

GeckoSystems International Corporation
Current Report to Stockholders



July 28, 2017

1640 B Highway 212, SW
Conyers, GA 30094-4255
Telephone: (678) 413-9236
Facsimile: (678) 413-9247
www.GeckoSystems.com

To all GeckoSystems' Stakeholders-

As many, if not most of you know, a disgruntled former employee, Mr. Neil T. Wallace, has filed numerous meritless lawsuits against me and/or the company, beginning in 2007 resulting in our being of information and belief that his activities are focused on the unjust enrichment of himself and his family to the detriment of all GOSY shareholders. We have worked tenaciously to obtain local Georgia Superior Court jurisdiction over Mr. Wallace and his accomplices to minimize legal costs and secure a venue most favorable to us. Mr. Wallace resides in Williamsburg, VA.

As a result of those activities, we recently secured Georgia law jurisdiction over Mr. Wallace due to his filing a severely flawed defamation suit against me late last year. That default judgment was set aside and a new trial ordered. See Exhibit A.

My counterclaims against Mr. Wallace seek a jury trial using Georgia RICO statutes such that triple damages may be sought, totaling \$47,000,000 for damages, not including attorneys fees. See Exhibit B.

In 2007, Mr. Wallace's suit was cast out of the Rockdale County Superior Court, by the now honorably retired Chief Justice Sydney Nations who described Mr. Wallace as being overly aggressive and using unlawful legal maneuvers. See Exhibit C.

Exhibit D is the filing by Strauss & Frost, LLC, confirming that Judge Nations was indeed prescient. It would seem that Mr. Wallace continues in his attempts to corrupt due legal process by intentionally deceiving courts and/or corrupting due legal process in concert with his mother, Bette R. Wallace.

Demonstrably, as one can see in the attached Exhibits, as a result of the timely retention of Strauss & Frost, LLC, we are aggressively seeking a prompt and equitable resolution in the local Superior Court utilizing local representation.

Sincerely,


R. Martin Spencer, MBA
Founder/CEO

Exhibit A

IN THE SUPERIOR COURT OF ROCKDALE COUNTY
STATE OF GEORGIA

CLERK'S OFFICE
SUPERIOR COURT
ROCKDALE COUNTY, GA

2017 JUN -8 PM 3: 03

NEIL WALLACE,

Plaintiffs,

vs.

R. MARTIN SPENCER,

Defendant.

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*
*
*

Euth H. Wilson CLERK

CAFN: 2016-CV-2452-I

ORDER

WHEREAS, a hearing was held on May 11, 2017 on Defendant's Motion for New Trial and Motion to Set Aside. With the Plaintiff appearing pro se, and the Defendant appearing with counsel. A hearing was held, and arguments were made in open court. Upon consideration of the pleadings, oral arguments, and briefs in support thereof, the Court HEREBY FINDS AND ORDERS AS FOLLOWS:

- (1) Based on O.C.G.A. § 9-11-60(d)(3) and 9-11-60(d)(1), a nonamendable defect appears upon the face of the record of pleadings in this case, and there also exists a lack of jurisdiction over the person. The record reflects, that the process server, Mr. Eugene Young was not properly authorized under any of the avenues of O.C.G.A. § 9-11-4(c) to serve process in the state of Georgia. Mr. Young was neither a permanent process server, appointed by this court, nor certified through the Rockdale County Sheriff's Department.

In true form of O.C.G.A. § 9-11-60(f), Defendant has not waived this argument because lack of personal jurisdiction may be attacked at any time on a motion to set aside. Assuming that waiver is at issue, this Court finds Defendant has properly preserved this defense in his filed affidavit, in which he avers, "I was *not properly served* the Complaint

in the case originally filed October 20, 2016.” (emphasis added).

Furthermore, a nonamendable defect exists on the face of the record and pleadings, in that no motion for summary judgment was ever filed in this case. O.C.G.A. § 9-11-60(d)(3). Uniform Superior Court Rule 6.5 requires all motions for summary judgment to contain a “short and concise statement of each theory of recovery and of each of the material facts as to which the moving party contends there is no genuine issue to be tried.” A review of the clerk’s file in this case indicates no formal motion for summary judgment was ever filed by the Plaintiff. Viewing the facts most favorably to the Plaintiff, all that can be said of his filings are a Supplemental Affirmation, which contain allegations of the parties’ behavior, and a Notice of Hearing, which states the Plaintiff, “will bring,” a motion for summary judgment. Neither of which conform to Uniform Superior Court Rule 6.5.

