

CHRISTIAN DOSCHER,

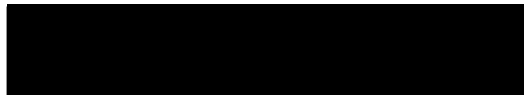
Plaintiff,

v.


JAMES PATRICK HOLDING,

Defendant.

NO. 15-2-01352-9

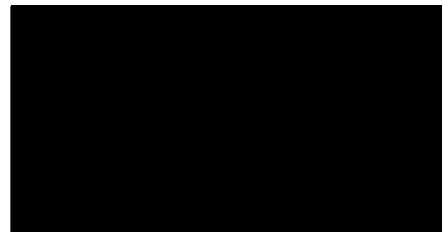


PLAINTIFF'S MOTIONS FOR CR 11  
AND CR 26 SANCTIONS

I,  make the following statement under penalty of perjury:

1. I am the attorney of record for the defendant, James Patrick Holding, and have personal knowledge of all matters stated in this Declaration. I am over the age of 18 years, am a citizen of the United States, and am competent to testify herein. I make this Declaration in response to plaintiff's motions for CR 11 and CR 26 sanctions.

2. Defendant's motion for dismissal pursuant to CR 12(b)(2) and all supporting material were drafted and filed upon a good faith belief as to the accuracy of the facts and law cited therein. If plaintiff believes that facts relevant to the underlying question of jurisdiction were cited incorrectly or



1 excluded, it seems incumbent upon plaintiff to cogently articulate this belief in a well-reasoned  
2 responsive brief. There is no basis for CR 11 sanctions.

3 3. Plaintiff further asks for sanctions under CR 26 for defendant's failure to provide  
4 information in response to one of his first interrogatories, the answers to which were provided on or  
5 about December 4, 2015. Plaintiff has had over five months to bring this issue before the court. The  
6 fact that he does so now, when defendant's motion to dismiss is pending, seems to evidence a bad faith  
7 attempt to inconvenience defendant and cause him to accrue additional legal fees.

8 4. Regardless, the information plaintiff argues was not provided in response to his  
9 discovery requests is contained entirely in defendant's motion to dismiss for lack of jurisdiction,  
10 received by plaintiff prior to his filing this motion for sanctions.

11 5. Defendant initially objected to plaintiff's request for "each and every evidentiary fact"  
12 underlying its affirmative defenses, because it was an overly broad request and defendant was still  
13 formulating his response to the issue of jurisdiction. Defendant stands by this initial objection; however,  
14 when plaintiff received defendant's motion to dismiss and accompanying declaratory support, plaintiff  
15 was then in receipt of all evidence put forward in support of defendant's affirmative defense concerning  
16 jurisdiction. Plaintiff is asking for sanctions based upon a failure to provide information that he is in  
17 possession of.

18 6. Plaintiff also raises the issue of an area code (321) phone number. As set out in  
19 defendant's declaration, this was a "dummy" phone number which forwarded calls to his home phone  
20 number. It was set up to put a layer of distance between defendant and plaintiff. As evidenced by  
21 Attachment A to defendant's declaration, the service was never really used, except to record one incoming  
22 message from plaintiff.

1           7.       Moreover, plaintiff was provided all of this information concerning the (321) phone  
2 number before filing his motion. See Attachment A, hereto. This further evidences plaintiff's bad faith  
3 in bringing this motion.

4           8.       As previously supported with citation in defendant's myriad responses to plaintiff's other  
5 motions for sanctions, this court has broad discretion to issue or not issue discovery-related sanctions, as  
6 appropriate to the circumstances at hand. The circumstances before this court warrant denial of plaintiff's  
7 motions.

8           I declare under penalty of perjury under the laws of the state of [REDACTED] that the  
9 foregoing is true and correct.

10          DATED this 11th day of May, 2016, [REDACTED]

ATTACHMENT A

**Greg Rhodes**

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**From:** [REDACTED]  
**Sent:** Monday, May 02, 2016 2:21 PM  
**To:** 'Barry Jones'  
**Subject:** RE: Doscher, notes for the  
**Attachments:** Holding Google Voice call history (3).JPG

Mr. Doscher:

In answer to your first issue, you clearly have all of the facts now upon which our affirmative defense is based. I disagree as to a discovery violation. I don't believe there is anything to discuss.

In answer to your second issue, the (321) number is a call forwarding service through Google Voice that forwards calls to Mr. Holding's home phone. Mr. Holding set this up on September 4, 2015. He did not know if it would connect outgoing calls as he never tried. Attached is a complete history of all activity through this phone number. The entry from today is Mr. Holding testing it. Regardless, it was set up after filing of the complaint so, as the court has made very clear, it is not relevant for issues of personal jurisdiction.

Call me at your convenience to discuss.

