

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.

**RESPONSE TO PLAINTIFF/COUNTER-DEFENDANT'S
MOTION TO APPOINT SPECIAL MAGISTRATE**

I, Carl L. Kennedy, II, hereby respectfully represent as follows:

1. Again consistent with their lawyer's statement at the beginning of this matter last year that his "client doesn't want to play nice in the sandbox", and in what now can only be described as a pattern of dishonesty (I respectfully refer the Court to my detailed Motion to Vacate and for Sanctions Due to Plaintiff's Lack of Candor with the Court, filed on January 29, 2021), Plaintiff's Motion requesting the appointment of a Special Magistrate to address discovery issues is substantially false, intentionally misleading and highly prejudicial.

2. Plaintiff's allegation that I have "delayed the proceedings" is denied.

3. From the date this lawsuit was initiated (April 2020) until one day prior to the filing of Plaintiff's Motion to Appoint a Special Magistrate (March 24, 2021), which is approximately one (1) year, I have filed four (4) Notices of Unavailability in this matter:

- a. September 5, 2020 – September 19, 2020 [14 total days (5 wknd)]
- b. October 11, 2020 – October 15, 2020 [4 total days (1 wknd)]
- c. November 20, 2020 – November 30, 2020 [10 total days (7 holiday/wknd)]
- d. December 23, 2020 – January 4, 2021 [12 total days (9 holiday/wknd days)]

4. The total number of days as described above = 40, of which 22 were holidays and weekends. Therefore, the total number of business days during which I was unavailable between April 2020 and March 23, 2021 (almost 11 months), was 18.

5. On March 12, 2021, a member of my family became seriously ill and required significant medical and other attention. As this family medical matter unfolded, it came to

encompass legal proceedings as well, and the bona fide nature of this family medical emergency can, if necessary, be verified upon the Court's request.

6. I requested in writing several times that Plaintiff's attorney allow me the time to devote my full attention to this family matter. The Exhibit Plaintiff attached to its Motion itself acknowledges Plaintiff's awareness of my involuntary and unanticipated personal circumstances.

7. Despite my several written requests, Plaintiff's attorney refused to allow me any "time off" from this litigation to handle this family medical emergency, instead demanding daily communications from me for attention to non-emergency litigation matters. (See multiple emails dated March 16, 2021 through March 24, 2021 attached as Exhibit A.)

8. Therefore, and due solely to Plaintiff's lawyer's lack of human courtesy and cooperation, on March 23, 2021, I filed my 5th Notice of Unavailability in this matter, for the period of March 23, 2021 through April 18, 2021. This period totals 27 days, of which 19 were business days and 8 days were weekend days.

9. In full total, the number of days for which I have been unavailable for this litigation between April 2020 through April 2021 is 67 (not "95 days" as alleged by Plaintiff), of which 30 were weekends and holidays, leaving 37 business days during the past 12 months for which I was actually unavailable.

10. Given that the actual amount of business days for which I was unavailable totals 37, Plaintiff's Motion is both inaccurate and grossly misleading in its allegation in paragraph 5 that I have actually been unavailable for "95 days".

11. Plaintiff's Motion also neglects to mention Plaintiff's lawyer's unavailability for the entire month of March 2021, in addition to the 2020 holidays. This totals a minimum of 23 business days, just during the month of March 2021, that Plaintiff was itself "unavailable".

12. Plaintiff's allegation that I have "sought and received" an "additional 99 days" in "continuances as to discovery responses" is equally inaccurate and misleading.

13. Plaintiff's attorney has intentionally prolonged these proceedings. Plaintiff's attorney has personally profited enormously from the drawn-out manner in which he has chosen to proceed in this case.

14. I have long been awaiting responses to my proper discovery requests seeking Plaintiff to specifically identify and support their accusation that I mismanaged any monies while I was Plaintiff's Treasurer.

15. Plaintiff has thus far failed and refused to provide me with responses to my legitimate discovery requests (for which I have a Motion pending), thereby depriving me any opportunity to dispute their entirely unsubstantiated allegation of “\$340,000 of unaccounted for monies”. It is clearly Plaintiff’s intent to ambush me in this matter. However, I, too, am entitled to the information and documents I seek to defend myself, and I have been prejudiced by Plaintiff’s withholding of the information and documents I have been requesting since last year.

WHEREFORE, I, Carl L. Kennedy, II, do not oppose the appointment of a Special Magistrate for discovery issues, but respectfully submit this Response so the Court is made aware of Plaintiff’s lack of candor, and the inaccurate, misleading and prejudicial nature of Plaintiff’s Motion to Appoint a Special Magistrate in connection with discovery issues.

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 19th day of April, 2021.