Additionally, there exists an unfiled Affidavit in Support of Motion for Summary Judgment. Defendant’s brief correctly points out that unfiled documents are merely, “private paper,” and therefore would not be properly before this Court for adjudication. Trammell v. Throgmorton, 210 Ga. 659, 82 S.E.2d 140, 141 (Ga. 1954). As such, Plaintiff’s reliance on the documents to support a motion for summary judgment is deficient under the rules. Taken together, the documents show an incomplete notice of hearing, a supplemental affirmation not in conformity with Uniform Superior Court Rule 6.5, and private paper. Because no formal motion for summary judgment was ever filed, it was therefore neither proper, nor ripe, for adjudication before this Court.

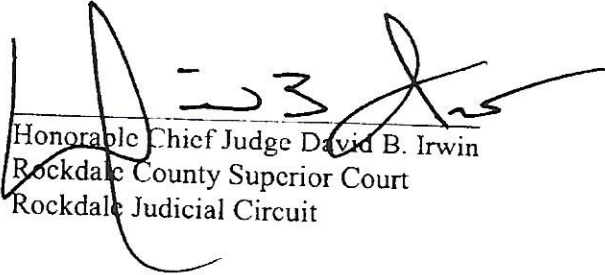
THEREFORE, based on the foregoing, Defendant’s Motion for New Trial and

Motion to Set Aside is hereby **GRANTED** to the extend that this Court's March 7, 2017 order is hereby set-aside.

(2) In light of the grant of Defendant's Motion for New Trial and Motion to Set Aside, Defendant's Motion for Leave of Court to File Amended Pleadings is hereby **GRANTED**. The Defendant is directed to file all answers, counterclaims, affirmative defenses, or other such pleadings as necessary within thirty (30) days from the date of this Order.

(3) Finally, Defendant's Motion to Reopen Evidence is hereby **GRANTED**. In accordance with Uniform Superior Court Rule 5.1, and because the clerk's file indicates discovery has never been exchanged, the parties shall have six (6) months from the date of Defendant's Answer to complete all discovery.

SO ORDERED this 8th day of June, 2017.


Honorable Chief Judge David B. Irwin
Rockdale County Superior Court
Rockdale Judicial Circuit

Order Prepared By:
BRYAN H. FROST
STRAUSS & FROST, LLC.
1132 Conyers Street SE
Covington, Georgia 30014
Telephone: (678) 625-1994
FAX: (678) 625-1993

Exhibit B

FILED IN OFFICE
CLERK OF SUPERIOR COURT
ROCKDALE CO., GA
E COUNTY
2017 JUL 21 AM 10:06

Ruth A. Wilson CLERK

CIVIL ACTION

FILE NO. 2016-CV-2452 I

Defendant

COMES NOW, Defendant R. Martin Spencer (hereinafter “Defendant”) and files his Answer, Affirmative Defenses and Counterclaim to Plaintiff’s Defamation Complaint (“Complaint”) as follows:

Plaintiff is an attorney barred in New York, Virginia, and Florida (inactive in Florida). He has used his legal knowledge to file complaints against the Defendant since 2007 and to assist others in filing complaints against Defendant. The number of those legal filings is approximately eleven (11).

In 2013 Plaintiff filed a defamation complaint against Defendant in Delaware. President Judge Vaughn of the Delaware Superior Court, denied Plaintiff's demand that Defendant reveal his online aliases. The judge ruled that the online postings were "protected expression of opinion." See Exhibit A for that court decision which is relevant since Plaintiff has now filed a similar complaint in this Georgia court, four years later.

Two rulings by this Court dismissed Complaints against Plaintiff by the Spencers due to lack of personal jurisdiction, 2012-cv-2569-I and 2015-cv-1800-I. The filing of this Complaint by Plaintiff now gives personal jurisdiction over him, a resident of Virginia.

FIRST AFFIRMATIVE DEFENSE

Defendant reserve the right to amend this Answer and Counterclaim and assert any additional affirmative defenses or counterclaims as Defendant obtains information supporting any such additional claims or defenses.

Defendant answers the specific allegations contained in Plaintiff's original Complaint as follows:

1.

Defendant denies the allegations contained in Paragraph 13 of Plaintiff's Complaint concerning Defendant.

2.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 14 of Plaintiff's Complaint.

3.

To the extent any response to Paragraph 15 of Plaintiff's Complaint is necessary or required, Defendant denies any allegations contained therein.

4.

Defendant denies the allegations contained in Paragraph 16 of Plaintiff's Complaint concerning Defendant.

5.

Defendant denies the allegations contained in Paragraph 17 of Plaintiff's Complaint concerning Defendant.

6.

Defendant denies the allegations contained in Paragraph 18 of Plaintiff's Complaint concerning Defendant.

7.

Defendant denies the allegations contained in Paragraph 19 of Plaintiff's Complaint concerning Defendant.

8.

Defendant denies the allegations contained in Paragraph 20 of Plaintiff's Complaint concerning Defendant.

9.

Defendant denies the allegations contained in Paragraph 21 of Plaintiff's Complaint concerning Defendant.

10.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 22 of Plaintiff's Complaint.

11.

