U.S. DISTRICT COURT WESTERN DISTRICT OF KENTUCKY (Louisville)

3:19-cv-0 930-GNS
3

COMPLAINT FOR DEFAMATION

The plaintiff alleges and states the following Complaint against the defendants, and each of them, and pleads, for the "injury done him in his ... reputation," the plaintiff seeks "remedy by due course of law, and right and justice administered without sale, denial or delay," (§14 Constitution of Kentucky), based on the following:

- 1. The plaintiff is a citizen of the Commonwealth of Kentucky and a resident of Jefferson County, Kentucky. Plaintiff is a private individual and not a public figure.
- 2. Defendants are not citizens or residents of Kentucky, and the plaintiff invokes the diversity jurisdiction of this Court, pursuant to 28 U.S.C. §1332. The amount in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs.
- 3. Upon information and belief, defendant Joseph R. Dreitler is a citizen and resident of the State of Ohio, who maintains an office in Franklin County, Ohio.
- 4. Upon information and belief, defendant Gary W. Reidl is a citizen and resident of the State of California, who maintains an office in Half Moon Bay, San Mateo County, California.

5. Upon information and belief, defendant Jenifer deWolf (Paine) is a citizen and resident of the State of New York, who maintains an office in New York, NY.

JURISDICTION AND VENUE

- 6. This Court has personal jurisdiction over the defendants because their tortious acts of publishing within this Commonwealth defamatory statements which caused injury in Kentucky to the plaintiff, who is and was at the time of the actions alleged here a resident of Kentucky. This Court has personal jurisdiction over the defendants pursuant to KRS § 454.210(2)(a), subsections (3), and (4). The defendants' torts alleged herein occurs wherever the offending material is circulated, according to *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 777 (1984).
- 7. Each defendant's tortious acts gave rise to defamation claims based upon the same common nucleus of operative fact, and upon each defendants' volitional contacts with readers in Kentucky of the defamatory comments that defendants published to those and other readers. Each defendant purposely availed themselves of the benefit of using an online publication knowing that their comments would reach readers in Kentucky, and elsewhere, connected to the stream of internet commerce and ideas. The defendants, and each of them, should have forseen having to answer for their defamatory comments, directed at plaintiff, in the jurisdiction where those comments caused injury and where the plaintiff resides, and works.
- 8. Venue in this district is proper under 28 U.S.C. 1391(b) in that a substantial portion of the actions and harms occurred here. The forum state has an interest in adjudicating the matter and applying its laws against defamation and defamation *per se*. This forum will provide the most efficient resolution of the issues of local law.

9. Venue in the vicinage of this federal court is proper, as well as proper in Jefferson County, Kentucky, pursuant to KRS § 452.460 and KRS § 454.210(4).

FACTUAL BACKGROUND

- 10. In an adminstrative proceeding before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office (hereinafter the "TTAB"), the Plaintiff was counsel of record for Corcamore LLC, defending it against an action to cancel its trademark registration (hereinafter the "Cancellation Action"), pleaded by SFM LLC under 15 U.S.C. §1064 (§14 of the Lanham Act).
- 11. At the outset of the Cancellation Action, a motion on behalf of Corcamore challenged the "statutory standing" of SFM LLC to plead for cancellation of the trademark registration. That motion was based on the then-recent, unanimous decision of the U.S. Supreme Court in *Lexmark v. Static Control*, 572 U.S. 118 (2014). The argument was that the *Lexmark* decision changed the pleading requirements for standing to seek remedies under the Lanham Act, and that *Lexmark* should be applied to SFM LLC's pleading in the Cancellation Action.
- 12. After SFM LLC interposed a First Amended Petition, the motion to dismiss was re-filed on behalf of Corcamore.
- 13. The TTAB denied the re-filed motion to dismiss, but just before that issued, the U.S. District Court for the Eastern District of Virginia (in another case) ruled that the *Lexmark* decision did apply to how standing must be pleaded in §1064 cancellation actions before the TTAB.

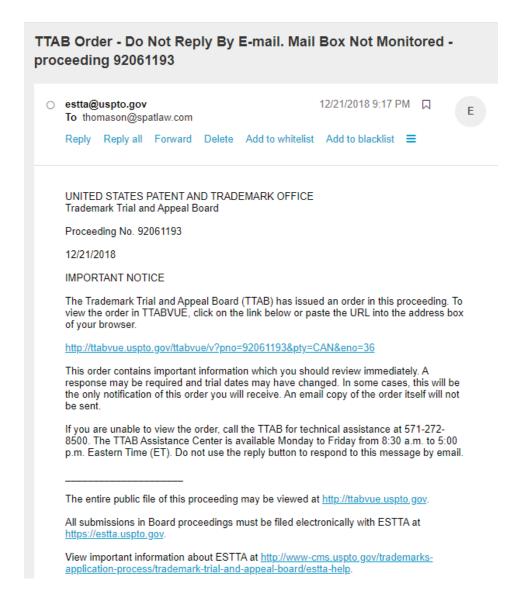
- 14. A motion for reconsideration, based on the then-recent ruling from the U.S.

 District Court for the Eastern District of Virginia was filed on behalf of Corcamore. That motion was denied in the Cancellation Action by the administrative judges of the TTAB.
- 15. After that motion for reconsideration was denied, the party in that Eastern District of Virginia court case appealed to the U.S. Court of Appeals for the Fourth Circuit. The TTAB stayed the Cancellation Action against Corcamore pending a ruling from the Fourth Circuit.
- 16. The U.S. Court of Appeals for the Fourth Circuit ruled that the Supreme Court's *Lexmark* decision applied to how a party must be plead its standing in §1064 Lanham Act cancellation actions before the TTAB.
- 17. Another motion for reconsideration, based on the ruling from the U.S. Court of Appeals for the Fourth Circuit, was filed on behalf of Corcamore in the Cancellation Action.
- 18. Corcamore's motion for reconsideration was denied. The administrative judges stated that the TTAB, an Article I administrative Board "need not consider a decision by a [U.S.] district court or that district court's primary reviewing court [i.e., the U.S. Court of Appeals for the Fourth Circuit] which may appear to apply or analogize from Lexmark Int'l [decision of the U.S. Supreme Court] a standard for pleading standing in a Board proceeding."
- 19. After denying the initial motion of Corcamore challenging "statutory standing" based on the Supreme Court's *Lexmark Int'l* decision, then denying the first reconsideration motion based on the U.S. District Court ruling, and denying the second reconsideration motion based on the U.S. Court of Appeals ruling in *Belmora v. Bayer*, 1 the TTAB invoked "inherent

¹ Belmora LLC v. Bayer Consumer Care AG, 84 F.Supp.3d 490, 505 (E.D. Va. 2015), aff'd in relevant part, 819 F.3d 697, 714 (4th Cir. 2016), subs. hist. omitted.

authority" to impose a sanction for the filing of an "inordinate number" of motions on behalf of Corcamore in the Cancellation Action.