Respectfully submitted,

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

From: clkta@aol.com,
To: edward@holodakpa.com,
Cc: allison@holodakpa.com,
Bcc: clkta@aol.com,
Subject: Re: Motions PBFC v Kennedy
Date: Tue, Mar 16, 2021 3:05 pm

Attachments:

Mr. Holodak,

I did receive the two e-mails you sent at 05:21pm and 08:28pm yesterday about hearing dates, but your accusation that I ignored them is false and misleading.

Your threatening e-mail below doesn't even give me one business day to respond.

I am in the midst of a family medical emergency and will respond to your email below before the close of business tomorrow. Thank you for your understanding.

Respectfully,

Carl Kennedy

-----Original Message-----

From: Edward Holodak <edward@holodakpa.com>
To: Carl Kennedy <clkta@aol.com>
Sent: Mon, Mar 15, 2021 8:28 pm
Subject: Motions

Carl

I see you filed a Motion for Extension of Time with no specific request. You also have now ignored two emails from me as to hearing dates.

Please tell me what days next week you are available for UMC hearing on your most recent motion. If I do not hear from you by the end of the day tomorrow, I will just pick a date and set your motion.

Thank you.

Very truly yours,

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

Edward F. Holodak, P.A.
7951 SW 6th Street



From: clktx@aol.com,

To: edward@holodakpa.com,

Cc: allison@holodakpa.com,

Bcc: clktx@aol.com,

Subject: Re: PBFC v Kennedy - M. 4 Ext. of Time re P's 2d RPD

Date: Wed, Mar 17, 2021 5:06 pm

Mr. Holodak,

In response to your email, I'd like to try to resolve my Motion for Extension of Time in connection with Plaintiff's Second Request to Produce Documents before you take the Judge's time. I was unaware I needed to provide a date in my Motion. In fact, I would like to resolve this case entirely and will set up another call with you soon.

Due to this tax season, now combined with a family medical emergency that will also consume my time and attention during the next few weeks, I have already been pulling 20 hour days for several weeks, and will continue to do so through April 15th. I appreciate your understanding that I will be unavailable to give attention to my own personal matters for the next few weeks, just as you advised me you were unavailable for the month of March due to your own commitments. I will respond to the Request no later than April 23, 2021 (I have completed my part of every agreement I have made with you since the beginning of this case). Please prepare an Agreed Order and send it to me for review at your convenience. I will respond as quickly as I can under the circumstances, but I'd appreciate at least one business day. Thank you.

Respectfully,

Carl Kennedy

From: clktax@aol.com,

To: edward@holodakpa.com,

Cc: tatiana@holodakpa.com,

Bcc: clktax@aol.com,

Subject: PBFC v Kennedy - UNAVAILABILITY

Date: Tue, Mar 23, 2021 11:30 pm

Mr. Holodak,

I advised you I am dealing with a serious family medical emergency at this time, please allow me to attend to it without needing to deal with non-emergency litigation purposes.

Therefore, to ensure I may deal with this private family matter as necessary without needing to respond to your emails or other litigation matters, I have filed a Notice of Unavailability for this period of time. Any communications from you following this email will be placed in a special "folder" until the family medical emergency with which I am dealing has been resolved and I am prepared to attend to my personal issues, including this lawsuit. Your anticipated understanding will be appreciated.

Respectfully,

Carl Kennedy

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From: Carl Kennedy <clktax@aol.com>
Sent: Tuesday, March 23, 2021 11:31 PM
To: Edward Holodak <edward@holodakpa.com>
Cc: Tatiana Wilson <Tatiana@HOLODAKPA.COM>
Subject: PBFC v Kennedy - UNAVAILABILITY

Mr. Holodak,

I advised you I am dealing with a serious family medical emergency at this time, please allow me to attend to it without needing to deal with non-emergency litigation purposes.

Therefore, to ensure I may deal with this private family matter as necessary without needing to respond to your emails or other litigation matters, I have filed a Notice of Unavailability for this period of time. Any communications from you following this email will be placed in a special "folder" until the family medical emergency with which I am dealing has been resolved and I am prepared to attend to my personal issues, including this lawsuit. Your anticipated understanding will be appreciated.

Respectfully,

Carl Kennedy

From: edward@holodakpa.com,

To: clktax@aol.com,

Cc: Tatiana@HOLODAKPA.COM,

Subject: RE: PBFC v Kennedy - UNAVAILABILITY

Date: Wed, Mar 24, 2021 9:16 am

Attachments: Delio v Landman.pdf (136K),

Carl

While I respect your family issues, I was not asking you to attend a deposition or for anything other than dates in the next 45 days you can attend a deposition. A notice of unavailability does not mean I cannot communicate with you. I entered an agreed order giving you extra time to respond to discovery based upon same; however, the attached case from the 4th DCA says the pleading does not even exist under the Rules.

Please provide me dates as requested, or I will proceed accordingly.

Very truly yours,

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

Edward F. Holodak, P.A.
7580 NW 5th Street
Suite 15125
Plantation, Florida 33317
(954) 927-3436

