

IN THE CIRCUIT COURT OF  
THE 17<sup>TH</sup> JUDICIAL CIRCUIT IN  
AND FOR BROWARD COUNTY  
FLORIDA

POMPANO SENIOR SQUADRON  
FLYING CLUB, INC., a Florida  
corporation,

CASE NO.: CACE 20-005993 (08)

Plaintiff,

v

CARL KENNEDY, individually,

Defendant.

**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION FOR  
TEMPORARY ATTORNEY FEES AND COSTS**

Plaintiff, POMPANO SENIOR SQUADRON FLYING CLUB, INC. (Plaintiff "Club"), by and through its undersigned counsel, files this Response to Defendant CARL KENNEDY'S (Defendant "Kennedy") Motion for Temporary Attorney Fees and Costs and says:

1. Plaintiff Club can defeat Defendant Kennedy's motion without the need to refute each and every statement made by Defendant Kennedy in his Motion, Plaintiff Club points to this Court the substantial body of case law which stand with the proposition that pro se litigants who are not attorneys are not entitled to attorney fees or costs in litigation. See *Carter v Broward County Sheriff's Office*, 965 So.2d 1238 (Fla. 4<sup>th</sup> DCA 2007); *Creamer v BAC Home Loans Servicing, LP*, 195 So.3d 168 (Fla. 2<sup>nd</sup> DCA 2015).

2. As to the specific statements made within the Motion, Defendant Kennedy asserts that Plaintiff Club caused his pro bono attorney to withdraw from representing him in this case. Quite to the contrary, attorney Wendy Hausmann twice filed a Notice

of Appearance in this case and twice, under her own volition, withdraw from representing Defendant Kennedy. While Plaintiff Club filed a Motion to Disqualify Ms. Hausmann, as it asserted she was the Club's prior attorney in substantially related matters, said Motion was never heard by this Court. Accordingly, Ms. Hausmann, a well-established and longstanding attorney in the State of Florida, withdrew from representing Defendant Kennedy on her own.

3. Defendant Kennedy then asserts that he is unable to afford counsel to provide a defense in this case and accordingly, demands that this Court enter an Order requiring Plaintiff Club to prepay Defendant Kennedy's attorney fees. Clearly, this Court has no authority to take any such action.

4. Under American jurisprudence, each side is obligated to bear their own court costs and attorney fees unless there is a contract or statute which provides for prevailing party attorney fees and the Court ultimately determines a prevailing party in the litigation. As this Court has made no such determination to date, there is no basis for an award of attorney fees at this time.

5. In effect, Defendant Kennedy is asking this Court for a pre-judgment writ of garnishment. As this Court is fully aware, in order to obtain a pre-judgment writ of garnishment with notice, Defendant Kennedy would be required to post a bond in double the amount that he seeks to garnish. If we take Defendant Kennedy at his word that he has no financial wherewithal to pay his own attorney, he clearly does not have the financial wherewithal to post a bond in double the amount of money that he is seeking in his pre-judgment garnishment.

6. Finally, Defendant Kennedy asserts that Plaintiff Club failed to participate in mediation. Quite to the contrary, Plaintiff Club, in good faith, attended mediation in

this case. At that mediation and in the Complaint, Plaintiff Club is seeking to obtain documentation to support the more than \$200,000.00 worth of Plaintiff Club's money that Defendant Kennedy utilized to pay his personal American Express bill, attempted to get documents that explains why Defendant Kennedy signed a Bill of Sale selling Plaintiff Club's airplane, yet there is no corresponding financial deposit into Plaintiff Club's bank accounts for the money for such Bill of Sale for the airplane, and attempted to obtain documentation to support an alleged loan between Plaintiff Club's prior attorney, Wendy Hausmann, and payments by the Club, signed by Defendant Kennedy to Wendy Hausmann to support such undocumented loan. Yet, while a Motion to Disqualify Wendy Hausmann as Defendant Kennedy's then purported attorney, Wendy Hausmann surreptitiously appeared at mediation. She remained off camera and without making her presence known to Plaintiff Club. The mediator initially withheld the fact that Wendy Hausmann had appeared in caucus and was participating in mediation on Defendant Kennedy's behalf from Plaintiff Club but eventually disclosed such information. Given the pending Motion to Disqualify as well as the inappropriateness of an attorney appearing at mediation without making her presence known, Plaintiff Club declared an impasse and withdrew from the mediation. Now, almost unbelievably so, Defendant Kennedy seeks attorney fees from Plaintiff Club based upon the above circumstances. If any party is entitled to attorney fees and cost reimbursement for mediation based upon the above, it is certainly Plaintiff Club and not Defendant Kennedy.

7. Based upon the totality of the above, Plaintiff Club moves this Court for an Order denying Defendant Kennedy's Motion as unsubstantiated both in fact and law, an