20. The Cancellation Action concluded on December 21, 2018 with a written order "issued" by the administrative judges of the TTAB, and plaintiff (here) was notified via email.



Defamatory Comments of the Defendants.

21. On or after December 21, 2018, non-party John Welch published a blog post about the final order in the Cancellation Action.

- 22. Non-party Welch routinely posts to his online blog about recent rulings from the Trademark Trial and Appeal Board of the United States Patent and Trademark Office (the "TTAB"). (See, *e.g.*, Exhibit A, hereto).
- 23. Non-party Welch regularly posts to his online blog about TTAB matters, and those blog posts are aimed at a nationwide audience and are publicly available in Kentucky and readily accessible to residents of Kentucky.
- 24. The online blog of non-party Welch allows others to publish their own comments, which appear online below Welch's blog post.
- 25. The online blog posts of non-party Welch are accessible to anyone, anywhere with an internet connection.
- 26. Upon information and belief, the online blog of Welch is accessible to all persons with internet through the separate social media accounts of Welch. Upon information and belief, the online blog of Welch originates from his office in Massachusetts.
- 27. On or after December 21, 2018, each defendant published their comments on the blog post of Welch, which comments were defamatory, were directed at plaintiff, and that defendants published online knowing those would be accessible on the world wide web, including in Kentucky, and that damaged the reputation of the plaintiff.
- 28. On or about December 21, 2018, defendant Joseph Dreitler published a comment to non-party Welch's blog post in which Welch summarized the final order in the Cancellation Action. See, Exhibit B, herewith.

- 29. The comments defendant Joseph Dreitler published to non-party Welch's blog post were defamatory and directed at the plaintiff, and were defamatory *per se* under Kentucky law.
- 30. Defendant Joseph Dreitler's comments were published so as to be accessible via the internet, and readable by the general public, by persons in Kentucky and by persons in the legal profession, by counsel and other by persons interested in intellectual property law, and by persons who know the plaintiff.
- 31. Defendant Joseph Dreitler's comments defamed plaintiff, in particular, plaintiff's professionalism, legal ability, as well as his standing as a full-time faculty member teaching at the College of Law of The Ohio State University.
- 32. Defendant Joseph Dreitler's comments stated or indicated that plaintiff was unfit for his job and duties as a law professor.
- 33. Dreitler never has spoken to plaintiff, and defendant Joseph Dreitler never has had any professional or personal contact with plaintiff.
- 34. Prior to the publication of the defamatory comments that Defendant Dreitler directed at the plaintiff, the plaintiff never had known and never had heard of defendant Dreitler.
- 35. On or about December 21, 2018, defendant Paul Reidl published a comment to the blog post in which non-party Welch summarized the final order in the Cancellation Action. See, Exhibit B, herewith.
- 36. By adding his comment, Defendant Paul Reidl re-published or re-posted defendant Dreitler's comments. Defendant Reidl commented "I agree" and in addition to adopting defendant Joseph Dreitler's comment, Reidl added his further comments.

- 37. The comments defendant Paul Reidl published to non-party Welch's blog post were defamatory and directed at the plaintiff, and were defamatory *per se* under Kentucky law.
- 38. Defendant Reidl's comment was published so as to be accessible via the internet, and was and is now readable by the general public, by persons in Kentucky and by persons in the legal profession, by counsel and other persons interested in intellectual property law, and by persons who know the plaintiff.
- 39. Defendant's comments stated or indicated that plaintiff was unfit for his job and duties as a law professor, and separately as an IP litigation attorney.
- 40. Defendant Reidl never has spoken to plaintiff, and Reidl never has had any professional or personal contact with plaintiff, and prior to the publication of his defamatory comments directed at the plaintiff, the plaintiff never had known and never had heard of defendant Reidl.
- 41. On or about December 21, 2018, defendant Jenifer deWolf published a comment to non-party Welch's blog post in which Welch had summarized the final order in the Cancellation Action. See, Exhibit B, herewith.
- 42. By adding her comment, defendant Jenifer deWolf re-published or re-posted defendant Dreitler's comments and defendant Reidl's comments.
- 43. Defendant deWolf's comment assented to or did not imply disagreement with the comments of Dreitler and Reidl.
- 44. In addition, defendant deWolf further commented, referencing and hyperlinking to a federal district court case unrelated to the Cancellation Action (hereinafter the "Lehrer" case).

- 45. Defendant deWolf's comment omitted mentioning that a later decision of the U.S. Court of Appeals for the Third Circuit abrogated the Lehrer case.
- 46. The comments defendant deWolf published to non-party Welch's blog post were defamatory and directed at the plaintiff.
- 47. The comments defendant deWolf published to non-party Welch's blog post were directed at the plaintiff and were defamatory *per se* under Kentucky law.
- 48. Defendant deWolf's comment was published so as to be accessible to the general public, via the internet, and deWolf's comment was and is readable by persons in Kentucky and by persons in the legal profession, by counsel and other persons interested in intellectual property law, and by persons who know the plaintiff.
- 49. Defendant deWolf's comments stated or indicated that plaintiff was unfit for his job and duties as a law professor, and separately as an IP and complex civil litigation attorney.
- 50. Defendant deWolf never has spoken to plaintiff. Defendant deWolf never has had any professional or personal contact with plaintiff. Prior to the publication of her defamatory comments directed at the plaintiff, the plaintiff never had known and never had heard of defendant deWolf.
- 51. The defendants' comments concerned the activities of a resident of Kentucky, and the resulting harm and injury to plaintiff and his reputation were suffered in Kentucky where he resides and works.
- 52. Plaintiff's cause of action arises from the defendants' comments which they knew were published and were accessible online, and are accessible to anyone in Kentucky with internet access.

- 53. Upon information and belief, the defendants have purposeful and systematic contacts with persons in this forum and persons known to plaintiff, through the defendants' online listings, such as Linkedin.com (examples at Exhibit D, herewith), social media postings, and their online commentary posts.
- 54. Upon information and belief, the posts and comments from non-party Welch's blog automatically are presented on Westlaw and/or Lexis when certain administrative case law search terms are used.
- 55. The comments that defendants published on non-party Welch's blog were defamatory, were directed at plaintiff, and were damaging to the reputation of the plaintiff, and caused loss of income and emotional distress, and defendants' comments were published with reckless disregard as to the falsity of the content.

ELEMENTS OF PLAINTIFF'S REPUTATION PRIOR TO DEFENDANTS' COMMENTS.

