

IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

POMPANO SENIOR SQUADRON FLYING CLUB, INC.
(aka POMPANO BEACH FLYING CLUB)

Plaintiff/Counter-Defendant,

and

Case No.: CACE 20-005993
Division (8)

CARL L. KENNEDY

Defendant/Counter-Plaintiff

**MOTION TO VACATE, ALTER OR AMEND,
FOR RECONSIDERATION AND FOR SANCTIONS**

I, Carl L. Kennedy, II, respectfully request that this Court reconsider its Order entered on January 19, 2021 denying my Motion for Contempt heard on January 12, 2021, and impose sanctions on Plaintiff's lawyer for his material admitted misrepresentation to this Court at the hearing in connection with said Motion for Contempt, and as reasons therefore state as follows:

1. I respectfully plead this Court grant me the brief time necessary to review, so that I may be reasonably "heard" in connection with, this Motion. I believe I have been denied a reasonable opportunity to be heard in this matter at hearings and am therefore filing this Motion to make a record.

2. I respectfully submit that this Court has seemingly "unconditionally" trusted and relied on the representations of Plaintiff's lawyer, Edward Holodak, and that the proceedings, thus far, have therefore, resulted in and reflect unwarranted and biased favor toward the Plaintiff.

3. Holodak affirmatively lied to this Court at the hearing on the morning of January 12, 2021 in connection with my Motion for Contempt when he represented that Plaintiff had "already" fully complied with the Court's Order dated December 1, 2020, which required Plaintiff to file Answers to both my Second Set of Interrogatories and my Expert Interrogatories. This Court did not ask Holodak what date he filed Answers in compliance with the Court's Order, or to reference any date on the docket which would corroborate his representation. This

Court merely accepted Holodak's word as truth and my Motion for Contempt was denied.

Exhibit A.

4. As is reflected by the attached (Exhibit B) Notice of Service of Court Document(s) on January 12, 2021 it was approximately 4:45 p.m., several hours after the 8:45 a.m. hearing, when Holodak actually filed and served me with the Answers to the Second Set of Interrogatories and Answers to my Expert Interrogatories which he had stated to the Court earlier that morning had "already" been filed.

5. In accordance with an agreement reached between me and Holodak on January 18, 2021 (See attached Exhibit C email correspondence dated January 19, 2021), Holodak prepared and purported to have sent you, Judge Haimes, via US mail only on January 19, 2021, the attached "letter of apology" for his "inadvertent" misrepresentation to this Court on January 12, 2021. See attached Exhibit D.

6. Since it bears on his general lack of credibility and candor with the Court, this Court should be made aware that Holodak also affirmatively lied to The Honorable Phoebe Francois on January 11, 2021 when representing the Plaintiff herein as the Defendant in another matter *and got caught*.

7. I have filed contemporaneously herewith a "Request for Court to Take Judicial Notice" of Borer v. Pompano Senior Squadron Flying Club, Broward County Case #COWE 2022099. I have also filed contemporaneously herewith and incorporate by reference herein, the "Affidavit of Steven J. Borer", which includes all relevant documents in connection with Holodak's misrepresentation to The Honorable Phoebe Francois, and which details the actual chronology of submissions to the Court on January 12, 2021. The actual chronology of sequence of submissions to the Court through the Court's Judicial Assistant (which is not reflected in the docket entries) in the Borer matter on January 12, 2021 is important. Holodak filed a "Notice to Correct Record" after he was caught in his lie to Judge Francois. Holodak purportedly sent Judge Francois, also by USPS only, a "letter of apology" similar to the one he sent to this Court, claiming he made an "inadvertent error" in having used the word "Subpoena" (three times) when he actually "meant" the word "request".

8. Holodak has a pattern of using the word "inadvertent" to try to shield and justify what are actually lies to the Court. Holodak's claims of "inadvertent" mistakes, made regarding two

separate issues, to two different Judges on two consecutive days, demonstrate that Holodak's representations to the Court lack credibility.

