

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED
DEC 30 2009

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

DR. JIM SISNEY, an individual,)
)
Plaintiff,)
)
vs.)
)
MIKE RAMPEY, an individual;)
DOUGLAS J. HUDKINS, an individual;)
MARYANNE FLIPPO, an individual;)
SHARI WILKINS, an individual;)
SHARON WHELPLEY, an individual,)
)
Defendants.)

Case Number: CJ-2008-06173
Judge: Daman Cantrell

**PLAINTIFF'S RESPONSE TO DEFENDANTS MARYANNE FLIPPO, SHARI WILKINS
AND SHARON WHELPLEY'S MOTION TO ALLOW DEFENDANTS TO FILE
COUNTER-CLAIMS AGAINST THE PLAINTIFF FOR ABUSE OF PROCESS AND
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

COMES NOW the Plaintiff, Jim Sisney (hereinafter "Plaintiff"), by and through his Attorneys of record, Gary L. Richardson, Charles L. Richardson, David R. Keesling and Denise P. James, and for his Response to Defendants Maryanne Flippo, Shari Wilkins and Sharon Whelpley's (hereinafter "Defendants") Motion to Allow Defendants to File Counterclaims Against the Plaintiff for Abuse of Process and Intentional Infliction of Emotional Distress, alleges and states as follows:

1. Defendants filed a Motion to Dismiss Plaintiff's Amended Petition on October 30, 2008. The Court denied the Motion as to the Defamation, Tortious Interference and Intentional Infliction claims on April 16, 2009. 239 days after that decision, Defendants now request This Court to allow them to file Counterclaims against the Plaintiff.
2. On July 16, 2009, Counsel for Defendants requested that Counsel for Plaintiff allow an extension of time to file their Answer out of time, due to the occurrence of unforeseen events. Counsel for Plaintiff agreed/ did not object to the request. To date, Defendants have not filed an Answer to Plaintiff's Amended Petition.
3. Pursuant to 12 O.S. §2014(F) and §2015(A), the appropriate time to file the counterclaims

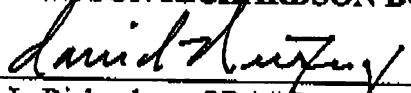
was within their Answer or 20 days after filing an Answer, where the failure to assert the counterclaims was due to oversight, inadvertence, excusable neglect, or where justice requires. The Defendant has had more than sufficient time to raise these issues against the Plaintiff and has not done so until now, nor have the Defendants even Answered the Plaintiff's Amended Petition.

4. Further, pursuant to 12 O.S. §2011(B), the Defendant's counterclaims do not meet the any of the required conditions, as there is no evidence to support the counterclaims and the Defendant is only presenting the frivolous claims to continue to harass the Plaintiff. Although 12 O.S. §2013(E) allows a party to present a counterclaim by *supplemental* pleading with permission of the Court, it only pertains to a claim which has either *matured* or was acquired by the pleader *after serving his pleading*.
5. Plaintiff is entitled to denial of the Motion to Assert Counterclaims, without hearing, and an Order directing Defendants to file Application to Answer or Order of Default, as Defendants have failed to file an Answer within the time allotted by Okla. Stat. tit. 12 § 2012.

WHEREFORE, Plaintiff requests this Court deny Defendants Motion to Assert Counterclaims and grant Plaintiff any other relief this Court deems just and equitable.

Respectfully submitted,

RICHARDSON RICHARDSON BOUDREAUX



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of December, 2009, a true and correct copy of the foregoing instrument was mailed with proper postage prepaid thereon to:

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