This forward- looking statement is addressed by Blue Sky Law exemption for allegation contained in Paragraph 23 of Plaintiff's Complaint concerning Defendant.

12.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 24 of Plaintiff's Complaint.

13.

Defendant denies the allegations contained in Paragraph 25 of Plaintiff's Complaint concerning Defendant.

14.

This forward- looking statement is addressed by Blue Sky Law exemption for allegation contained in Paragraph 26 of Plaintiff's Complaint concerning Defendant.

15.

Defendant denies the allegations contained in Paragraph 27 of Plaintiff's Complaint concerning Defendant.

16.

Defendant denies the allegations contained in Paragraph 28 of Plaintiff's Complaint concerning Defendant.

Regarding Plaintiff's Supplemental Affirmation, Defendant answers those specific allegations as follows:

17.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 3 of Plaintiff's Supplemental Affirmation concerning Defendant.

18.

This forward- looking statement is addressed by Blue Sky Law exemption for allegation contained in Paragraph 4 of Plaintiff's Supplemental Affirmation concerning Defendant.

19.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 5 of Plaintiff's Supplemental Affirmation concerning Defendant.

20.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 6 of Plaintiff's Supplemental Affirmation concerning Defendant.

21.

Defendant denies the allegations contained in Paragraph 7 of Plaintiff's Supplemental Affirmation concerning Defendant.

22.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 8 of Plaintiff's Supplemental Affirmation concerning Defendant.

23.

To the extent any response to Paragraph 9 of Plaintiff's Supplemental Affirmation is necessary or required, the Defendant denies any allegations contained therein.

COUNTERCLAIM

COMES NOW, Defendant makes and files this Counterclaim against Plaintiff Neil T. Wallace and shows as follows:

COUNT ONE - LIBEL AND LIBEL *PER SE*

1.

All paragraphs in this filing are hereby incorporated into this paragraph as if fully restated verbatim herein.

2.

Plaintiff has a long history of publishing false and defamatory statements on Defendant's company stock message boards. Exhibit B shows a small number of those false postings which continue to date. There are over ten thousand (10,000) which can be provided to the court.

3.

Plaintiff has engaged in libel and libel *per se* by publishing false and defamatory statements intended to injure Defendant personally and in his business.

4.

Defendant is entitled to judgment against Plaintiff for libel and libel *per se*.

5.

Defendant has been damaged as a result of Plaintiff's' conduct.

6.

Defendant is entitled to recover damages, post-judgment interest, costs, and all litigation expenses, including reasonable attorneys' fees and costs of collection against Plaintiff.

COUNT TWO – SLANDER AND SLANDER *PER SE*

7.

All paragraphs in this filing are hereby incorporated into this paragraph as if fully restated verbatim herein.

8.

Plaintiff has made specific false and defamatory oral statements about Defendant concerning Defendant's business. Witnesses will be called to testify about those statements at trial.

9.

Plaintiff has engaged in Slander *per se* by knowingly making false statements intended to injure Defendant in his trade and/or business.

10.

Defendant has been damaged as a result of Plaintiff's conduct.

11.

Defendant is entitled to judgment against Plaintiff for slander and slander *per se*.

12.

Defendant is entitled to recover damages, post-judgment interest, costs, and all litigation expenses, including reasonable attorney's fees and costs of collection.

COUNT THREE – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

13.

All paragraphs in this filing are hereby incorporated into this paragraph as if fully restated verbatim herein.

14.

Plaintiff has engaged in extreme and outrageous conduct with the intent of disrupting Defendant's personal and professional life. Plaintiff has physically stalked the Defendant on two known occasions, once by his own admission posted contemporaneously online and the other to

one of the Defendant's Conyers, GA attorneys. See Exhibit C. Additionally, on February 17, 2010, Plaintiff was responsible for depositing a decapitated rabbit on Defendant's property, placing it over a chain link fence. Defendant has proof the Plaintiff was in Conyers on that day.

15.

Defendant has suffered emotional distress as a result of Plaintiff's willful conduct.

16.

Plaintiff is liable to Defendant for intentional infliction of emotional distress.

17.

Defendant is entitled to recover from Plaintiff for all damages suffered by Defendant as a result of the Plaintiff's conduct together with post-judgment interest, attorneys' fees, litigation expenses and costs from Plaintiff.

COUNT FOUR – TORTIOUS INTERFERENCE
WITH BUSINESS RELATIONS

18.

All paragraphs in this filing are hereby incorporated into this paragraph as if fully restated verbatim herein.

19.

In April, 2013, Defendant signed an agreement partnering with Roy Daya in Israel establishing Daya Robotics to build and sell robots in Israel by licensing proprietary technology from Defendant's company with an initial value of \$750,000. Plaintiff interfered with that business relationship by sending Mr. Daya emails disparaging Defendant. It is believed those emails, and any other contact he may have had with Mr. Daya, resulted in no further relationship

and/or activity. This could have been a very lucrative and satisfying business for both parties.
See Exhibit D.

