

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
JONATHAN MONSARRAT,)	
)	
<i>Plaintiff,</i>)	
)	CIVIL ACTION NO. 17-cv-10356-PBS
v.)	
)	
BRIAN ZAIGER dba)	AFFIDAVIT OF RICHARD GOREN
ENCYCLOPEDIADRAMATICA.SE,)	
)	
)	
<i>Defendant.</i>)	
_____)	

I, Richard A. Goren, an attorney admitted to practice before the courts of the Commonwealth of Massachusetts, on oath depose and state as follows:

1. I am counsel to the Plaintiff, Jonathan Monsarrat. I submit this affidavit in support of Plaintiff’s Motion to strike Defendant Brian Zaiger’s May 26, 2017 answer and counterclaim (ECF# 24) and to attest to my communications with Defendant Brian Zaiger’s counsels concerning the interrelationship between his May 23, 2017 Motion for an extension of time to file an answer to complaint (ECF# 20) and his May 26, 2017 filing (ECF#24) of an answer and counterclaim.

2. A few hours after I had informed defendant’s counsel that plaintiff would oppose his May 23d motion for an extension as groundless, ECF #25-1 ¶7, on the Friday afternoon of the Memorial Day weekend defendant Zaiger filed his answer, affirmative defenses and counterclaim to plaintiff’s complaint. Before leaving for the holiday weekend I emailed Mr. Randazza and Mr. Wolman requesting a LR7.1 conference on Tuesday about a motion to strike the answer and counterclaim. I noted that: “It seems silly to have to go to such a bother and expense. If your motion for an extension is allowed you can then file whatever responsive

pleading you deem appropriate. But respectfully you should withdraw the answer and counterclaim.” On Tuesday morning May 30, 2017, I spoke briefly with Mr. Wolman and requested that the Defendant Zaiger withdraw the answer and counterclaim. Defendant’s May 26, 2017 Answer includes sixteen affirmative defenses and his counterclaim seeks damages and attorney’s fees. Mr. Monsarrat will incur legal fees for review, assessment and responses to the May 26th pleading which expense only will be necessary if defendant Zaiger’s motion for an extension of time is granted.

3. Late afternoon on May 30, 2017, plaintiff proposed and defendant Zaiger rejected the following stipulation:

(i) If the Court allows defendant’s May 23, 2017 motion for extension of time to respond to complaint, defendant’s May 26, 2017 answer, affirmative defenses and counterclaim (ECF # 24) shall be deemed for all purposes to have been first served upon entry of the Order granting the extension; and,

(ii) If the Court denies defendant’s May 23, 2017 motion for extension of time to respond to complaint, defendant’s May 26, 2017 answer, affirmative defenses and counterclaim (ECF # 24) shall be struck as premature without prejudice.

EXECUTED UNDER THE PENALTIES OF PERJURY THIS 31ST DAY OF MAY, 2017.

/s/Richard A. Goren
Richard A. Goren

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), on May 31, 2017.

/s/ Richard A. Goren