- 56. Prior to the date/s on which defendants each published their defamatory, online comments, the reputation of the plaintiff was grounded on at least the following:
 - (a) Full-time appointment as a member of the faculty at the Moritz College of Law of The Ohio State University. Appointed at the "Assistant" professor rank, then promoted to the rank of "Associate" professor.
 - (b) Rated AV-Preeminent for over thirty years by Martindale-Hubbell based on judges and peer attorney reviews.
 - (c) Awarded, based on competitive submissions, a Fulbright Research Scholar grant to study angel investor decision-making processes in the EU, and to be a Visiting Professor

at the Entrepreneurial School of the Management Center Innsbruck, Austria. See, Exhibit G, herewith.

- (d) Finalist, based on competitive submissions, for appointment as the Fulbright-Hall Distinguished Chair in Entrepreneurship at the Vienna University of Business and Economics.
- (e) Admitted, based on bar exam, as a registered U.S. Patent Attorney. Named as counsel of record on numerous issued U.S. patents.
- (f) Admitted to practice before the U.S. Supreme Court. Admitted to practice before the U.S. Courts of Appeal for the Second, Third, Fourth, Sixth, Seventh and Federal Circuits. Admitted to practice before six U.S. District Courts. In good standing in all of these federal courts.
- (g) Admitted to practice in and in good standing with the courts of the Commonwealth of Kentucky, the State of New Jersey (now inactive), and the State of Ohio (now inactive).
- (h) Formerly adjunct professor of law at the College of Law of the University of Kentucky. Taught Intellectual Property Transactions course, and Patent Law Fundamentals course.
- (i) Founder, then Managing Partner of Thomason, Moser & Patterson, an IP boutique law firm with offices in New Jersey, Louisville, Houston and San Jose.
 - (j) Partner, Wilson Elser Moskowitz Edelman & Dicker, NYC-based litigation firm.
- (k) Law clerk to Chief Judge of the U.S. District Court for the Eastern District of Kentucky, Hon, B.T. Moynahan, Jr.

(l) Veteran of U.S. Marine Corps, honorably discharged as Sergeant (E-5).

Count I – Defamation.

- 57. Plaintiff restates and incorporates by reference, as if fully set forth herein, the allegations contained in the preceding paragraphs of this Complaint.
- 58. Defendants published comments that were false and that defamed the plaintiff in his profession, and to his peers, as well as to the general public, and damaged his reputation.
- 59. Defendants published their defamatory comments on publicly-accessible online web sites, knowingly and recklessly, and with awareness of the likelihood of causing injury, embarrassment, as well as special and noneconomic damages to plaintiff.
- 60. Defendants published their defamatory comments on publicly-accessible, online web sites, and knew or should have known that the website would publish and make each of defendant's comments available in Kentucky.
- 61. Defendants knew or they should have known that the defamatory comments they published about the plaintiff were words that a reasonable reader would attribute a defamatory meaning.
- 62. Construed as a whole, the defendants' comments tend to bring plaintiff into contempt, public disgrace or ridicule, or to induce an evil opinion of plaintiff in the minds of right-thinking people, and to cause plaintiff to be shunned or avoided, and to injure plaintiff in his business, profession or occupation.
- 63. The defendants' comments include false assertions about the plaintiff "teaching at the Ohio State law school," false reference to attorney-client privileged communications about

"TTAB procedure" and false assertions about the client not "being advised" but un-advised and so knowing "nothing" about such procedures, malicious comments that plaintiff is a "lawyer who thinks" adjudicative procedures are "a game," and is a "jerk," and that the plaintiff is "unprofessional" even though that word never appears in the Cancellation decision referenced in non-party Welch's blog post. Also, each defendants' comments imply or give the impression that they have knowledge of other false and defamatory facts, on which they relied when writing the comments they published on non-party Welch's blog.

- 64. Defendant Dreitler's comments about plaintiff's employment relationship, teaching and academic rank "as a faculty member of The Ohio State University College of Law" were malicious, intentionally injurious, or made with reckless disregard of the damaging effect.
- 65. Defendant Dreitler's comments about plaintiff's employment relationship, teaching and academic rank "as a faculty member of The Ohio State University College of Law" were malicious, intentionally injurious, or made with reckless disregard of the damaging effect, especially because defendant Dreitler is known to and has represented The Ohio State University in intellectual property law and civil litigation matters, and so, Dreitler's comments were especially damaging and impugned plaintiff's competence, capacity, or fitness in the performance of his professional and academic pursuits in the minds of persons who know or are acquainted with plaintiff.
- 66. Any facts in defendant Dreitler's comments, even if substantially true, were published by defendant so as to provoke a substantially false and defamatory impression by omitting material facts or by Dreitler juxtaposing facts or falsehoods in a misleading way.
- 67. Defendant Reidl's comments about plaintiff's relationship with his client in the Cancellation Action, and how plaintiff "advised" his client in the Cancellation Action were

malicious, intentionally injurious, or made with reckless disregard of the fact that Reidl had no information about the actual attorney-client privileged communications and Reidl had no information as to what the plaintiff's (here) client "knew" or was "advised," and for those and other reasons, Reidl's comments are verifiably false and defamatory, and imply Reidl had facts about what that client was "advised" or about actual attorney-client privileged communications, which comments are baseless and provable as false.

- 68. Defendant Reidl's comments in 2018 that state or imply plaintiff is unfit as an IP or trademark litigation attorney were malicious.
- 69. Defendant Reidl published comments directed at plaintiff in 2018, knowing that he, Reidl, had been sanctioned in 2018 by a federal district court in a trademark case in which the district judge made findings that "Reidl recklessly raised a frivolous argument," that he "violated Rule 11(b)(3) by making factual contentions without any evidentiary support," that "Reidl was on notice that he could no longer repeat those lies to the Court. But he nevertheless repeated the lies in a renewed motion," and the district court imposed "sanctions against Reidl for violating Rule 11(b)(3) and 28 U.S.C. § 1927," but that judge found "no basis to award sanctions against local counsel" who assisted defendant Reidl. Further information about defendant Reidl is at Exhibit C herewith.
- 70. Any facts in the comments defendant Reidl directed at plaintiff, even if substantially true, were published by defendant such as to create a substantially false and defamatory impression by omitting material facts or by juxtaposing facts in a misleading way.
- 71. Defendant deWolf's comments that plaintiff "being called out for unprofessional conduct before" and hyperlinking to the Lehrer's case were malicious or made with reckless disregard of the fact that deWolf lacked information about the Lehrer case, and made no effort to

verify the complete and accurate facts. Any facts in the comments defendant that defendant deWolf directed at plaintiff, even if substantially true, were published by defendant such as to create a substantially false and defamatory impression by omitting material facts or by juxtaposing facts in a misleading way, including that the issue in the Lehrer case was whether or not the common-law "Privilege to Publish Injurious Falsehoods" (a/k/a the 'litigation privilege') barred the counterclaims pleaded against Lehrer, and the fact that the Lehrer case was part of a patent infringement case in which Lehrer made claims against plaintiff (here) and the fact that plaintiff (here) was represented there by a law firm appointed by Lloyds of London (see below), and the fact that the decision in the Lehrer case that deWolf cited in her comments was "abrogated" later by the U.S. Court of Appeals for the Third Circuit.