20.

With regard to Defendant's business relations, Plaintiff has engaged in improper and wrongful actions without privilege.

21.

Plaintiff's actions were purposeful, malicious and intended to injure Defendant in his business relations.

22.

Plaintiff's actions have caused third parties to discontinue their business relations with Defendant.

23.

Plaintiff is liable to Defendant for tortious interference with business relations.

COUNT FIVE – TORTIOUS INTERFERENCE
WITH POTENTIAL BUSINESS RELATIONS

24.

All paragraphs of this filing are hereby incorporated into this paragraph as if fully restated verbatim herein.

25.

Haier is a Chinese robot company with locations in the United States. Haier is a multi-billion -dollar international home appliance manufacturer and are presently developing robots. The company has locations in the United States and Defendant had planned to visit their facility

in South Carolina to discuss a potential contract and working relationship between his company, GeckoSystems, and Haier.

26.

It is upon information and belief that Plaintiff's lies about the Defendant and his wife, as soon in the posting below, ended such discussions. "marty", as the Plaintiff likes to diminish the Defendant in his online disparaging postings, was not found guilty or arrested for the propaganda Plaintiff created specifically for this purpose. There are dozens of other examples to be revealed at trial.

marty and elaine to face federal charges?

*by **moron martin** • Aug 3, 2014 11:23 AM*

Hard to believe marty has dragged elaine into this.

How will marty's arrest affect Haier?

27.

With regards to Defendant's potential business relations, Plaintiff has engaged in improper and wrongful actions without privilege.

28.

Plaintiff's actions were purposeful, malicious and intended to injure Defendant in GeckoSystems' potential business relations.

29.

Plaintiff is liable to Defendant for tortious interference with potential business relations.

30.

Defendant is entitled to recover from Plaintiff all damages suffered by Defendant as a result of the Plaintiff's conduct as well as reasonable attorneys' fees, litigation, costs and post-judgment interest.

COUNT SIX – TORTIOUS INTERFERENCE
WITH CONTRACTUAL RELATIONS

31.

All paragraphs in this filing are hereby incorporated into this paragraph as if fully restated verbatim herein.

32.

Plaintiff has interfered with Defendant's relations with his SEC attorney, Jonathan Leinwand, and with his Delaware attorney, Donald Gouge. With both individuals Plaintiff has made disparaging remarks and threats directed solely toward the Defendant. For example, in the emails sent to Donald Gouge on November 16, 2016 and December 15, 2016 Plaintiff states that the Defendant (and his wife) will be jailed sometime in early January, 2017 if they do not comply with his ongoing, outrageous legal activities. As of the date of this filing, six months later, neither have been contacted by any law enforcement officers whatsoever and consequently have not been jailed. See Exhibit E.

33.

With regards to Defendant's contractual relations, Plaintiff has engaged in improper and wrongful actions without privilege.

34.

Plaintiff's actions were purposeful, consciously malicious and intended to injure Defendant in his contractual business relations, i.e. with his attorneys.

35.

Plaintiff's actions have caused third parties to breach their contractual obligations to Defendant.

36.

Plaintiff is liable to Defendant for tortious interference with contractual relations.

37.

Defendant is entitled to recover from Plaintiff all damages suffered by Defendant as a result of the Plaintiff's conduct as well as reasonable attorneys' fees, litigation expenses, costs and post-judgment interest.

COUNT SEVEN – UNJUST ENRICHMENT
FOR PLAINTIFF'S FAMILY

38.

All paragraphs in this filing are hereby incorporated into this paragraph as if fully restated verbatim herein.

39.

In 2009 Plaintiff obtained a default judgment in Delaware for his parents. He used this judgment to levy against common stock owned by Defendant.

40.

Pursuant to the levy, the Estate of Harold Wallace and Bette Wallace were able to obtain title to Spencer's stock holdings for significantly less than market value. Plaintiff paid \$1,000 for his stock valued at \$1,116,151 at the time of the sale which was significant unjust enrichment for the Wallace family. Subsequently, in a North Georgia Federal Court filing in 2015 Bette

Wallace's attorney (Plaintiff is pro hac vice) filed for the rights to the stock stating that it was valued **in excess of \$2,400,000.**

41.

Plaintiff orchestrated this significant, monetary unjust enrichment for his family by manipulating the courts, by wire fraud and by mail fraud. For example, he forged his father's signature on court documents and was never able to show he had authority to sign his father's name, hence the forgery.

COUNT EIGHT – VIOLATIONS OF GEORGIA
RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS ACT O.C.G.A. §§ 16-14-1, et seq.

42.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully stated verbatim herein.

43

Plaintiff has, through a pattern of racketeering activity, acquired and maintained, directly and indirectly, an interest in an enterprise, *to wit*, stock in GeckoSystems from Defendant.

