendant**

**Motions for dismissal,
judgement for slander
of title, plea acceptance.**

Honorable Judge Catoe,

The proposed scheduling order by the Plaintiff attorney is unreasonable. This proposal would take this case well beyond 2.5 years.

I have given the admissions and interrogatory questions back to the Plaintiff attorney - answered as requested.

The opposing attorney is threatening me on a daily basis with a denial of rights. At this point, it will not be possible for me to get a fair trial. This gives a false impression to both my peers and anyone involved in the case that the opposing attorney has some sort of upper hand in the case.

I left the first deposition because I was verbally abused. The second deposition ended with the following:

[Paraphrased as I do not have the money to afford the transcript]

Kevin Elwell (plaintiff attorney):

You say this whole matter has depressed you. Are you sure it's not because you live in rundown condo, have a junk titled car, are not married, have no kids, and have no direction in your life?

This is an improper question. The majority of the questions answered were immaterial to the proceedings at hand.

The discovery process that the opposing attorney has thrown upon me has been nothing short of Iraqi hostage tactical strategy less severing my head.

The discovery process went unanswered because it was a request of 4000+ pages printed and requested that the ENTIRE contents of my hard drive be turned over. I did the best I could to answer the questions as you instructed at the May 2 2007 status hearing.

The proposed settlement was not even remotely serious and should indicate to the court that this has never been about justice, but about recess retribution on the part of the opposing attorney and Ty Schmidt.

The eBay Dropoff business has failed worldwide. (see attached) Granting ANY RULING in favor of the plaintiff would undermine the 1000's that have lost their life savings to this poor business model.

THE COURT has allowed the opposing attorney to make the burden of this case come upon ME. THE COURT has allowed the opposing attorney to enter in evidence AFTER the fact of the initial complaint that are both immaterial and non sequitur.

If this case goes to trial I will have been denied due process, denied substantial defense, and be out \$1000's of dollars in development of my business, my website, and other projects. If allowed to continue I will have to go 2.5 years or MORE without serious income/investment/venture capital in fear of losing it or having to fund a major cost. Not to mention that I have to spend 1 hour or more of EVERY waking day on this case researching rulings and preparing paperwork, delivering paperwork, etc etc. The printing costs alone have exceeded \$500 for me thus far. The courts denial of any counterclaim that I had leaves me with a burdensome expense - a loss from which I may NEVER recover.

I have been diligently trying to seek attorneys *pro bono* in a multitude of ways. The EFF has no attorneys available that can practice law in South Carolina. The scope and subject matter is beyond the comprehension of most attorneys in this area. I have also been told that the case has such a preposterous Plaintiff complaint that a *Pro Se* defense should be adequate. I have been consulting with customers of mine in my Computer Service work that are attorneys. I have traded them MANY hours of service. My service rate is \$80 an hour.

Therefore, I kindly request that you grant me the amount of \$15,000 for the slander of title on my residence. The opposing attorney has now admitted that this was improper as per my request for your review. This money would allow me to lower the asking price of my condominium for a quick sale as I have had issues at closing BECAUSE OF THIS issue TWICE - proven with testimony/affidavit from my father (if requested).

I was under the impression that ALL processes were on hold until the Federal Court made a judgement concerning the "preliminary injunction" - this process took 1 year.

The Plaintiff attorney filed his request for the federal appeal many days AFTER it was due. The "affidavit for appeal" he filled was HANDWRITTEN! This was a purposeful delay tactic as he *may* have been given the opportunity for an extension and legible submission. What professional legal counsel sends a handwritten appeal of this magnitude? That would have sealed their whole case if granted.

The Plaintiff attorney has denied me deposition records due to the cost. Not that I should have to expense anything even if I had the funds or were able to obtain them.

[REDACTED]

Now the opposing attorney has denied my discovery and admission saying my time expired. Again, I was under the impression that the entire case has been on hold. Since the court has not allowed me a status conference or (by request) a dismissal - it has not been possible for me to know **WHAT** was delayed and **WHAT** was not. The court erred in not getting me a new scheduling order.

I am honestly at the point of fearing for my life. With the malicious actions taken against me thus far combined with the extreme anger faced with the Plaintiff at our final business meeting, and the opposing attorney verbally and physically threatening me at my second deposition (combined with the fact he is losing credibility amongst his peers for fighting this) ... I honestly fear for my privacy and for my safety.

Philip Smith kindly requests a motion for judgment **AGAINST** The Plaintiff in the amount of \$15,000 for slander of title.

Philip Smith kindly requests that he be granted an extension for discovery and admission and request Plaintiff to respond.

Philip Smith kindly requests that the court dismiss this entire proceeding **nolo contendere**.

Philip Smith kindly requests that the court reconsider "abuse of discovery" in light of this letter/ motion.

Philip Smith kindly requests that the court consider dismissal under **Rule 11: Frivolity Of Litigation**

Philip Smith
05/09/2007

** Note the housing market has drastically declined since 2005*