9. To summarize the described above, this Court should be fully aware of and take into consideration Holodak's ongoing lack of candor with the Broward County Judges, which now includes:

- a. Submitting an Agreed Order to you which had never even been seen by me;
- b. Falsely certifying to this Court that he had "provided" documents "directly" to me on one date in response to my Second Request for Production of Documents when, in fact, he did not provide the documents (or make them available) to me until three (3) days later, and only by requiring me to "chase" after them in order to "go get them" myself;
- c. Falsely representing to The Honorable Phoebe Francois three (3) times on January 11, 2021, that he had "subpoenaed" bank records in PBFC v Kennedy, and attempting to rely on his inability to obtain these documents as being a persuasive factor in the case of Borer v. PBFC before her; and
- d. Falsely representing to this Court at the hearing on the morning of January 12, 2020 that he had "already" complied with the Court's Order dated December 1, 2020, when in fact he did not comply with that Order until the end of the day of the hearing on January 12, 2020.

10. Holodak's attached purported "letter of apology" to this Court for his misrepresentation at the hearing on January 12, 2021 shrugs off his culpability (again) and instead implies that I am being "petty" for challenging his misconduct. Holodak was fully informed of the contents of my unambiguous Motion for Contempt (what he incorrectly referred to in his apology letter as my "Motion to Compel"), the three separate documents (not "items") it addressed, and his failure to comply with the December 1, 2020 Order of this Court requiring such documents. His facetious claim in the attached letter to you that he "misunderstood" what the Motion for Contempt requested is without credibility.

11. Plaintiff's lawyer Holodak is not entitled to special deference or more respect, and his representations to this Court should not be given "extra weight" or presumed to be the truth simply because he is an attorney and I am not, and do not have, one. The Court has an obligation to be neutral and impartial in its evaluation of the claims made and its rulings in this matter.

12. The Court should not dismiss or trivialize Holodak's multiple misrepresentations on behalf of Plaintiff, Pompano Senior Squadron Flying Club, which have occurred on more than one occasion and to more than one member of the Bench as herein described, as "harmless errors", or as being "moot", as Holodak suggests in his attached patronizing correspondence to this Court. Holodak is cloaked as an Officer of the Court, but he is a liar. When the Court simply takes his word for the matters he represents as true, without even asking for the simplest evidence to substantiate his claims, or a reasonable opportunity for me to speak and rebut them, it is significantly and materially prejudicial to me and deprives me of due process.

13. This Court should be in search of the truth in this matter. The Court should be questioning as to why Plaintiff is lying, withholding documents and information in response to my proper discovery requests, and also lying to other Judges in his representation on behalf of the Plaintiff. Holodak's unethical litigation practices, and (respectfully) the Court's unawareness of or refusal to acknowledge them, are preventing me from presenting a proper defense on my own behalf.

14. I am doing my best to represent myself before the Court each time I appear before Your Honor. I am significantly disadvantaged in this matter, especially at hearings, defending myself against Plaintiff corporation, both financially and because I am not represented by an attorney. The Court seems to have a visible distaste for this case, and I believe I am unfairly and single-handedly suffering the consequences of the Court's frustration. I am not asking the Court to "help" me, but only that it address this matter, on each occasion, with impartiality and ensure that the proceedings are conducted fairly.

15. Holodak's future representations to this Court should be met with skepticism and I respectfully ask that the Court require Holodak to prove his representations to this Court in each and every instance. I have maintained since its inception that this case constitutes a "witch-hunt". I am entitled to, deserve, and simply request on each and every occasion I appear before you in this matter, a reasonable opportunity to be heard and to present my position concerning the issues before the Court, and to not being judged unless and until Plaintiff has properly proven its position. Plaintiff should be required, at all times, to meet their burden of proving what they represent.

WHEREFORE, I, Carl L. Kennedy, II, hereby request all relief consistent with this Motion, including sanctions against Plaintiff and/or its lawyer Edward Holodak, in connection with Holodak's misrepresentation to the Court on January 12, 2021.

I hereby certify that a true and correct copy of the foregoing has been served to Edward Holodak, Esquire via the Florida e-portal on this 29TH day of January, 2021.

Respectfully submitted,

/s/ Carl L. Kennedy, II
Carl L. Kennedy, II
2929 S. Ocean Blvd., #510
Boca Raton, FL 33432
304-552-0206
E-Mail Address: clktx@aol.com

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO. CACE20005993 DIVISION 08 JUDGE David A Haimes

Pompano Senior Squadron Flying Club, Inc., et al

Plaintiff(s) / Petitioner(s)

v.