- 72. By their comments, each defendant assented to and in effect adopted the comments of the other defendants, which each defendant published and posted under non-party Welch's blog post that summarized the final order in the Cancellation Action.
- 73. Each defendant is liable for republishing the defamatory comments of each other defendant.
- 74. Defendants' published comments are widely accessible from internet search engines. See, Exhibit E, herewith.
- 75. Defendants comments were republished on websites devoted to intellectual property issues, such as the site of the Los Angeles Intellectual Property Law Association. See, Exhibit F, herewith.
- 76. In 2019, plaintiff was made aware that Visiting Professor positions were sought for the Startup and Small Business and the Intellectual Property, Arts and Technology clinical

programs at the top-25 law school outside Kentucky. Plaintiff met or exceeded the requirements for Visiting Professor position, which included:

"at least 7-10 years of legal practice and/or teaching experience in the relevant practice area. They must hold a J.D. degree or equivalent from an accredited institution and be a member of a state bar. In addition, they must have demonstrated potential for excellence in clinical teaching."

- 77. As a professor, plaintiff developed, launched, and taught a law school clinic for "Startup and Small" businesses, and a "relevant practice" aspect of that clinical program was intellectual property. See, sample Syllabus, at Exhibit H, herewith.
- 78. Plaintiff was qualified for the open Visiting Professor positions (including what is described in paragraph 76).
- 79. Plaintiff applied for the Visiting Professor positions in January 2019. From among all of the applications submitted, the application of the plaintiff was "forward[ed] ... to the appointments committee [law school] for review."
- 80. It is reasonable to assume that the appointments committee of the law school surveyed, or had surveyed, internet-accessible information about the plaintiff in their "review" of plaintiff's application for the Visiting Professor positions.
- 81. The defendants' comments about the plaintiff, his teaching, his qualifications, and his professionalism would cause a reasonable reader on the appointments committee to attribute a defamatory meaning thereto, and were tend to impugn plaintiff in the minds of the appointments committee, and to injure plaintiff his efforts to obtain Visiting Professor positions.
- 82. The comments that defendants posted about plaintiff on the blog of non-party Welch were accessible to members of the appointments committee and other law school faculty.

- 83. Plaintiff was passed over for the Visiting Professor positions, and the opportunity for income therefrom was lost.
- 84. Defendants widely published their defamatory and false comments to and through publically-accessible websites knowing that the natural and probable consequence would be to bring plaintiff into public scorn, contempt, disgrace or ridicule; cause him to be shunned or avoided; and/or, injure him in Kentucky in respect to his business. profession or occupation.
- 85. Defendants' tortious activity was done without due care and proximately caused reputational and economic damage to Plaintiff, all of which was suffered by Plaintiff who was then and is now a resident and domiciliary of the Commonwealth of Kentucky.
- 86. Defendants published their comments intentionally, directed their comments at the plaintiff.
 - 87. Defendants published their comments without privilege and not in good faith.
- 88. A as a direct and proximate result of the defamatory statements made by the defendants, and published online, the plaintiff has suffered:
 - a. Injury to his reputation in the community generally and his professional reputation;
 - b. Mental anguish, emotional distress, humiliation, and non-bodily personal injury;
 - c. Loss of income from the defamatory statements;
 - d. Injury to academic standing resulting from the defamatory statements; and
- e. Special damages, losses and injuries reasonably certain to be sustained in the future.

 WHEREFORE, having pleaded the foregoing, the plaintiff prays for:
- A. A judgment of joint and several liability against the defendants and each of them on Count I of the Complaint;
 - B. Damages for defamation and injury to reputation;

- C. Special damages for emotional distress
- D. Costs of suit, experts' expenses, and as appropriate, attorney's fees; and
- E. All other damages, losses, legal, equitable and declaratory relief as deemed just and appropriate by the Court.

Count II – Defamation per se.

- 89. Plaintiff restates and incorporates by reference, as if fully set forth herein, the allegations contained in the preceding paragraphs of this Complaint.
- 90. The comments that each defendant published to non-party Welch's blog post were directed at the plaintiff, and were defamatory *per se* under Kentucky law.
- 91. Each defendants' comments, separately and as a whole, "tends so to harm the reputation of [plaintiff] as to lower him in the estimation of the community or to deter third persons from associating or dealing with him" and "tend to expose the plaintiff to public hatred, ridicule, contempt or disgrace, or to induce an evil opinion of him in the minds of right-thinking people," and falsely and intentionally accuse plaintiff of "unfitness to perform duties of office, or tend to disinherit him, ... and tend to injure [plaintiff] in his reputation or to expose him to public hatred, contempt, scorn, obloquy, or shame, are libelous per se" under the laws that protect citizens of the Commonwealth of Kentucky from defamation.

WHEREFORE, having pleaded the foregoing, the plaintiff prays for:

- A. A judgment of joint and several liability against the defendants and each of them liability on Count II of the Complaint;
 - B. Damages for defamation *per se* in an amount not less than \$150,000;
 - C. Costs of suit, experts' expenses, and as appropriate, attorney's fees; and
- D. All other legal, equitable and declaratory relief as deemed just and appropriate by the Court.

JURY DEMAND

Plaintiff requests a jury on all triable issues cognizable under law or equity.

19 DEC 2019

~ S ~ /Charles L. Thomason/ Charles L. Thomason, plaintiff 6608 Harrods View Circle Prospect, KY 40059 Email: Thomason[at]spatlaw[dot]com

