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Court of Common Pleas

BRIEF IN OPPOSITION
April 23, 2021 15:25

By: AARON MINC 0086718

Confirmation Nbr. 2236477

MINC LLC

CV 20 937026

vs.

MELISSA FARMER

Judge: EMILY HAGAN

Pages Filed: 6

COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

AARON M. MINC)	CASE NO. CV-20-937026
)	
<i>Plaintiff,</i>)	
)	JUDGE: EMILY HAGAN
v.)	
)	
MELISSA A. FARMER, <i>et al.</i>)	
)	<u>PLAINTIFF AARON MINC'S</u>
)	<u>BRIEF IN OPPOSITION TO</u>
<i>Defendants.</i>)	<u>DEFENDANT NICOLE PRAUSE'S</u>
)	<u>MOTION FOR EXTENSION OF</u>
)	<u>TIME</u>

Plaintiff Aaron M. Minc (“Plaintiff”) respectfully objects to Defendant Nicole Prause’s (“Defendant”) recently filed Motion for Extension of Time (“Motion”). Defendant’s request for leave to Answer Plaintiff’s Amended Complaint, three to five months from when she was originally served with process, is unsupported, unreasonable, not in good faith, and must be denied.

I. Background Facts Regarding This Dispute.

By way of background, this lawsuit was filed because Defendant published extremely serious and harmful allegations against Plaintiff on Twitter to thousands of people claiming that Plaintiff had disclosed Defendant’s confidential home and business address to a group that has been threatening to kill her for years. As confirmed recently by Prause’s ex-Co-Defendant, Melissa Farmer, there is absolutely “no evidence that claims made by Prause against Plaintiff are true.” *See Docket*, JE filed 4/16/2021, Exhibit A-1, ¶5, *Affidavit of Melissa Farmer*.

Indeed, at the time Plaintiff did not even know who Defendant was. Plaintiff does not know and has never known any of Defendant’s confidential information or addresses. Defendant maliciously targeted and defamed Plaintiff because other attorneys at Plaintiff’s law firm represented an adverse party in a then pending defamation lawsuit against her. Unfortunately for

Plaintiff, he just happened to be the only person at his office with a Twitter account Defendant could attack. Defendant has a long and well-documented history¹ of targeting her nemeses with defamatory online attacks², harassment³, and abusive and frivolous lawsuits.⁴

On August 18, 2020⁵, a few weeks prior to the filing of this lawsuit, Defendant filed for bankruptcy under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Central District of California, Case No. 2:20-bk-17828-NB. Plaintiff was granted leave from the automatic stay by the Bankruptcy Court on March 2, 2021, to add Defendant to this lawsuit. The Order is conditioned on the parties attending a mediation with a bankruptcy mediator. This contingency does not have any effect on the ability of this matter to proceed. Mediation is currently scheduled to occur on June 15, 2021.

II. Facts Related to Service of Plaintiff's Amended Complaint & Plaintiff's Multiple Offers to Defendant to Voluntarily Waive Service in Exchange for Extra Time to Plead.

On March 9, 2021, Plaintiff emailed Defendant to discuss her options to receive process in this lawsuit. Defendant is a participant in California's Confidential Address Program, governed by

¹ An extremely detailed and well documented history of Defendant's with accounts from dozens of her victims/targets dating from 2013 to present, which spans over two thousand pages of documents and evidence, is available at <https://bit.ly/32KOa3q>.

² See, Exhibit 1, Prominent Pornography Researcher Frames Defamation Claims as Sexual Harassment, Prompting a Defamation Suit by Her Target, Jacob Sullivan, Reason.com.

³ See *Pl's First Amended Complaint*, ¶6; *Id. Exhibit A* (Affidavits and sworn statements of a dozen victim accounts of Defendant's conduct).

⁴ See, Exhibit 2, Press Release & Judgment Entries of Gary Wilson.

⁵ Defendant filed for Bankruptcy the day before Plaintiff's law firm was scheduled to take her deposition in Rhodes v. Prause, Case No. 2:19-CV01366-MPK (W.D. PA).

California statute G.C. §§ 6205-6216, et seq. (“CCAP”).⁶ Under the CCAP, Defendant’s personal contact information and address is legally protected and confidential. Defendant has a designated state-run P.O. Box, which constitutes her legal address for any type of official or non-official correspondence, including for service of process of civil lawsuits. *See*, Motion, p. 2, 52.

To avoid potential complications or issues with service, Plaintiff inquired as to whether Defendant would be interested in voluntarily waiving and accepting service pursuant to Ohio Civ. R. 4.7. This email, attached hereto as Exhibit 3, explains that Plaintiff is serving Defendant by certified mail. But Plaintiff also wanted to give Defendant the option to waive service and what the benefits of waiving service entailed (extra time to answer etc.) and possible penalties under the Rules to pay costs if Defendant declined to waive service without good cause and intentionally made it difficult for Plaintiff to serve process on Defendant.

Although Plaintiff’s March 9th correspondence is rather unremarkable, Defendant somehow took Plaintiff’s email as a *direct threat* to her safety. In response, Defendant retaliated by threatening Plaintiff with counterclaims, jail time, fines, and allegedly has reported Plaintiff to the Police because of this correspondence. *See* Exhibits 4 and 7; Motion, p. 50.