Pompano Senior Squadron Flying Club Inc, et al

Defendant(s) / Respondent(s)

**ORDER DENYING DEFENDANT'S MOTION FOR CONTEMPT, TO COMPEL
AND FOR SANCTIONS DUE TO PLAINTIFF'S FAILURE TO PROVIDE
DISCOVERY RESPONSES**

THIS CAUSE having come to be heard on January 12, 2021, upon Defendant, CARL KENNEDY (Defendant "Kennedy")'s Motion for Contempt, to Compel and for Sanctions Due to Plaintiff's Failure to Provide Discovery Responses, the Court considering the pleadings herein, having heard argument of the parties, and the Court being otherwise fully advised, it is:

ORDERED AND ADJUDGED:

1. Defendant Kennedy's Motion for Contempt, to Compel and for Sanctions Due to Plaintiff's Failure to Provide Discovery Responses hereby **DENIED**.

DONE and **ORDERED** in Chambers, at Broward County, Florida on 01-19-2021.

CACE20005993 01-19-2021 12:50 PM

CACE20005993 01-19-2021 12:50 PM

Hon. David A Haimes

CIRCUIT JUDGE

Electronically Signed by David A Haimes

Copies Furnished To:

Carl Lemley Kennedy II , E-mail : Carl@goard.com

Carl Lemley Kennedy II , E-mail : CLKTax@aol.com



From: eservice@myflcourtagency.com,

Subject: SERVICE OF COURT DOCUMENT CASE NUMBER 062020CA005993AXXXCE POMPANO SENIOR SQUADRON FLYING VS POMPANO SENIOR SQUADRON FLYING

Date: Tue, Jan 12, 2021 4:45 pm

Attachments: Notice Of Serving Answers To Interrogatories.pdf (174K), Notice Of Serving Answers To Interrogatories.pdf (173K)

Notice of Service of Court Documents

Filing Information

Filing #: 119505930
 Filing Time: * 01/12/2021 04:45:35 PM ET *
 Filer: Edward F Holodak 954-927-3436
 Court: Seventeenth Judicial Circuit in and for Broward County, Florida
 Case #: 062020CA005993AXXXCE
 Court Case #: CACE-20-005993
 Case Style: POMPANO SENIOR SQUADRON FLYING VS POMPANO SENIOR SQUADRON FLYING

Documents

Title	File
Notice Of Serving Answers To Interrogatories	Club's Notice of Serving Responses to Expert Interrogatories.pdf
Notice Of Serving Answers To Interrogatories	Club's Notice of Serving Responses to Second Interrogatories.pdf

E-service recipients selected for service:

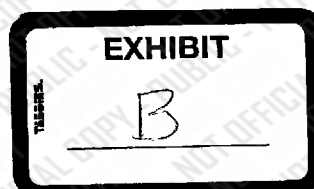
Name	Email Address
Carl Lemley Kennedy II	CLKTax@aol.com
	Carl@goard.com
	saltlife171@gmail.com
Edward F Holodak	pleadings@holodakpa.com
	edward@holodakpa.com

E-service recipients not selected for service:

Name	Email Address
N/A	saltlife171@gmail.com
WENDY A HAUSMANN	HAUSMANNW@AOL.COM
	whausmannlaw@gmail.com

This is an automatic email message generated by the Florida Courts E-Filing Portal. This email address does not receive email.

Thank you,
 The Florida Courts E-Filing Portal



From: clktax@aol.com,

To: edward@holodakpa.com,

Cc: allison@holodakpa.com,

Subject: PBFC v Kennedy - Recap of Phone Conversation - Monday January 18, 2021

Date: Thu, Jan 21, 2021 9:44 am

Mr. Holodak,

While deciphering my notes from our telephone conversation on Monday regarding discovery issues, I believe the following reflects our discussion. Please correct any errors or misunderstandings.

We discussed items # 3, 4, 5, 6, 13, 16, and 17-20 of my Amended Responses to Plaintiff's Request for Production which I filed on December 7, 2020. If I understood what we spoke about, then with respect to #'s 3 and 17-20, you simply want the response to be "None". With respect to #4 and #13, we agreed to present these items to the Judge. With respect to #5, you simply want me to state "Already provided". With respect to #6, I corrected myself and informed you that I had misunderstood the Request and would provide you with the statement(s) for one additional credit card (other than American Express) that I used to pay for Club-related expenses on several occasion(s) over about a ten day period. This credit card statement was previously provided to Plaintiff as an attachment to the email I sent to the Club Treasurer on August 15, 2020 with you as a "cc'd" recipient on August 15, 2020 and as a primary recipient on January 18, 2021. However, I will officially clarify my response to Item #6 so the record is clear.