Telep. (502) 349-7227

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

purpose of initiating the civil de	ocket sneet. (SEE INSTRUC	TIONS ON NEXT PAGE C)F THIS FO	'RM.)					
I. (a) PLAINTIFFS				DEFENDANTS					
Charles L. Thomason				Joseph R. Dreitler, Paul W. Reidl and Jenifer deWolf Paine					
(b) County of Residence of First Listed Plaintiff Jefferson (EXCEPT IN U.S. PLAINTIFF CASES)				County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.					
(c) Attorneys (Firm Name, 1	Address and Telenhone Numbe	r)		Attorneys (If Known)					
Charles Thomason, 6608 (502) 349-7227	-		59	3 13					
II. BASIS OF JURISDI	ICTION (Place an "X" in C	One Box Only)		TIZENSHIP OF PI (For Diversity Cases Only)	RINCIPA	L PARTIES	Place an "X" in C and One Box for		
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IV. NATURE OF SUIT			F(DEFITIDE/DENATTV		here for: Nature o			
CONTRACT 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury Medical Malpractice CIVIL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 448 Education	PERSONAL INJUR 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Persona Injury Product Liability PERSONAL PROPEI 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability PRISONER PETITIO Habeas Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty Other: 540 Mandamus & Others 550 Civil Rights 555 Prison Condition 560 Civil Detainee - Conditions of Confinement	1 69 69 69 69 69 69 69 6	DRFEITURE/PENALTY 5 Drug Related Seizure of Property 21 USC 881 0 Other LABOR 0 Fair Labor Standards Act 0 Labor/Management Relations 0 Railway Labor Act 1 Family and Medical Leave Act 0 Other Labor Litigation 1 Employee Retirement Income Security Act IMMIGRATION 2 Naturalization Application 5 Other Immigration Actions	422 Appe 423 With 28 U FROPEI 820 Copy 830 Pater New 840 Trade 861 HIA 862 Black 863 DIW 864 SSID 865 RSI (SC 157 RTY RIGHTS rights tt tt - Abbreviated Drug Application emark SECURITY (1395ff) k Lung (923) C/DIWW (405(g)) Title XVI 405(g)) AL TAX SUITS s (U.S. Plaintiff efendant)	375 False Cla 376 Qui Tam 3729(a)) 400 State Rea 410 Antitrust 430 Banks and 450 Commerc 460 Deportati 470 Racketeer Corrupt C 480 Consume 490 Cable/Sat 850 Securities Exchange 890 Other Sta 891 Agricultu 893 Environm 895 Freedom Act 896 Arbitratio 899 Administration 470 Cable/Sat 500 Constituti 510 Constituti	ims Act (31 USC) pportionr d Banking se on r Influence Organizati r Credit t TV s/Common e tuttory Ac tral Acts ental Mat of Inform on rative Pro eve or App eccision ionality o	ment g ced and ions dities/ ctions tters nation occdure peal of
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VI. CAUSE OF ACTION	Brief description of ca	nuse: defamation per se							
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VIII. RELATED CASI IF ANY	E(S) (See instructions):	JUDGE			DOCKE	T NUMBER			
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11/25/2019 FOR OFFICE USE ONLY		/Charles L. Tho	omason	1					
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- **I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- **(b)** County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

- **III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- **IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.
- V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date. Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

	DISTRICT COURT
for	
Western District	t of Kentucky
Charles L. Thomason	
)	
)	
Plaintiff(s)	
v.)	Civil Action No. 3:19-cv-930-GNS
Joseph R. Dreitler, Paul W. Reidl,	
Jenifer deWolf Paine	
, 	
Defendant(s)	
SUMMONS IN A	CIVIL ACTION
To: (Defendant's name and address) Joseph R. Dreitler 19 E Kossuth St Columbus, OH 43206-2001	
	(not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer the Federal Rules of Civil Procedure. The answer or motion whose name and address are:	er to the attached complaint or a motion under Rule 12 of
Charles L. Thomason 6608 Harrods View Circle Prospect, KY 40059	
If you fail to respond, judgment by default will be en You also must file your answer or motion with the court.	stered against you for the relief demanded in the complaint.
	CLERK OF COURT
Date: 12/23/2019	
Date: <u>12/23/2019</u>	Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (1))

	This summons for (name	ne of individual and title, if any,)		
was re	ceived by me on (date)				
	☐ I personally served	the summons on the indiv	vidual at <i>(place)</i>		
	•			; or	
			ace or usual place of abode with (name)		
		, a	a person of suitable age and discretion who res	ides there,	
	on (date)	, and mailed a co	opy to the individual's last known address; or		
	☐ I served the summo	ons on (name of individual)		, who is	
	designated by law to	accept service of process of	on behalf of (name of organization)		
			on (date)	; or	
	☐ I returned the sumr	mons unexecuted because		; or	
	☐ Other (specify):				
	My fees are \$	for travel and \$	for services, for a total of \$	0.00	
	I declare under penalty	y of perjury that this inform	mation is true.		
Date:					
			Server's signature		
			Printed name and title		
			Server's address		

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

ONITED STATES L	
Western District	
w estern District	of Kentucky
Charles L. Thomason))))	
Plaintiff(s) v. Joseph R. Dreitler, Paul W. Reidl, Jenifer deWolf Paine)	Civil Action No. 3:19-cv-930-GNS
Defendant(s)	
SUMMONS IN A C	CIVIL ACTION
To: (Defendant's name and address) PAUL W REIDL 25 PINEHURST LANE HALF MOON BAY, CA 94019	
A lawsuit has been filed against you.	
Within 21 days after service of this summons on you (are the United States or a United States agency, or an officer of P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer the Federal Rules of Civil Procedure. The answer or motion in whose name and address are:	r to the attached complaint or a motion under Rule 12 of
Charles L. Thomason 6608 Harrods View Circle Prospect, KY 40059	
If you fail to respond, judgment by default will be ent You also must file your answer or motion with the court.	ered against you for the relief demanded in the complaint.
	CLERK OF COURT
Date: <u>12/23/2019</u>	Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (1))

	This summons for (name	ne of individual and title, if any,)		
was re	ceived by me on (date)				
	☐ I personally served	the summons on the indiv	vidual at <i>(place)</i>		
	•			; or	
			ace or usual place of abode with (name)		
		, a	a person of suitable age and discretion who res	ides there,	
	on (date)	, and mailed a co	opy to the individual's last known address; or		
	☐ I served the summo	ons on (name of individual)		, who is	
	designated by law to	accept service of process of	on behalf of (name of organization)		
			on (date)	; or	
	☐ I returned the sumr	mons unexecuted because		; or	
	☐ Other (specify):				
	My fees are \$	for travel and \$	for services, for a total of \$	0.00	
	I declare under penalty	y of perjury that this inform	mation is true.		
Date:					
			Server's signature		
			Printed name and title		
			Server's address		

Additional information regarding attempted service, etc:

UNITED STATES				
	the			
Western Distric	t of Kentucky			
Charles L. Thomason				
Plaintiff(s) V. Joseph R. Dreitler, Paul W. Reidl, Jenifer deWolf Paine	Civil Action No. 3:19-cv-930-GNS			
Defendant(s)				
SUMMONS IN A	CIVIL ACTION			
To: (Defendant's name and address) Jenifer deWolf Paine c/o Fish 602 Lexington Ave. 52nd Flo New York, NY 10022-4611	or			
A lawsuit has been filed against you.				
Within 21 days after service of this summons on you are the United States or a United States agency, or an officer P. 12 (a)(2) or (3) — you must serve on the plaintiff an answ the Federal Rules of Civil Procedure. The answer or motion whose name and address are:	ver to the attached complaint or a motion under Rule 12 of			
Charles L. Thomason 6608 Harrods View Circle Prospect, KY 40059				
If you fail to respond, judgment by default will be en You also must file your answer or motion with the court.	ntered against you for the relief demanded in the complaint.			
	CLERK OF COURT			
Date: <u>12/23/2019</u>	Signature of Clerk or Deputy Clerk			

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (1))

was re	This summons for (no ceived by me on (date)	me of individual and title, if any			
	•	d the summons on the indi			
			on (date)	; or	
		s at the individual's resider	nce or usual place of abode with (name) a person of suitable age and discretion who i	resides there	
	on (date)		opy to the individual's last known address; of		
	☐ I served the summ	ons on (name of individual)	on behalf of (name of organization)	who is	
			on (data)	; or	
		mons unexecuted because		; or	
	☐ Other (specify):				
	My fees are \$	for travel and \$	for services, for a total of S	\$0.00	
	I declare under penal	ty of perjury that this infor	mation is true.		
Date:					
			Server's signature		
			Printed name and title		
		_	Server's address		

Additional information regarding attempted service, etc:

Exhibit A

thettablog.blogspot.com/2018/12/



Exhibit B

Read comments and post your comment here.