Notwithstanding the above, Defendant subsequently received formal service of the Summons and Complaint via certified mail on March 22, 2021. *See* Docket, SR 3/31/2021; Exhibit 5. Notably, service was made on the exact address that Defendant specifically demands this Court Order Plaintiff serve her at in her Motion to comply with her participation in CCAP. *See* Motion, p. 4-5.

On March 28, 2021, even though Plaintiff had already obtained valid service on Defendant and her Answer due date was set, to be as fair and reasonable as possible to Defendant, Plaintiff

⁶ Information regarding the CCAP is available at <https://www.sos.ca.gov/registries/safe-home/>.

followed-up with Defendant by email and again offered that she voluntarily waive and accept service in exchange for sixty days' time to plead. Plaintiff's email attached a certified copy of the Summons, Complaint, and executed waiver request form pursuant to the Rules. *See* Attached, Exhibit 6.

In response, Defendant sent Plaintiff a formal demand letter, pursuant to California Government Code section 6208.1, containing several completely erroneous allegations and threats, including, but not limited to, demanding that Plaintiff "immediately cease and desist from publicly posting or displaying on the Internet [Defendant's] home address or telephone number." *See* Attached, Exhibit 7; Motion, p. 50. Plaintiff will refrain at this time from addressing these allegations, and all of the other ridiculous allegations⁷, false claims⁸, and other bogus assertions⁹ made in Defendant's Motion given that they are completely irrelevant to the matter at hand.

III. When the Parties Conferred, Defendant Requested Five Months to Plead. Plaintiff Agreed to Stipulate to Thirty Days. Defendant Refused.

On April 19, 2021, the day her Answer was due, Defendant emailed Plaintiff and requested an extension till August 15, 2021, to Answer Plaintiff's lawsuit. *See* Attached, Exhibit 9. Plaintiff rejected Defendant's proposal. However, he told Defendant he would stipulate to a thirty-day

⁷ Like that Plaintiff is seeking an injunction that prohibits Defendant from "reporting death and rape threats against her to law enforcement." *See* Motion, p. 1.

⁸ Like that Plaintiff "admits in his own filing, Plaintiff colluded to launch a fraudulent fundraiser with his client." *See*, Motion, p. 2.

⁹ For example, that Plaintiff told another attorney to violate a woman named "Molly's" stalking program's protections. Motion, p. 3.

For the record, "Molly" (A/K/A Molly Nicole Braun, A/K/A Catherine Molly Wade) is currently facing a third-degree felony charge in Denton, Texas for fabricating evidence and lying to police about allegedly being a victim of stalking and harassment. Two of Plaintiff's clients were awarded multimillion dollar judgments and permanent injunctions against Ms. Wade for online defamation, harassment, and the filing of false police reports against Plaintiff's clients. *See* Exhibit 8.

extension. *Id.* Defendant was not agreeable and did not make any counter offers or proposals. Her only stated reason at the time was that she believed that “forcing a response prior to mediation ordered by the court is, of course, unreasonable.” *Id.* Thereafter, Defendant filed her Motion, which now includes an alternative request for a sixty day leave.

IV. The Court Must Deny Defendant’s Unsupported Requests for Excessive & Unreasonable Amounts of Additional Time to Plead.

As explained above, Defendant has been validly served with process in this case. Defendant’s requested extensions of time are unreasonable and excessive. Cuyahoga County Local Rule 8(C) provides that thirty (30) days is the customary and reasonable amount to request for an extension to Answer a lawsuit.

Other than the fact that the parties are scheduled to attend a mediation in June¹⁰, Defendant has presented no evidence of special circumstances or other legitimate reasons why she requires this much additional time and why she is unable to respond sooner.

If anything, Defendant’s excessive requests appear to be in bad faith and deliberately for purposes of delay. Defendant had the opportunity to have sixty days to plead when Plaintiff offered her the chance to do so, **twice**, if she voluntarily accepted and waived service. She declined and responded to Plaintiff’s offer by threatening Plaintiff with counterclaims and jail time, allegedly has reported Plaintiff to the Police, and then sent Plaintiff a letter making multiple false allegations, including falsely claiming that Plaintiff was publicly posting Defendant’s confidential address or phone number on the internet.

The Court should not reward these bad faith stall tactics and absurd behaviors.

¹⁰ There are no settlement discussions pending between the parties. Settlement is not imminent. Defendant has **never** responded to or engaged in any settlement discussions with Plaintiff. Pending mediation is not a valid reason to request an extension under these circumstances.

Accordingly, the Plaintiff respectfully requests that the Court deny Defendant's request and/or give Prause no more than thirty days additional time from when her original Answer was due, till May 19, 2021, to respond.

Respectfully submitted,

/s/ Aaron Minc

Aaron M. Minc (0086718)

Minc LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was filed and served on all parties on this 23rd day of April 2021 via this Court's electronic filing system and via regular mail and email to:

Dr. Nicole R. Prause #2823

/s/ Aaron Minc

Aaron M. Minc (0086718)