

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

)	Case No. 06 C 4189
REZA GANJAVI,)	
Plaintiff,)	PLAINTIFF'S LOCAL RULE 56.1(b)(3)
v.)	RESPONSE TO CINDY SMITH'S
JEREMY C. SMITH, CINDY SMITH,)	STATEMENT OF MATERIAL FACTS
TODD TIPTON, WILLIAM D.)	AND STATEMENT OF ADDITIONAL
JENNINGS, DELOITTE CONSULTING)	FACTS IN OPPOSITION TO MOTION
LLC, DELOITTE & TOUCHE USA LLP,)	FOR SUMMARY JUDGMENT
DOES 1-10,)	
Defendants.)	Judge Gettleman
)	Magistrate Judge Denlow
_____)	

**PLAINTIFF REZA GANJAVI'S LOCAL RULE 56.1(b)(3) RESPONSE
TO DEFENDANT CINDY SMITH'S STATEMENT OF MATERIAL FACTS AND
STATEMENT OF ADDITIONAL FACTS IN OPPOSITION TO DEFENDANT CINDY
SMITH'S MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Plaintiff REZA GANJAVI, by and through his attorneys, Law Offices of Khoi Dang-Vu, P.C. And Khoi Dang-Vu, and submits this Local Rule 56.1(b)(3) concise response to Defendant Cindy Smith's statement of material facts. There are genuine issues of material facts with regards to Plaintiff's allegations.

DEFENDANT CINDY SMITH'S STATEMENT OF MATERIAL FACTS

Paragraph 7. Defendant Cindy Smith uses Internet Explorer on the Windows XP computer exclusively.

Response: Defendant denies facts contained in Paragraph 7. (Exhibit A).

Paragraph 8. Defendant Cindy Smith has posted on USENET sixteen (16) times, all since February 19, 2006, and only from Internet Explorer on Windows XP.

Response: Plaintiff denies the facts alleged in Paragraph 8. (Exhibit A).

Paragraph 10. “The remaining seven (7) posts mentioned in Paragraph 8 above were made in the newsgroup rec.music.classical.guitar”.

Response: Plaintiff disputes the facts alleged in paragraph 10. (Exhibit F).

Paragraph 11. None of the sixteen (16) posts mentioned Plaintiff in any way, or were in response to Plaintiff's postings.

Response: Plaintiff disputes that Defendant Cindy Smith has only posted to usenet only sixteen times. As to whether any posts by Cindy Smith were in response to Plaintiff's postings or contained any reference to Plaintiff, Plaintiff lacks sufficient information to admit or deny these allegations. Plaintiff contends that further discovery and investigation would be required to determine the nature of additional postings by Defendant Cindy Smith.

Paragraph 12. On or around Sunday, July 16, 2006, Jeremy Smith posted a message to the usenet group rec.music.classical.guitar under the pseudonym “Asbestos Gourmet,” regarding interactions with Reza Ganjavi.

Response: Plaintiff has insufficient information to admit or deny the facts alleged in paragraph 12, and therefore admits to the facts alleged in Paragraph 12.

Paragraph 13. Jeremy signed this message ‘Jeremy and Cindy Smith’ but did so without Cindy’s knowledge.

Response: Plaintiff has insufficient information to admit or deny the facts alleged in Paragraph 13 and contends that further discovery is required.

Paragraph 14. Defendant Cindy Smith was not involved in any Internet activities of her husband, Defendant Jeremy Smith.

Response: Plaintiff denies the facts alleged in Paragraph 14. (Exhibit D). Further discovery is necessary to determine the scope of Defendant Cindy Smith's collaboration with her husband against Plaintiff.

Paragraph 15. Defendant Cindy Smith had no knowledge of the Plaintiff or any interactions he may have had with Defendant Jeremy Smith until after Mr. Ganjavi filed his initial complaint in this matter in the United States District Court in the Central District of California on December 9, 2005.

Response: Plaintiff denies the facts alleged in Paragraph 15. Further discovery is necessary to determine facts surrounding this issue.

Paragraph 16. Defendant Cindy Smith has never interacted with Reza Ganjavi, either directly or indirectly.

Response: Plaintiff denies the facts alleged in Paragraph 16. Further discovery is necessary to determine facts surrounding this issue.

PLAINTIFF'S STATEMENT OF ADDITIONAL FACTS

1. The internet account for Defendant Cindy Smith's address were the source at least several of the above alleged offenses. See Plaintiff's Second Amended Complaint, Paragraph 23.
2. Moreover, Defendant Cindy Smith used the computers, network, and internet subscription used in several of the offenses, and posted on the same newsgroup in which many of the offenses against the Plaintiff occurred. (Defendant Cindy Smith's Affidavit Paragraphs 2, 3, 4).
3. Contrary to Defendant Cindy Smith's sworn affidavit, both computers in her household were used by her and Defendant Jeremy Smith. (Exhibits A and B).
4. At least one of the messages which Defendant claims to have been authored by her was actually composed on the Debian GNU/Linux machine (in the living room) which she claims in her affidavit that she never uses. (Exhibit A).
5. Defendant Cindy Smith posted eleven (11) times and not seven (7) times in the newsgroup rec.-music.classical.guitar. (Exhibit F).

6. On more than one occasion the Smiths shared the same email addresses and apparently signed for each other. (Exhibit G and Exhibit D of affidavit of Jeremy Smith).
7. The entire scheme of the attacks on the Plaintiff was at times a coordinated and collaborated effort conducted by more than one person, contrary to the Smiths' affidavits they never collaborated in their internet/usenet activities. (Exhibit D is just one example of their collaboration in postings to the classical guitar newsgroup).
8. The coordinated attacks on the Plaintiff were at times orchestrated through newsgroup and email accounts originating from the Defendant's residence. (Exhibit J).

RESPECTFULLY SUBMITTED BY:

/s/ Khoi Dang-Vu

Khoi Dang-Vu

Attorney for Plaintiff, REZA GANJAVI

A.R.D.C. Number 6271169

Law Offices of Khoi Dang-Vu, P.C.

1719 W. 18th Street

Chicago, Illinois 60608

Tel. (312) 492-1477

Fax (312) 455-9372