With respect to Plaintiff's Request for Production #16, you asked me to verify and state that it is only reimbursement of the expenses for which I have previously provided all documentation to you and to Plaintiff via the Treasurer, in the amount of \$2,512.52, which I am seeking. You agreed that if I again sent you the email that I previously sent you and the Treasurer requesting this reimbursement, including again all supporting documentation, that you would see to getting me reimbursed this amount. I appreciate your cooperation in resolving this issue. This will confirm that I re-sent directly to you, on Monday, January 18, 2021, the email I sent to the Club Treasurer and "cc'd" you dated August 15, 2020 requesting reimbursement in the amount of \$2,512.52 and providing again all supporting documentation for this requested reimbursement.

We also discussed, and you advised me that you could find the bank statement reflecting one of the two \$100,000.00 deposits I made to the Club's bank at Bank of America. I agreed to provide you with that information immediately, and I did so by separate email on Monday following our conversation showing both \$100,000.00 deposits via bank statements.

With respect to Plaintiff's discovery obligations, you agreed that you would communicate with the Judge regarding your mistaken representation to him at the Motion hearing on Tuesday, January 12, 2021, in connection with my Motion for Contempt, that you had already complied with the Court's Order dated December 1, 2020, when in fact you did not comply with the Order until several hours after the hearing on January 12, 2021. We agreed that you would correct your mistaken representation to the Judge, given that the denial of my Motion for Contempt was based on this misrepresentation. The Judge should know that my Motion for Contempt was neither frivolous nor harassing, but was instead filed in good faith due to Plaintiff's failure to provide Answers to my Second Set of Interrogatories or Answers to my Expert Interrogatories up through the date and time of the hearing, as my Motion for Contempt correctly stated.

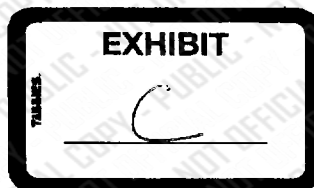
To the best of my recollection and review of my notes, I have hopefully accurately confirmed what we discussed on Monday, January 18, 2021. I would appreciate your giving me one week from tomorrow, until the close of business Friday, January 29, 2021 to provide you with my revised responses to Plaintiff's Request for Production of Documents as described above. I am still operating at half-speed and have not yet found out if I am positive for COVID. The test I took last Saturday came back Wednesday as "your test could not be performed". I have an appointment to be re-tested tomorrow.

Finally, we also agreed that the next hearing to be scheduled in this case will be a "special set" hearing, as the Judge directed us on January 12, 2021, and will include Plaintiff's Motion to Dismiss my Amended Counter-Complaint. I will wait to hear from Allison regarding coordinating this hearing date.

Thank you for your time.

Respectfully,

Carl Kennedy



From: edward@holodakpa.com,

To: clktax@aol.com,

Cc: allison@holodakpa.com,

Subject: RE: PBFC v Kennedy - Recap of Phone Conversation - Monday January 18, 2021

Date: Thu, Jan 21, 2021 9:51 am

Attachments:

Carl

I agree with your recap, you took accurate notes.

Very truly yours,

Edward F. Holodak, Esq., B.C.S
Admitted in Florida & Washington, D.C.

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January 19, 2021

Honorable David A. Haimes
201 S.E. 6th Street, Room 16125
Fort Lauderdale, FL 33301

RE: Pompano Beach Flying Club v. Kennedy, Carl

Case no: CACE 20-005993 (08)

Dear Judge Haimes:

I write this letter at the request of Mr. Carl Kennedy regarding the recent hearings before Your Honor. During the Motion Calendar, Mr. Kennedy had put forth a Motion to Compel and Sanction regarding discovery. The Court denied the Motion.

During the course of the hearing, Mr. Kennedy argued that the Plaintiff had failed to respond to his discovery in which he had requested three (3) items. Believing Mr. Kennedy was referring to his Request to Produce (which contained three requests) I informed the Court that Plaintiff in fact had responded – which it had. Mr. Kennedy has explained to me, post-hearing, that he was referring to Interrogatories. At the time of the hearing, the Plaintiff had not filed the Responses to the prior Interrogatories; however, since that time we have, and the issue is moot. Nonetheless, Mr. Kennedy requested that I clarify the issue with Your Honor.

Thank you for your immediate attention to this matter.

Respectfully submitted,

Edward F. Holodak

Edward F. Holodak
Attorney at Law

EFH/ab

Cc: Carl Kennedy, *pro se* litigant