TTABlog comment: What about a sanction against counsel?

Text Copyright John L. Welch 2018.

John L. Welch at 12/26/2018



3 comments:



Joseph Dreitler 8:51 AM

As to your question - "what about a sanction against counsel?".

The counsel who got his client sanctioned and case dismissed is identified as a faculty member of The Ohio State University College of Law. If correct, the Board certainly ought to sanction any attorney for such behavior, especially an attorney who is a law school professor at a major institution and who has the ability to influence hundreds of young attorneys he is teaching at Ohio State University law school.

Reply

Paul Reidl 10:18 AM

I agree with Joe. My guess is that the party knew nothing about TTAB procedure and was being advised on what to do by counsel. Punishing the party for its lawyers' conduct does not address the problem of lawyers who think this is all a game that they wan "win" by being jerks.

Reply



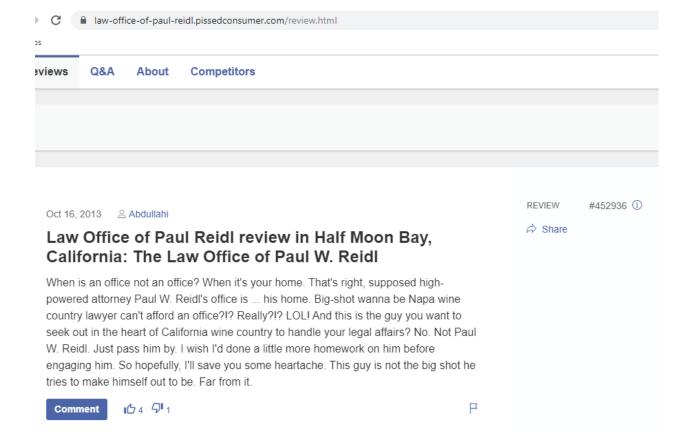
Jenifer deWolf 2:44 PM

This lawyer has been called out for unprofessional conduct before: https://casetext.com/case/thomason-v-lehrer-2

Reply

Enter your comment...

Exhibit C



CONCLUSION

The Court will grant Lone Wolf's motion for sanctions.¹ The Court will award sanctions against Reidl for violating Rule 11(b)(3) and 28 U.S.C. § 1927, requiring payment to Lone Wolf of the attorney fees and costs it incurred in responding to the renewed motion to dismiss filed on May 19, 2016.

The Court will also award sanctions against defendants Bravoware and Sopcom pursuant to its inherent power, and under Rule 11(c)(1) because these defendants were responsible for violating Rule 11(b)(3), requiring payment to Lone Wolf of the attorney fees and costs it incurred for the following:

- Responding to the first motion to dismiss (docket no. 17);
- Filing the motion to conduct discovery regarding BravoTac (docket nos. 14, 16, & 21)
- Responding to the renewed motion to dismiss (docket no. 32)
- Traveling and taking the deposition of Shemesh.

ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion for sanctions (docket no. 43) is GRANTED. Sanctions are imposed on attorney Paul Reidl and on defendants Bravoware and Sopcom as set forth in the body of the Memorandum Decision.

Memorandum Decision & Order - page 13

¹ The Court can find no basis to award sanctions against local counsel.

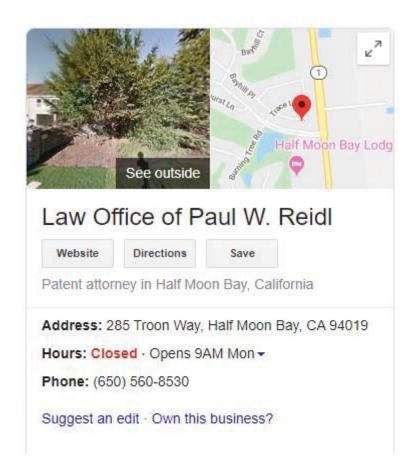
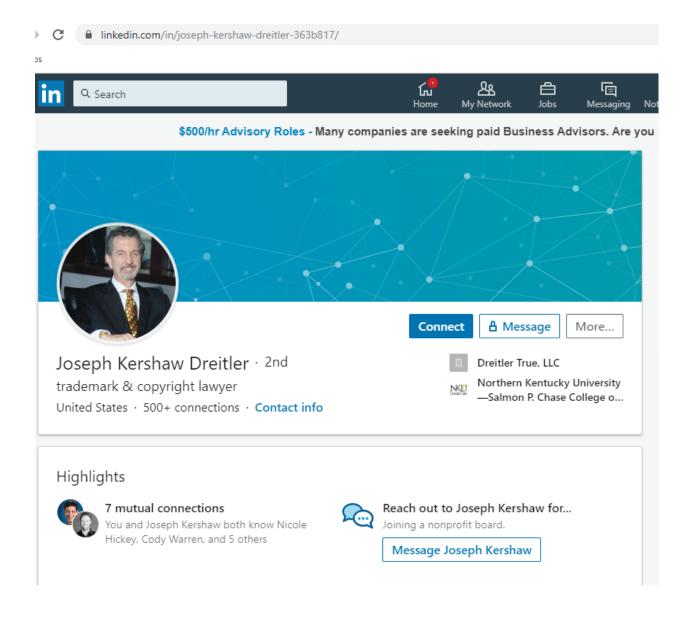
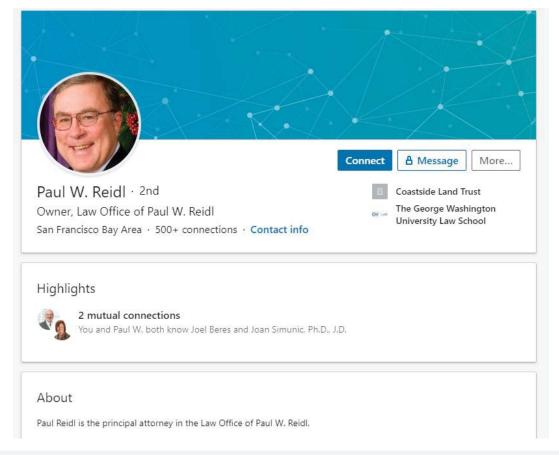


