

IN THE CIRCUIT COURT OF THE
17TH 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 KENNEDY'S MOTION FOR REHEARING CAUSE

Plaintiff, POMPANO SENIOR SQUADRON FLYING CLUB, INC. (Plaintiff "Club"), by and through its undersigned counsel, files this Response to the Motion for Rehearing labeled a Motion to Vacate filed by Defendant Carl L. Kennedy, II (Defendant "Kennedy")'s as to the Court's Contempt Order against him, and says:

1. This is now at least the fifth (5th) hearing related to Kennedy's non-compliance with discovery orders on the SAME discovery issue! Once again Kennedy takes up this Court's time with pages and pages of inappropriate, inaccurate and improper argument and for some reason, the Court continues to indulge Kennedy at the Club's expense and time.

2. Kennedy again fails to follow the Rules of Civil Procedure, that despite being pro se, he is obligated to comply. The Rules of Civil Procedure only provide for a rehearing or to vacate an Order when the Motion expresses some new evidence or some rule of law that the court overlooked in its original ruling. Kennedy's Motion asserts no such argument. Rather, it is simply a re-argument of the same arguments he presented in all prior hearings.

3. Instead, Kennedy now accuses not only the undersigned counsel, but this

Court in engaging in unethical behavior. Apparently, Kennedy is not satisfied with impugning counsel, he now impugns the Court's ethics. All while apparently not knowing what the term *ex-parte* means!

4. Rather than educate himself on the definition, he instead publicly accuses the Court of being unethical and simultaneously filed yet another Bar Complaint against the undersigned counsel.

5. The very exhibit and email Kennedy relies upon for his baseless charges is an email that anyone old enough to read, shows on its face is *not ex-parte*. The email IS ADDRESSES TO CARL KENNEDY.

6. Yes, the Court is copied on the email, but the communication – directed to Kennedy himself, by definition is NOT *ex parte*.

7. As this alleged *ex parte* communication is the basis of Kennedy's baseless Motion, this Court *must* DENY same and award the Club its attorney fees, to be paid immediately as a sanction, against Kennedy.

8. As to the balance of Kennedy's Motion, as stated above, it is simply rearguing the same old statements of Kennedy; however, this time Kennedy tells this Court it is wrong and unethical.

9. Kennedy alleges he was unaware of the court's order; however, Kennedy was present during the hearing at which this Court made its ruling and was therefore knowledgeable of the Court's ruling from its inception. Furthermore, at that hearing the Court indicated it was not presently in a location at which it could print and sign its Order. Counsel for the Club advised the Court he could produce the Order in DOCUSIGN thus allowing the Court to virtually sign the Order. The Court agreed and directed Counsel to do so.

10. Counsel did, and the software DOCUSIGN, sent the Order to the Court's

email only as only the Court was to sign the Order.

11. Kennedy acts shocked that the Court actually signed an Order consistent with the Court's ruling at the hearing. Such "shock" is without basis in logic.

12. Next, Kennedy claims that this Court's Order will prejudice him in future hearings or pleadings in this case. Kennedy misses the point, it is not the Court's Order that does so, it is Kennedy's actions in violating four (4) prior Court Orders that will serve as the basis for any alleged prejudice or perceived prejudice by Kennedy.

13. While Kennedy attempts to play the victim, it is Kennedy that violated the Court's prior Orders, it is Kennedy who failed to deliver the data he was required to deliver, it was Kennedy who failed to provide an accurate password for the data after he finally delivered the data; and it is Kennedy who was and is in contempt of Court.

14. While the undersigned Counsel attempts to remain calm in light of the continued ad hominin attacks from Kennedy, now that Kennedy is asserting those same ad hominin attacks against the Court directly, the Club is hopeful that the Court will direct not only entitlement to attorney fees against Kennedy, but determine the amount of such fees and costs for the nearly 1.5 year long efforts of the Club to obtain its *own* data from Kennedy, and then require the immediate payment of such fees with the risk of striking his pleadings if not paid. For without the immediate sanction of having to actually write a check, the Club is confident that Kennedy's boorish, inaccurate and baseless arguments and delays will continue.

WHEREFORE, Plaintiff Club moves the Special Magistrate for an Order finding Defendant Kennedy in contempt, again, denying is Motion, determining the amount of attorney fees due from Kennedy and requiring the immediate payment thereof, and any further relief this Court deems just and equitable.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via eportal this 7th day of July 2022, to Carl L. Kennedy II cltax and Thomas M. Lynch, IV Special Magistrate tomlynchmediation@gmail.com

/s/Edward F. Holodak
EDWARD F. HOLODAK, ESQ.
Attorney for Plaintiff
Fla. Bar No.: 059234
Edward F. Holodak, P.A.
7951 SW 6th Street, Ste. 210
Plantation, FL 33324
Tel.: 954-927-3436
pleadings@holodakpa.com