44.

Plaintiff's pattern of racketeering activity consists of multiple acts of mail fraud, wire fraud, stock manipulation and perjury.

45.

Defendant has been damaged as a result of the foregoing conduct.

46.

Plaintiff's acts, as set forth herein, violate O.C.G.A. §16-14-1, *et. seq.*

47.

Defendant is entitled to recover from Plaintiff for all damages suffered by Defendant as a result of the Plaintiff's conduct as well as reasonable attorneys' fees, litigation expenses, costs and post-judgment interest.

COUNT NINE – RECOVERY OF ATTORNEYS' FEES AND COSTS OF LITIGATION

48.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully stated verbatim herein.

49.

Plaintiff has acted in bad faith, has been stubbornly litigious for years and has caused Defendant unnecessary trouble and expense.

50.

Pursuant to O.C.G.A. § 13-6-11, Defendant is entitled to recover reasonable fees and expenses of litigation from Plaintiff.

ALLEGATIONS REGARDING PUNITIVE DAMAGES

51.

Plaintiff has committed intentional and malicious torts upon Defendant and is liable to Defendant for punitive and exemplary damages. Due to the Plaintiff's conscious intent to unjustly enrich himself, his parents and others, those alleged racketeering activities that enabled Plaintiff's complicit mother (Bette R. Wallace) to secure approximately thirty percent (30%) of GeckoSystems for \$1,000, that the Plaintiff's mother later declared in Federal court to be worth \$2,400,000 that resulted in the illicit theft by deception of well over two million dollars and

would be triple damages under RICO to be \$7,200,000. However, fair market value, without the Plaintiff's nearly ten years of racketeering should be \$40,000,000. Ms. Wallace's 30% ownership would represent damages of \$12,000,000 due to theft by deception from the Defendant perpetrated by the Plaintiff. Tripled under GA RICO, that would be \$36,000,000 in damages to the Defendant. Punitive damages should be no less than \$10,000,000 due to the literally thousands of toxic, libelous stock message posts and other extortionate activities by the Plaintiff. Due to the extraordinary size of the settlement being sought, Defendant expects a lengthy jury trial. Said Plaintiff's acts, omissions, breaches, violations of law and tortious conduct has damaged Defendant in that amount to be proven at trial.

52.

The actions of Plaintiff in this case demonstrates willful misconduct, malice, fraud, wantonness, oppression and that entire want of care which raises the presumption of conscious indifference to consequences.

53.

Said Plaintiff's actions were specifically intended to harm Defendant, and, thus, Defendant is entitled to recover punitive and exemplary damages from Plaintiff without limitation.

PRAYER FOR RELIEF

WHEREFORE, Defendant respectfully demands a jury trial in this action with respect to all claims and issues in this action triable to a jury by law and respectfully requests the following relief:

- (a) That an immediate protective order be issued against Plaintiff for any further online postings and physical stalking of Defendant and/or his company, GeckoSystems;

- (b) That Defendant be awarded judgment in this action against Plaintiff;
- (c) That Defendant recover all legally cognizable damages of every kind, however denominated, from Plaintiff, together with post-judgment interest;
- (d) That Defendant recover from Plaintiff, all of his reasonable attorneys' fees and expenses of litigation incurred by Defendant in the prosecution of this action;
- (e) That Defendant recover from Plaintiff, all costs incurred by Defendant in this action; and
- (f) That Defendant recover from Plaintiff, all additional remedies and/or relief of every kind that this Court may deem just and proper.

Respectfully submitted by:

A handwritten signature in blue ink, appearing to read "R. M. Spencer", with a horizontal line drawn underneath the name.

R. Martin Spencer, pro se

1640 Highway 212, SW
Conyers, GA 30094
(678) 413-9236

Dated: This 21st day of July, 2017

Exhibit C

IN THE SUPERIOR COURT OF ROCKDALE COUNTY
STATE OF GEORGIA

NEIL WALLACE,

Plaintiff

v.

GECKOSYSTEMS
INTERNATIONAL, INC.,
R. MARTIN SPENCER, Individually
And ELAINE SPENCER, Individually
Defendant

CIVIL ACTION

FILE NO. 2007-CV-2625-N

ORDER

The above and foregoing matter came to the attention of the Court on the Plaintiff's Motion seeking leave of Court to appear pro se and after consideration of the motion and argument of counsel, the Court finds as follows.

On August 1, 2007, Plaintiff, pro se, filed a Complaint in State Court seeking damages arising out of his employment as Vice-President for Legal and Public Affairs for Defendant GeckoSystems. Plaintiff contended at the time of his termination, he was owed money for unpaid wages and a promised car allowance, and that promised stock in GeckoSystem was never transferred into his name. Additionally, Plaintiff sought punitive damages. Defendant answered and filed a counterclaim for seeking damages for breach of contract and breach of fiduciary duties. Defendant's further requested a declaratory judgment issue as to the reasonable value of services provided by Plaintiff and that an injunction issue prohibiting Plaintiff from disclosing any confidential information of GeckoSystems. Because Defendants sought equitable relief, the case was transferred to Superior Court.