Exhibit D



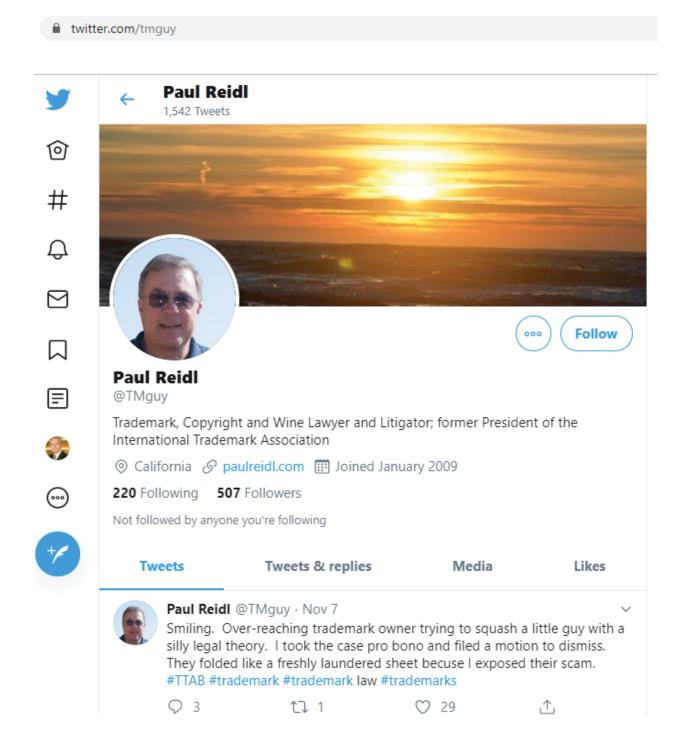
facebook.com/ustrademarklawyer

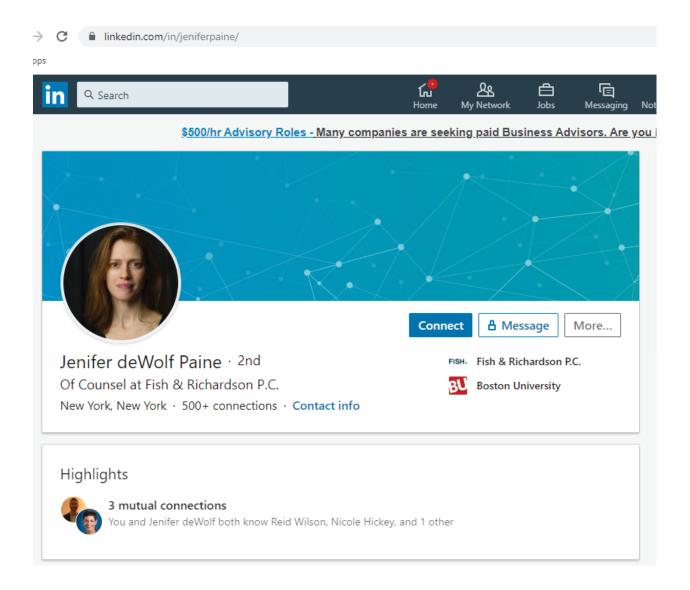




paulreidl.com









twitter.com/kelly2277/status/1173632901331771392

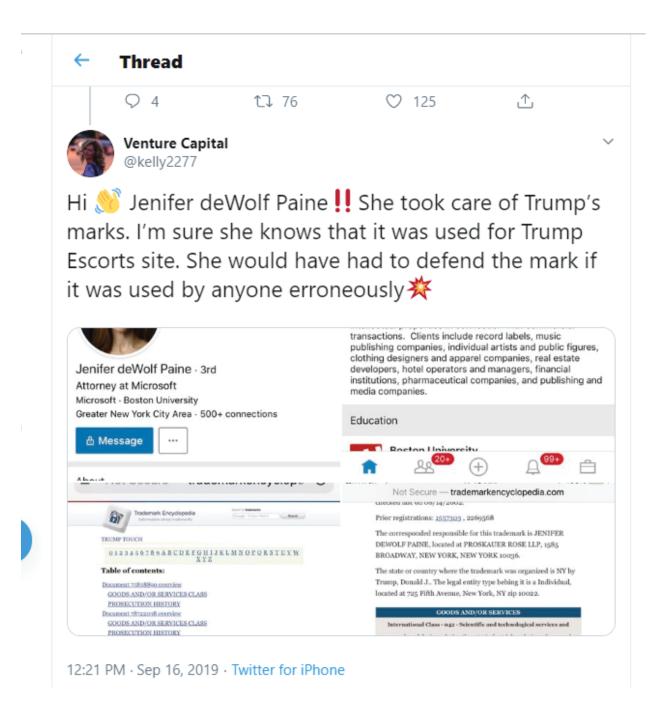
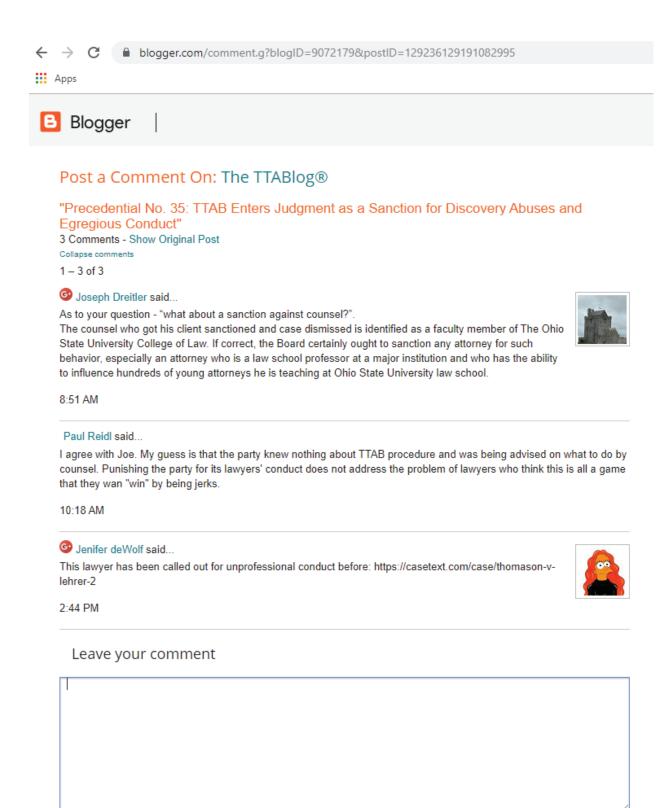
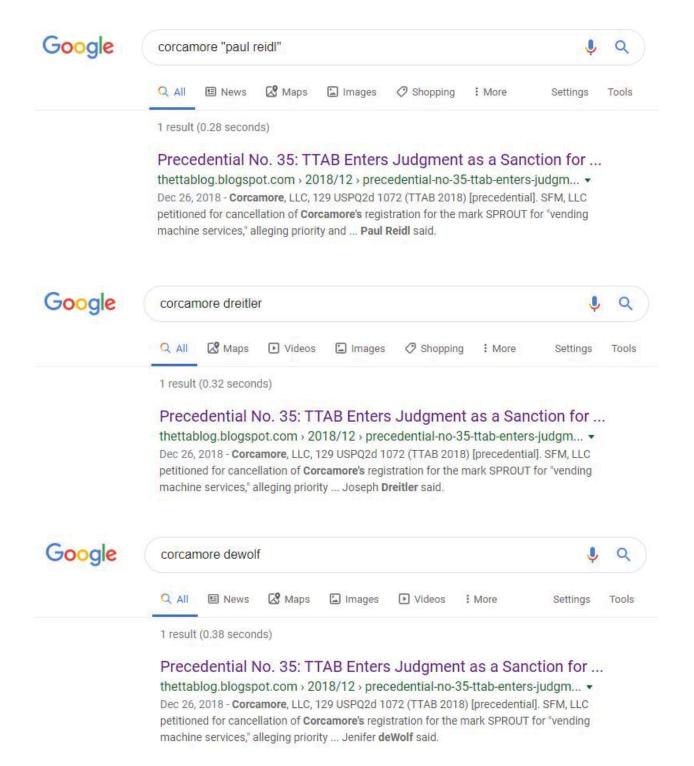


