

**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.

**OBJECTION TO PLAINTIFF'S RESPONSE (#282) TO CLETUS KIEFER'S MOTION
TO DISMISS AS IT PERTAINS TO DEE CONTRERAS**

COMES NOW Dee Contreras and Objects to the portions of Plaintiff's Response (#282) to Cletus Kiefer's Motion to Dismiss and avers as follows:

1. In paragraph 1 of plaintiff's response, she states that "...the defendants have attempted to redefine the issues in this case by virtue of their overreaching false claims and the irrelevant, redundant, immaterial, impertinent, and scandalous matters submitted to this Court in support of their claims." Ms. Contreras takes issue with this in that at least THIS defendant responded to the allegations made in paragraphs 235 through 290 of the plaintiff's own complaint. It was not the defendant who complained that the defendant made reports to the FBI, that was what Ms. Shell herself stated in her Complaint. Ms. Contreras simply responded as to the fact that just because someone makes a report it is not necessarily, as Ms. Shell further contends, a lie, a misrepresentation, an attempt to cause harm, misleading, improper; nor is it true that it was done, as Ms. Shell contends, with malicious intent, knowingly wrong, etc., etc., etc. If Ms. Shell wishes to make false allegations, she cannot also deny the defendants the right to explain why such actions do NOT fall under the reasoning Ms. Shell has purported IN HER COMPLAINT.

It is Ms. Shell who “seeks to inappropriately influence the court with scandalous and immaterial claims” by making false allegations against defendants, and then telling them they have no right to explain why there is no basis to dismiss them. Now she wishes to make sure the defendants are unable to provide a defense for themselves, by stating that all these exhibits should be stricken as immaterial to the false allegations she has made. That is simply outrageous. If Ms. Shell wishes to suggest that I made a FALSE report about her, I have every right to explain why that report was NOT false, and that is exactly what I did.

Furthermore, once subject matter jurisdiction has been drawn into question, “**the litigant asserting jurisdiction must carry the burden of proving it by a preponderance of the evidence.**” *Lindstrom v. U.S.*, ____ F.3d, 2007 WL 4358287, *2 (10th Cir., Dec. 14, 2007). Ms. Shell continuously claims that she is under no obligation to provide any evidence; however, that is obviously an erroneous assumption. Defendants have provided evidence that counters Ms. Shell’s claims against them.

Additionally, not only do the parties need to be identified according to their actions, but the plaintiff must plead the exact words used, see *Vantassell-Matin v. Nelson*, 741 F. Supp. 698, 708 (N.D. Ill. 1990); see also *Walters v. Linhof*, 559 F. Supp. 1231, 1234 (D.Colo. 1983) (the substance of the defamatory words must be pleaded).

a. While none of the tendered documents are specifically referred to in the Complaint, the allegations are addressed by the use of those documents. The allegations are quite clearly spelled out in the Complaint, however, the identity of the tortfeasors has never been verified, which is

obviously required as per the above case law, and the responses to those allegations and the supporting documentation must absolutely stand.

b. The Court must treat REASONABLE allegations as truth. Under FRCP Rule 8, (e) Construing Pleadings - Pleadings must be construed so as to do justice.

The plaintiff states in paragraph 1.b. of her Response that defendants arguments are immaterial. Excuse me? Is the plaintiff saying that the only thing that matters is that she has made these false statements in her Complaint, refused to back them up as required by case law, and that as long as her comments are taken by the court to be truth and the evidence required to sustain a standard of “preponderance of the evidence” is disregarded there is no problem, but if the defendants tender proof that contradicts the lies of the plaintiff, the truth should be entirely disregarded because the plaintiff has not give the court permission to follow the Rules? If this were true, there would be no provision in the Rules for Motions to Dismiss.

2. In paragraph 5, plaintiff discusses the Agency theory. Looking at plaintiff’s own Complaint, it clearly states that “**IF** a party wishes to become leaders...” and refers to Mr. Henderson’s document 235 “WHEN people VOLUNTEER for leadership roles...” Despite the language of both of these items CLEARLY requiring a desire and intent to be LEADERS, Ms. Shell deals out her own interpretation that anyone who joins a group is asking to be a leader. That is absurd.

3. In her Conclusion, Ms. Shell states that the court’s duty is to “assess whether the plaintiff’s complaint alone is legally sufficient to state a claim upon which relief may be granted.” Plaintiff has asserted that all defendants are guilty of all the same acts, without naming the defendants responsible, without identifying exactly what those people did, and with no obligation to prove such claims by a preponderance of the evidence. This is absurd on its face.

The police are faced with the same level of proof that Ms. Shell was required to produce in her Complaint—reasonable cause. She failed to identify the perpetrator, and what the perpetrator has allegedly done. Defendants filed Motions to Dismiss challenging jurisdiction, thereby raising the standard necessary to support her claims to a level of “preponderance of the evidence”. Ms. Shell stubbornly refuses to rise to that standard.

The police cannot walk into a bar where there has been a fight and arrest everyone present because they might have been involved. That is EXACTLY what Ms. Shell proposes to do with this Complaint. Although I have never asked to be a leader in this movement, and cannot be an agent for AFRA, and although I was not a member of any groups and had a right to freedom of speech, Ms. Shell has decided that she’s going to haul me in with everyone else because...well, she hasn’t given any reason for hauling me into this except to say “I can do it if I want to, and you need to shut up and just do what I tell the court you need to do.” That does not fly in the face of the case law, nor the Federal Rules of Civil Procedure.

Date: August 26, 2009 _____

Respectfully submitted,

B. Dee Contreras
Defendant, pro se

Defendant:
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Certificate of Service

I hereby certify that on the 26th day of August, 2009, I served a true and correct copy of this **OBJECTION TO PLAINTIFF’S RESPONSE (#282) TO CLETUS KIEFER’S MOTION TO DISMISS AS IT PERTAINS TO DEE CONTRERAS** as follows:

AFRA – via e-mail to William O. Tower	William O. Tower – via e-mail
Leonard Henderson – via e-mail	Susan Adams Jackson – via e-mail

Cletus Kiefer – Via e-mail	Families at Risk Defense Alliance – via e-mail
Francine Renee Cygan – via e-mail	Mark Cygan – via e-mail
Illinois Family Advocacy Coalition – c/o Renee Cygan	Dorothy Kernaghan-Baez – via e-mail
Georgia Family Rights, Inc. – via e-mail	Dennis Hinger – via e-mail
National Association of Family Advocates via e-mail	Aimee Dutkiewicz – via e-mail
Thomas Dutkiewicz – via e-mail	Connecticut DCF Watch – via e-mail
William Wiseman – via e-mail	Wiseman Studios – via e-mail
Ann Durand – via e-mail	Brenda Swallow – via e-mail
Kathy Tilley – by e-mail	Randall Blair – via e-mail
Lloyd Phillips – 14220 SW 29 Court, Ft. Lauderdale, FL 33330	Ringo Kamens – via e-mail to attorney Schlatter
Cheryl Barnes c/o Daniel Slater	CPS Watch, Inc. c/o Slater
Desere' Clabo aka Howard – c/o Slater	Sarah Thompson – c/o Slater

and upon the Plaintiff, Suzanne Shell, by first class mail and by PACER.

Dated: August 26, 2009

B. Dee Contreras