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ROCKDALE CO., GA.
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DELOACH, CLERK

On November 6, 2007, this case appeared before this Court on Defendants' Motion for Protective Order. At such time, it was brought to the Court's attention that the Plaintiff is an attorney licensed to practice in the States of New York and Florida. During the hearing, allegations were made by the Defendants that the Plaintiff was receiving Defendants' confidential attorney-client information from an employee at GeckoSystems. It was apparent to the Court during such proceeding that Plaintiff was conducting his discovery aggressively. After the hearing was concluded and the motion denied, the Court instructed Plaintiff that in order to ensure the prompt and orderly progression of the case and to ensure that Plaintiff's discovery tactics were not detrimental to the legitimate interests of the Defendants, the Court would require him to hire counsel who was a member of the State Bar of Georgia. As an attorney, Plaintiff has legal skills and knowledge of a **much** greater magnitude than non-attorney pro se litigant. Thus, he has a greater ability to circumvent the orderly progression of the case and to engage in dilatory discovery tactics. At the time of the hearing, Plaintiff had not made an Application to proceed pro hac vice. Thus, under such circumstances, should Plaintiff engage in any improper conduct, he would not be subject to sanctions by the State Bar of Georgia. Additionally, while he utilized the skills and knowledge he had ascertained through his education and the practice of law, he would not be under any duty to familiarize himself with the Georgia Rules of Professional Conduct, local court rules, and policies and procedures of this Court. See Uniform Superior Court Rule 4.4 (F) (1) & (2).

Thereafter, Plaintiff filed a Motion to Permit Plaintiff's Pro Se Appearance. This Motion did not contain a prayer for admission pro hac vice and it did not meet the requirements of Uniform Rule 4.4 which sets out the procedure an attorney must follow for pro hac vice admission to the State Bar of Georgia. When an attorney not admitted to practice law in this

state but who is admitted in another state or territory of the United States or the District of Columbia, desires to be admitted pro hac vice to the State Bar of Georgia, he or she must file a verified Application in the court where the litigation is filed. The Application shall be served on all parties in the case and the Office of General Counsel of the State Bar of Georgia. Uniform Superior Court Rule 4.4 (D) Thereafter, the Office of General Counsel, or a party to the proceeding, may file an objection to the Application or seek the Court's imposition of conditions to the Motion being granted. Plaintiff's Motion was not verified and was not served on the Office of General Counsel of the State Bar of Georgia. Additionally, the Motion did not include any of the information required by Uniform Superior Court Rule 4.4.¹ In support of his position that he is entitled under the Georgia Constitution to represent himself pro se without applying for pro hac vice admission to the State Bar of Georgia, Plaintiff cited the cases of *Johnston v Aderhold*, 216 Ga. App. 487 (455 S.E.2d 84) (1995) and *Cherry v. Coast House, Ltd.*, 257 Ga. 408 (359 S.E.2d 904) (1987). However, both of these cases are distinguishable from this case in that the attorney who was seeking to represent himself was a member of the State Bar of Georgia and subject to discipline by such organization if he demonstrated unprofessional conduct in his self-representation.

Therefore, for the foregoing reasons, it is hereby

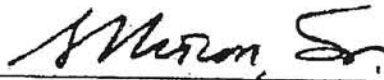
ORDERED and **ADJUDGED** that Plaintiff's Motion to Appear Pro Se is **DENIED**.

Further, it is hereby

¹ Appendix A of Uniform Rule 4.4 requires an attorney to include in his Application to appear pro hac vice the following: (1) the addresses of his residence and business; (2) the courts before which he has been admitted (3) whether, in this State, he had been denied admission pro hac vice or had his admission pro hac vice revoked; (4) whether he had been disciplined or sanctioned by any court of this State; (5) whether in the last five years any formal, written disciplinary proceedings had been brought against him; (6) whether in the last five years he had been formally held in contempt or otherwise sanctioned by any court by written order for disobedience of its rules or orders; (7) whether in the last two years he had made other Application to appear pro hac vice in this State; (8) an averment as to his familiarity with the Georgia Rules of Professional Conduct, local rules and court procedures of this Court; and (9) the name, address, telephone number and bar number of an active member in good standing of the bar of this state who would sponsor his application and appear of record with him.

ORDERED and ADJUDGED that Plaintiff's Request for a Certificate of Immediate Review is DENIED.

SO ORDERED this 26 day of January, 2008, at Conyers, Georgia.