Exhibit E



You can use some HTML tags, such as , <i>, <a>





Apps

JUSTIA BlawgSearch

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Laws & Regs

Justia > BlawgSearch > Search

Search for: "corcamore" Sorted by Relevance | Sort by Date

NSS Subscribe: 20 results | 100 results ■

Results 1 - 1 of 1

Precedential No. 35: TTAB Enters Judgment as a Sanction for Discovery Abuses and Egregious Conduct

26 Dec 2018, 4:23 am

Corcamor failed to comply.In the discovery arena, Corcamor filed an "eleventh-hour" motion for a protective order, seeking to defer the deposition of its Fed. [read post]

The TTABlog - http://thettablog.blogspot.com/

Exhibit F

laipla.net/precedential-no-35-ttab-enters-judgment-as-a-sanction-for-discovery-abuses-and-egregious-conduct/

Apps



ABOUT V EVENTS MEMBERSHIP SPONSORSHIP IP BLOGS

alla, refusing to meet and confer with counsel for Petitioner regarding Respondent's discovery responses, hanging up on counsel for Petitioner during a meet and confer telephone conference on two separate occasions, outright refusing to "read or open" emails from Petitioner's counsel of record for years, and refusing to work with counsel for Petitioner to reschedule depositions of its Fed. R. Civ. P. 30(b)(6) and 30(b) (1) witnesses. In violation of Patent and Trademark Office Rule 11.402(a), counsel for Respondent also communicated directly with Petitioner about this case, without authorization to do so, knowing that Petitioner was represented by counsel.

The Board found it "obvious from a review of the record that Respondent has been engaging for years in delaying tactics, including the willful disregard of Board orders, taxing Board resources and frustrating Petitioner's prosecution of this case." The Board therefore granted SFM's motion for sanctions in the form of judgment a pursuant to the Board's inherent authority to sanction.

Read comments and post your comment here.

TTABlog comment: What about a sanction against counsel?

Text Copyright John L. Welch 2018.

Exhibit G

ABOUT ADMISSIONS ACADEMICS FACULTY CAMPUS LIFE

BriefingRoom



PROFESSOR THOMASON AWARDED FULBRIGHT SCHOLAR GRANT

June 9, 2015 | Faculty

Professor Lee Thomason has been awarded a prestigious Fulbright Scholar Grant. He plans to travel to Austria later this year as a grant recipient to teach and further research "innovation and angel investor decision criteria."

Thomason will be affiliated with the Entrepreneurial School at the Management Center Innsbruck (MCI) for the spring 2016 semester.

SHARE









During his time abroad, Thomason plans to explore investment decisionmaking through angel and early-stage investors. Prior research on investors in Silicon Valley and other regions across the United States has shown they will fund startups in spite of uncertainties and unproven business models. Entrepreneurs in the European Union often try to replicate Silicon Valley investment practices. Thomason will examine the choices of investors in Austria who evaluate startup businesses seeking initial capital.

Thomason's research will help define whether Austria and other European Union countries have more conservative investment criteria than earlystage investors in the United States, as well as provide insight into the larger context of what drives the decisions to invest in risky startup ventures.

OSU.EDU TODAY Search Ohio State

onCampus

The latest news and information for faculty and staff.

Thursday, April 9, 2015

Sponsored by Wexner Center for the Arts

Free gallery admission. Discounts at the <u>Wexner Center Store</u> and <u>Heirloom Café</u>. First crack at tickets. Big savings on nearly every <u>film</u> and <u>performance</u>. Special member-only events. A Wexner Center <u>membership</u> is your all-access pass to the world of contemporary art. Join now, and remember – educators can receive a discount on their membership, and university employees can use payroll deduction through <u>Campus Campaign</u> (campaign number 309039).



Stay connected with Ohio State











Headline news

Thomason awarded U.S. Fulbright Scholar Grant

Lee Thomason, assistant clinical professor, Moritz College of Law, is the recipient of a prestigious Fulbright Scholar Grant. Thomason will be affiliated with the Entrepreneurial School at the MCI Management Center Innsbruck in Austria, where he will research "Innovation and angel investor decision criteria" and teach a course on transactions in intellectual properties. Those interested in the Fulbright Scholar Program should contact Joanna Kukielka-Blaser.

-- > View other grant recipients: <u>oia.osu.edu/grants-and-scholarships</u>



FEATURED EVENTS



Oh, the Legal Places You Could Go!



Mentoring and More @ Moritz Kickoff Lunch



Women in Law, Finance and Governance: Christie Hill, The Dun & Bradstreet Corporation



Bodiker Lecture

PHOTO BLOG





FACULTY NEWS



Professor Thomason Awarded Fulbright Scholar Grant

Professor Lee Thomason has been awarded a prestigious Fulbright Scholar Grant to study "innovation and angel investor decision criteria" in Austria beginning later this year.

Read More

STUDENT NEWS



Moritz Students Gain Valuable Experience Through D.C. Summer Program

From the Federal Communications Commission the White House and beyond, 17 Moritz College of Law students are participating in a variety of prestigious externships in the nation's capital this summer as part of the Washington D.C., Summer Program.

Read More

Exhibit H