UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

JEFFREY RYAN FENTON

Plaintiff,

CASE NO. 1:23-cv-01097
HON. PAUL L. MALONEY

vs.

VIRGINIA LEE STORY ET AL.,

Defendants,

JEFFREY RYAN FENTON
IN PRO PER
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WILSON ELSER MOSKOWITZ
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Attorneys for Defendants, Virginia Lee Story, and Story and Abernathy, PLLP
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DEFENDANTS' VIRGINIA LEE STORY AND STORY AND ABERNATHY, PLLP'S BRIEF IN OPPOSITION TO PLAINTIFF'S AMENDED MOTION FOR SANCTIONS

Defendants, Virginia Lee Story and Story and Abernathy, PLLP, by and through their attorneys, Wilson Elser Moskowitz Edelman & Dicker LLP, state as follows for their Response in Opposition to Plaintiff's Amended Motion for Sanctions:

Plaintiff's Amended Motion for Sanctions **[ECF 99]** against Defendants falsely alleges that Defendants were not truthful in the statements that they made to this Honorable Court in their pending Motion to Dismiss, filed on September 16, 2024. Plaintiff's accusations are outrageous, and even defamatory, particularly in light of the fact that the bases of Defendants' Motion to Dismiss **[ECF 76]** are entirely procedural. Specifically, Defendants' Motion seeks dismissal due to insufficient service of process; violation of this Court's July 8, 2024 Order Regarding Service;

Plaintiff's failure to file a Motion for Leave to File an Amended Complaint; lack of personal jurisdiction; and improper venue. Fed. R. Civ. P. 12(b)(2),(3),(4),(5).

In particular, Plaintiff seems to take great umbrage with Defendant, Virginia Lee Story's Affidavit submitted as an exhibit in support of Defendants' Motion, which simply sets forth procedural facts in support of Defendants arguments regarding failure of service of process, personal jurisdiction, and venue. This submission, or any of the statements therein, are in no way sanctionable simply because Plaintiff has great dislike for its author, Defendant Story, or apparently happens to disagree with its contents. In fact Local Civil Rule 7(b) required Defendants to submit support for the statements in its Motion to Dismiss: "When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion."

Rather, it is Plaintiff who should be sanctioned. This is a legal malpractice action against Defendants, who represented Plaintiff's ex-wife in their divorce proceedings in Tennessee. Since Defendants filed their Motion to Dismiss, Plaintiff has barraged Defendants with unnecessary filing, after filing, after filing, which has only served to increase Defendants' defense costs: on September 25, 2024, Notice, Declaration, and Motion Regarding the Naming and Address of Defendant Bank of American in this Lawsuit **[ECF 90]**; on October 4, 2024, Motion for Sanctions **[ECF 97]**; on October 4, 2024, a Motion for All Filings to be Submitted Under Penalty of Perjury Expedited Consideration Requested **[ECF 96]**; on October 4, 2024, Concerns Regarding the Transfer of this Action to the U.S. District Court for the Middle District of Tennessee **[ECF 98]**; on October 10, 2024, Amended Declaration Voicing Plaintiff's Concerns About Transferring This Action to Tennessee **[ECF 102]**; on October 10, 2024, Amended Motion to Require All Filings To Include a Certification Stating Their Contents Are Factually True and Compliant with F.R.C.P. Rule 11(B), Sworn to Under the Penalty of Perjury **[ECF 100]**; on October 10, 2024, Amended

Counter-Affidavit to "Affidavit of Virginia Lee Story" **[ECF 101]**; on October 10, 2024, Amended Motion for Sanctions **[ECF 99]**.

WHEREFORE, Defendants, Virginia Lee Story and Story and Abernathy, PLLP, respectfully request that this Honorable Court deny Plaintiff's Amended Motion for Sanctions, in its entirety, and any other further relief that this Court deems equitable and just under the circumstances.

Respectfully Submitted,

WILSON ELSER MOSKOWITZ
EDELMAN & DICKER LLP

/s/ *Valerie Henning Mock*_____
VALERIE HENNING MOCK (P55572)
NICOLE L. GETTLER (P76130)
Attorneys for Defendants, Virginia Lee Story, and Story and Abernathy, PLLP
Laurel Office Park III
17197 N. Laurel Park Drive, Suite 201
Livonia, MI 48152

Dated: October 24, 2024

CERTIFICATE OF COMPLIANCE

In accordance with W.D. Mich. L.Civ.R. 7.3(b)(ii), Defendants state as follows:

Word Count: 940 words

Software Used: Microsoft Word

Respectfully Submitted,

WILSON ELSER MOSKOWITZ
EDELMAN & DICKER LLP

/s/ *Valerie Henning Mock*_____
VALERIE HENNING MOCK (P55572)
NICOLE L. GETTLER (P76130)
Attorneys for Defendants, Virginia Lee Story, and Story and Abernathy, PLLP
Laurel Office Park III
17197 N. Laurel Park Drive, Suite 201
Livonia, MI 48152

Dated: October 24, 2024

CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2024, I sent the foregoing document to Plaintiff via first-class mail at his address, 17195 Silver Parkway #150, Fenton, MI 48430-3426, as well as via email at contact@jefffenton.com.

/s/ Rhoda Haick
Rhoda Haick