Sidney L. Nation, Sr.,
Chief Judge, Superior Court,
Rockdale Judicial Circuit

Exhibit D

IN THE SUPERIOR COURT OF ROCKDALE COUNTY

STATE OF GEORGIA

NEIL WALLACE,

*

Plaintiffs,

*

CAFN: 2016-CV-2452-I

*

vs.

R. MARTIN SPENCER,

*

Defendant.

*

MOTION FOR NEW TRIAL AND MOTION TO SET ASIDE ORDER

Now comes the Defendant, by and through counsel, and in support of his Motion for New Trial and Motion to Set Aside Order, respectfully shows this Honorable Court as follows:

STATEMENT OF FACTS AND PROCEDURAL HISTORY

1.

Plaintiff initiated the above-styled matter by filing a Complaint in which he alleges that the Defendant is liable for Defamation, Libel, and Libel Per Se.

2.

The Plaintiff maintains that the Defendant was lawfully served by a Private Process Server at 8 AM at the Rockdale County Courthouse on November 10, 2016. The Affidavit of Process Server was filed with this the Clerk of Superior Court on November 21, 2016.

According to said Affidavit, the Defendant was served with the “Summons and Complaint.”

3.

Admittedly, the Defendant has not filed an Answer to Plaintiff's Complaint.

4.

The electronic record for the Rockdale County Superior Court indicates that a "Notice" was filed on January 17, 2017, and the Defendant acknowledges receiving a "Notice of Motion for Summary Judgment" that was dated January 12, 2017. Said Notice indicates that a hearing would be held regarding the Plaintiff's Motion for Summary Judgment on March 2, 2017 at 9 AM. A review of the Clerk's index for this case, however, does not indicate that a Motion for Summary Judgment was ever actually filed by the Plaintiff. The Defendant does acknowledge that he received a document entitled "Affidavit in Support of Motion for Summary Judgment," but at least based upon the Clerk's electronic index, this Affidavit was never actually filed. Moreover, as indicated previously, there has not been an actual Motion for Summary Judgment filed, much less a Brief in support of the same.

5.

Being that there has apparently not ever been filed an actual Motion for Summary Judgment or Brief filed by the Plaintiff (much less a statement of Undisputed Material Facts or Theories of Recovery, as required by the Uniform Rules of Superior Court), it is very difficult to determine the basis upon which the Plaintiff claims to have been entitled to Summary Judgment. It would appear, however, that this Honorable Court concluded that Summary Judgment was warranted based upon the Defendant's failure to file an Answer to Plaintiff's Complaint in accordance with an objective review of this Honorable Court's Order entered March 7, 2017.

6.

The Defendant in fact filed a Response to Plaintiff's Motion for Summary Judgment on February 13, 2017 in which he alleged that he had not actually been served with process and summons. The Defendant's Response included an Affidavit in which he likewise denied that he had been served with process and summons. In both his Response and in a letter that the Defendant attached as an Exhibit to the Response, Defendant explained in more detail about why the Affidavit of Service was inaccurate.

7.

This Honorable Court apparently held a hearing on March 2, 2017 to address the Plaintiff's Motion for Summary Judgment (assuming the same was ever actually filed). According to the Court's order, the Plaintiff appeared but that Defendant did not.

8.

Assuming that the Plaintiff had actually filed a Motion for Summary Judgment, rather than deciding whether the Plaintiff was entitled to Judgment as a matter of law, the Court concluded that the Defendant's Affidavit indicating that he was *not* served with process and summons was somehow "conclusory" but that the Process Server's Affidavit that the Defendant *was* served with process and summons was somehow dispositive.

9.

Based upon the Court's apparent resolution of this question of fact, the Court apparently granted Summary Judgment to the Plaintiff

10.

Thereafter, even though there had been no notice given to the Defendant whatsoever that a trial on the issue of damages would be conducted on March 2, 2017, apparently the Court in fact conducted such a trial, and thereafter awarded damages to the Plaintiff and against the Defendant in the amount of \$40,000.00.

11.

In addition to the absence of notice about a trial upon the amount of damages that Plaintiff was claiming, there exists a problem about notice in general. According to the Clerk's website, the hearing that was scheduled for March 2, 2017 was reset by the court to occur on April 6, 2017, and thereafter reset by the Court to occur on March 2, 2017. Although these "resets" are published by the Court, there is no record of any documents indicating these facts. See Exhibit A attached hereto.

12.

One more issue needs to be raised regarding the record of this case associated with this procedural quagmire. In the Plaintiff's Affidavit in support of Motion for Summary Judgment (which Affidavit may or may not have actually been filed with the Court and which Motion for Summary Judgment may or may not have been filed with the Court), the Plaintiff attached as an Exhibit a handwritten Summons with an indication that the Summons had been signed on the signature line by "S/Deputy Clerk." There is no actual signature from the Deputy Clerk. It is unknown where in the world the Plaintiff got this Summons copy from. The Summons that is actually on the Clerk of Court's website has on the signature line of the Summons "/S/Katie

Raines, “and underneath the signature line is a notation for “Deputy Clerk.” There is no record of a Summons actually signed by the Clerk or her designee.

