UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-CV-00309 MSK-KMT

SUZANNE SHELL
Plaintiff

v.

AMERICAN FAMILY RIGHTS ASSOCIATION, et. al.

Defendants

PLAINTIFF'S RESPONSE TO CORRECTED AND AMENDED MOTION TO SUPPLEMENT DEE CONTRERAS' MOTION TO DISMISS UNDER FED.R.CIV.P. 12(B)(6) AND 12(B)(1) BASED ON NEW EVIDENCE AND SUPPLEMENT THERETO [#201] filed on 7/1/2009

COMES NOW Plaintiff Suzanne Shell in opposition to defendant Contreras' motion to supplement her motion to dismiss. The sole purpose of a motion to dismiss is to test the sufficiency of the complaint. The new "evidence" the defendant wants this court to consider is irrelevant, specious, scandalous and immaterial. The defendant's motion should be denied. I based this contention on the following facts:

1. Defendant Contreras's motion to dismiss [#58] and her other pleadings [#58, 59, 135, 141, 142, 143, 197, 201, 209, 214, 230, 232] are replete with scandalous, immaterial, irrelevant content and false accusations against me. They lack a good-faith basis for challenging the elements. They do not forward reasonable arguments or authorities in support of the purported challenge. There is no reason to believe that any supplement she intends to submit will reflect anything other than more of the same.
2. Certain other defendants have repeatedly submitted similar content in a collaborative effort to drown out any factual arguments on the relevant issues and law with irrelevant and scandalous rhetoric that does not legitimately support any challenge to the sufficiency

of my complaint.

3. I incorporate by reference page three (3) of document #6[1], filed by defendant Wiseman in this case, wherein defendant Tower, appearing to act on the authority of advice from a court clerk, is telling the other defendants, "She stated we all need to wri[te to the judge ???][2] what is going on. We need to explain the abuse[3] (and not minimize it). The postings on the internet she is making, and the [harassment/ stalking/ defamation?] of us. If you have a copy of this, attach it as an exhibit for the judge to review. And she states the judge [won't accept anything by??] email, the only thing we have to be concerned about is the copy with the court's stamp on it." He then gave the judge's name and court's and Clerk of Court's contact information.

4. It was after this broadcast email instruction that the defendants began to inundate this court and me with scandalous and irrelevant documents intended to portray themselves as victims. This was a thinly veiled attempt to discredit me before this court while diverting the court's attention from the relevant facts and law, including the fact that the defendants

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[1] This was an ex-parte communication. Defendant Wiseman did not serve me a copy of this document. I only just discovered it on July 11, 2009.

[2] Brackets indicate cut off content to which the context of the email, taken with the express policy of the clerk's staff in responding to this kind of complaint by a pro se litigant, and the defendants's subsequent actions (based on their historical conduct) suggest the possible missing content.

[3] The "evidence" of "abuse" that the defendants have been providing to the court at the urging of defendant Tower does not have anything to do with this case. They misapprehended the instructions from the clerk as being granted carte blanche to continue their campaign of defamation against me. Neither have any of them ever attempted to discuss or resolve their respective complaints with me except to issue abusive demands based on their false assumptions and to publicly slander my professional activities, my business and my products while, at the same time, misappropriating my products to their own use.

are, by definition, the tortfeasers. Both motives are improper use of the subject motions pursuant to Fed.R.Civ.P. 11.

5. At the scheduling conference, the court attempted to regain some semblance of control over this case in by firmly stating that no more motions like this will be filed, and if they were, they would be stricken. Yet, the defendants continue to escalate these filings. I can only point out, for whatever it is worth, that the rabid gang vitriol and abject absence of objective reason or coherent logic demonstrated by the defendants in their submissions to this court graphically illustrates what I have had to endure for years at the hands of the defendants. My attempts to simply ignore them only served to escalate their wrongful acts which ultimately resulted in this lawsuit.

6. The false advertisements made by the defendants to the general public are identical to the false allegations they are making about me to this court in their attempt to present themselves as victims. These false statements, to which the defendants have admitted authoring by virtue of including the same content in their signed pleadings, are described in my complaint at ¶¶ 235-274.

7. In my complaint, I averred these identical statements to be false: ¶ 286. "The statements made by the defendants were literally false on their face or by necessary implication, or that the statements were literally true but likely to mislead or confuse consumers." I assert that these statements are still false on their face, or misleading.

8. The defendants have improperly demanded I produce the evidence supporting my claims. That demand is premature at this stage of the pleadings.

9. By virtue of the defendant's own filings in this case, the defendants are proving and admitting to many of the averments in my complaint. They are demonstrating for the

court how they have gone, and continue to go, about damaging me, including but not limited to, by conspiring to gang up and collectively administer their false advertising and other wrongful acts against me.

a. Conspiracy may be inferred by circumstances, such as a description of the wrongful acts to be committed as published by one defendant and an overt act by another defendant in the furtherance of that conspiracy.

> While it is not necessary to provide direct evidence of a formal agreement in order to demonstrate a meeting of the minds, there must be proof of circumstances from which it reasonably follows, or at least may be reasonably inferred, that the conspiracy existed. Subsection (4) does not require an express agreement to cause injury in order to sustain a claim for civil conspiracy. Schneider v. Midtown Motor Co., 854 P.2d 1322 (Colo. App. 1992); Loughridge v. Goodyear Tire & Rubber Co., 192 F. Supp.2d 1175 (D. Colo. 2002).

10. The defendants's submissions are designed to distract from the facts and issues by claiming their imagined victimhood as justification to commit their wrongs against me. By virtue of the purported wrongs, they appear to claim entitlement to infringe or misappropriate my property and violate the law. However, they do not cite any legal theory or supporting authority under which they have a legally recognized right to commit the wrongs against me as described in my complaint. To the best of my knowledge, there are no legal theories or authorities which permit any person to commit wrongs against another in return for feeling they've been unfairly excluded or subjectively "abused."

11. Defendant Contreras's motion to supplement her motion to dismiss is an attempt to gain a second bite at the apple so as to further prejudice the court against me. By claiming to have new "evidence," I expect her to submit more demonstrations of her wrongful acts against me for the illegitimate purpose of expanding her motion beyond merely testing the sufficiency of my complaint. Given the liberal consideration this court has already granted to the defendants, granting her motion to supplement would not substantially serve the interests of justice.

ACCORDINGLY, the defendant's motion to supplement her motion to dismiss should be denied.

Respectfully submitted July 20, 2009

/s/ Suzanne Shell

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the attached documents **PLAINTIFF'S RESPONSE TO CORRECTED AND AMENDED MOTION TO SUPPLEMENT DEE CONTRERAS' MOTION TO DISMISS UNDER FED.R.CIV.P. 12(B)(6) AND 12(B)(1) BASED ON NEW EVIDENCE AND SUPPLEMENT THERETO** and attachments were placed in the United States Mail, first class mail, postage prepaid on July 21, 2009

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/s/ Suzanne Shell   July 20, 2009