

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

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

CASE NO.: CACE20005993

Plaintiff,

v.

CARL L. KENNEDY, II

Defendant.

MOTION FOR REHEARING OR RECONSIDERATION

COMES NOW, DEFENDANT, CARL L. KENNEDY, II (“Mr. Kennedy”), by and through the undersigned counsel, files this Motion for Rehearing or Reconsideration, and in support states as follows:

1. On February 28, 2022, the Special Magistrate Lynch held a hearing on Plaintiff’s Motion to Compel Better Responses to their request for electronic data from Mr. Kennedy, requesting full administrative authority. There is no dispute that Plaintiff has the electronic data they have requested in this matter. However, Plaintiff asserted that they cannot run reports or print reports of such data without being granted full administrative authority, rather than a “read-only” format. Plaintiff further asserted that they have the current ability to edit the data contained in the Quickbooks file provided to them by Mr. Kennedy.

2. On March 7, 2022, Special Magistrate Lynch signed a Report directing Mr. Kennedy to produce to Plaintiff the at issue Quickbooks datafile with full administrative authority, rather than the “read-only” file he provided, unless he could produce an Affidavit in support of his position that the Quickbooks data file he provided to Plaintiff cannot be edited, thereby requiring reversal of the Court’s ruling.

3. Since the entry of the aforementioned Report, Mr. Adam Smith, an accountant familiar with Quickbooks, has reviewed the Quickbooks data file produced to Plaintiff by Mr. Kennedy. The Affidavit of Adam Smith is attached hereto and incorporated herein as Exhibit “A”.

4. Mr. Smith has verified that the “ready only” data file provided by Mr. Kennedy to Plaintiff **cannot** be edited within Quickbooks, contrary to Plaintiff’s assertion. The data file provided to Plaintiff by Mr. Kennedy is tantamount to an original document. It cannot be altered.

5. The datafile provided by Mr. Kennedy to Plaintiff can generate any report desired within Quickbooks, contrary to Plaintiff’s assertion.

6. Additionally, the reports generated by the data contained in the “read only” Quickbooks data file provided by Mr. Kennedy, contrary to Plaintiff’s assertion, can be printed by exporting any report generated from the data within Quickbooks to a third-party application, including but not limited to, Microsoft Excel.

7. As such, Plaintiff has **no** legitimate basis to request full administrative authority to access the Quickbooks data file at issue in this case.

8. Mr. Kennedy has met his obligations under the Florida Rules of Civil Procedure governing discovery, including Fla. R.C.P. 1.350.

9. The Court should enter an Order granting Mr. Kennedy’s Motion for Rehearing or Reconsideration and holding an evidentiary hearing on Plaintiff’s Motion to Compel, if necessary. Ultimately based on the foregoing the Court should deny Plaintiff’s Motion to Compel Better Responses.

WHEREFORE, the Defendant, CARL L. KENNEDY, II, respectfully requests that this honorable Court enter an Order granting Defendant’s Motion for Rehearing or Reconsideration and schedule an evidentiary hearing on Plaintiff’s Motion to Compel, together with any other relief this Court deems just and proper.

[CERTIFICATE OF SERVICE ON THE FOLLOWING PAGE]

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POMPANO SENIOR SQUADRON FLYING CLUB, INC.

(aka POMPANO BEACH FLYING CLUB)

Plaintiff,

v.

Case No.: CACE 20-005993

Division (8)

CARL L. KENNEDY, II

Defendant


AFFIDAVIT OF ADAM SMITH

I, Adam Smith, after first being duly sworn upon oath, state as follows:

1. I have personal knowledge of the facts contained herein.
2. I am an accountant.
3. I have been using QuickBooks accounting software since January of 2015.
4. I have reviewed the "read-only" QuickBooks data file provided by Mr. Kennedy to the Plaintiff.
5. The data contained in the "read-only" QuickBooks data file provided by Mr. Kennedy to the Plaintiff **cannot** be edited within QuickBooks.

6. The data contained in the "read-only" QuickBooks data file provided by Mr. Kennedy to the Plaintiff can generate any report desired within QuickBooks.
7. The reports generated by the data contained in the "read-only" QuickBooks data file provided by Mr. Kennedy to the Plaintiff can be printed by exporting any report generated from the data within QuickBooks to a third-party application, including but not limited to, Microsoft Excel.

FURTHER AFFIANT SAYETH NAUGHT


ADAM SMITH

State of Alabama
County of Shelby

Sworn to and subscribed to before me by ADAM SMITH this 10th day of March, 2022 and who is known to me or satisfactorily proven and who did take an oath.

My commission expires: 5/15/24


Notary Public