ARGUMENT

13.

The undersigned counsel certainly understands the position in which this Honorable Court has found itself. The parties in this matter are obviously involved in a long-standing dispute that involves allegations of millions of dollars of losses and wrongful conduct alleged against each party. Although Plaintiff may be a licensed attorney in Virginia (albeit on in-active status), it is obviously that he has no idea what he is doing when it comes to litigation, at least in Georgia. It would be hard to imagine that the Civil Practice Act would be that much different in Virginia, for that matter. Likewise, it is abundantly clear from the record that the Defendant has no idea what he’s doing while trying to defend himself. This Honorable Court has been left with the unenviable task of having to deal with this procedural mess.

14.

However, the record is the record, and the facts are the facts, to the extent the same are in the record.

15.

As a preliminary matter of OCGA 9-11-4 (b) provides that “The summons shall be signed by the clerk....” There is absolutely nothing in the record before this Honorable Court that indicates that there was ever a Summons that was actually signed by the Clerk or her designee. In fact, the record suggests that there is a conflict between whether there is even a “fake” signature

from the Clerk or the Clerk's designee. Without service of a proper Summons, there exists no obligation whatsoever for a Defendant to respond to a lawsuit, even assuming the same had actually been served.

16.

Moreover, the Plaintiff has filed an Affidavit of Service and the Defendant has filed an Affidavit of Non--Service. That is a question of fact that has never been set for a hearing, nor ever decided by this Honorable Court. With all due respect, this Honorable Court cannot decide questions of contradictory facts based upon competing Affidavits.

17.

Moreover, as a matter of procedural law, this Honorable Court cannot grant a Motion for Summary Judgment when no Motion has ever actually been filed. An Affidavit in Support of Summary Judgment is not a Motion for Summary Judgment.

18.

With all due respect, this Honorable Court was required to have a hearing to determine whether or not the Defendant had been lawfully served with process and summons. There are conflicting affidavits on this issue, and given that conflict, there is no lawful way that this Honorable Court could determine that issue without having a hearing to specifically address that issue. Assuming that service did not occur, as Defendant alleged under oath in his Affidavit, then that there was no obligation to respond to Plaintiff's Complaint whatsoever. This Honorable Court suggested in a footnote in its Order that the Defendant should have filed a Special Appearance and an Answer or a Motion to Open Default. That is an absolutely incorrect analysis

of the law, with all due respect. First, according to the Defendant, by the time he was aware that he had been sued, it was beyond the point in time in which he could have filed a Special Appearance. Moreover, if he had not in fact been served, then he is not in “Default,” and there would be no need whatsoever to “Open Default.”

19.

Of course, there is certainly a defect in the record if this Honorable Court grants a Motion for Summary Judgment when no such Motion had actually been filed. The only Notice filed with the Court indicates that a hearing would be held on March 2, 2017 upon Plaintiff’s Motion for Summary Judgment. If no such Motion were filed, how could the Court decide such Motion?

20.

More importantly, given that the Notice was for such Motion, then the Court lacked the authority to address any other issues, much less the ultimate issue of damages.

21.

Furthermore, the Defendant was served by Mr. Eugene Young, a private process server. A look into the Georgia Sheriff’s Association indicates Mr. Young is not a permanent process server registered with the Georgia Sheriff’s Association as required under O.C.G.A. § 9-11-4.1(e). In addition, there has been no appointment by this Honorable Court allowing Mr. Young to serve process on the Defendant, and there has been no certification by the Rockdale County Sheriff. Because Mr. Young did not follow the proper procedures, and channels to serve process in Rockdale County, the service upon the Defendant is void.

22.

Moreover, regarding the issue of Notice, it is unknown how or why the Clerk's official website indicates that the hearing date for the hearing upon the Plaintiff's Motion for Summary Judgment (assuming the same had actually been filed) was changed several times. However, there is no indication of the fact that the Defendant was notified of all of these changes. What if the Defendant observed the website and noticed the change of the court date from March 2 to April 6 but did not thereafter notice the change from April's 6 back to March 2, the original hearing date? None of these issues are properly documented within the Record.

23.

The Defendant is absolutely entitled to have this Honorable Court's Order set aside because the Defendant was entitled to an evidentiary hearing upon whether or not he had been lawfully served with process and summons.

24.

This Honorable Court's order should further be as set aside because there is nothing in the record to indicate that the so-called Summons that was allegedly served upon the Defendant was lawfully signed.

25.

This Honorable Court's Order should further be set aside because of the published confusion regarding the hearing date upon the Plaintiff's Motion for Summary Judgment, none of which the Defendant had been notified of according to the Record.