GeorgeRuskAtt@outlook.com

From: Shelley Ann Quilty-Lake <sql@meenanesqs.com>
Sent: Wednesday, May 12, 2021 11:59 AM
To: GeorgeRuskAtt@outlook.com
Subject: Gayle et al v. Harry's Nurses Registry & Harry Dorvilier [Civil Action No. 07-cv-04672(NGG)(PK)]

Dear Mr. Rusk,

As you know, our firm represents the Plaintiffs in the above-referenced action. I received your Notice of Appearance, proposed Consent Order Granting Substitution of Counsel and Letter Motion to Reopen the above-referenced action which you filed with the Court yesterday through the ECF system. I am sending you this email to ask that you withdraw your letter application before the Court to reopen this case. I ask that you do so by no later than Friday, May 14, 2021 for the reasons that follow.

In short, there is no valid legal or factual basis for you to seek to reinstate this action. Although you rely heavily in your letter motion on *Penn West Associates, Inc. v. Cohen*, 371 F.3d 118 (3d Cir. 2004) in an effort to convince the Court that there is a scintilla of a legal basis for your request on behalf of the Defendants to reopen this case, there is none.

The circumstances presented in *Penn West Associates, Inc.* are not present here. Unlike in *Penn West Associates,* the Court here has not "administratively closed" this action. As you know, the Second Circuit affirmed the District Court's Order dated September 30, 2018 and denied your client's appeal. The Second Circuit issued a mandate on February 14, 2020. Thereafter, the District Court clearly issued a "final judgment" with respect to the post-appeal application for Plaintiff's attorney's fees and costs, and entered same on August 3, 2020.

After entry of this judgment, in January 2021 you filed a motion to recall the Second Circuit's mandate and reinstate the above-referenced appeal. You requested leave to file an oversized brief of approximately 110 pages with the Second Circuit in support of your motion to recall the mandate. Your filings before the Second Circuit had no merit, were filed for an improper purpose and were designed to harass Plaintiffs and needlessly increase the cost of litigation – post-judgment. On February 1 and 4, 2021 the Second Circuit swiftly issued Orders denying all of your motions.

This litigation has ended on the merits. The Second Circuit and the District Court have issued final orders to that effect. There is no justifiable basis for you to claim before the District Court that this matter must be reopened.

Also, the post-judgment filings that we have submitted to the Court fall squarely and unequivocally within the U.S. Supreme Court's definition of a "final decision" which is "generally one which ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." *Catlin v. United States*, 324 U.S. 229, 233 (1945). As you are well aware from reviewing the docket, which you note in your letter application to the Court you did, the submissions we have filed with the Court post-judgment are all related to the Court executing the judgment it entered in Plaintiffs' favor.

Your letter application, like your motions before the Second Circuit, are for an improper purpose.

Accordingly, please withdraw your letter application seeking to reopen this case. If you do not to so by Friday, May 14, 2021, I will have no other recourse but to file a motion with the Court pursuant to Fed. R. Civ. 11 seeking sanctions against you.

Yours truly,
Shelley Ann Quilty-Lake

Shelley Ann Quilty-Lake, Esq.
Partner

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