

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

EAGLE NATION CYCLES, *et al.*,

Plaintiffs,

v.

CITY OF NEENAH, *et al.*,

Defendants.

Civil Case No. 14-CV-1503

Hon. William C. Griesbach

ECF Case

Electronically Filed

AFFIDAVIT OF STEVEN V. ERATO

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Steve V. Erato, being duly sworn, hereby deposes and states as follows:

1. I am a competent adult. I make this Affidavit of my own personal knowledge.
2. I am the Principal Owner of Eagle Nation Cycles which is a Plaintiff in this matter. I am also a Plaintiff in this matter, and I have had contact with the other Plaintiffs.
3. The other Plaintiffs and I retained Attorney Cole J. White to prosecute this matter.
4. Our case was dismissed on January 20, 2016 pursuant to a Rule 41(b) Motion that was filed by the Defendants in this matter.
5. I was unaware that the Motion to Dismiss had even been filed until the Order was granted and I began receiving phone calls from television and newspaper reporters.
6. In speaking with the other Plaintiffs, they too were caught unaware of these developments and were shocked.
7. Prior to the Order dismissing the action, the other Plaintiffs and I believed that Attorney White was diligently prosecuting this matter and that he was in the process of scheduling all things necessary to prosecute this matter.
8. After reading articles and reviewing the Order granted by this Court, I felt betrayed by my counsel.

9. At no time was I made aware of the need to answer any discovery requests, appear for a deposition, or take any other action necessary to prosecute this matter. If I had known that I had to answer questions or make myself available for a deposition, I would have done so. I am prepared to answer discovery and appear for deposition at any time upon reasonable notice.
10. Based upon my discussions with the other Plaintiffs, none of them knew that anything was required of them to comply with Defendants' requests.
11. Had the other Plaintiffs or I known that deadlines were being missed, or that we had to appear for depositions, we would have done so in a reasonable and timely manner.
12. Based upon the information provided by this Court and the Order dismissing the action, I believe that our counsel had serious and significant limitations which inhibited his ability to prosecute this matter.
13. Moreover, after learning that our case was dismissed, the other Plaintiffs and I scrambled to find additional counsel to help us right this terrible wrong.
14. I have spoken with numerous attorneys, and I was advised that I should request Attorney White to file a Notice of Appeal. I made a written request to Attorney White for that purpose.
15. I emailed Attorney White a request to remedy this matter on or about January 26, 2016.
16. I received an email back from Attorney White indicating that he would be filing a Notice of Appeal on the case. However, Attorney White's response caused me grave concern about whether I could count on him to take any necessary action to remedy this situation.
17. Attached hereto is a true and correct copy of the email that I received from Attorney White, and frankly, the email was the first time I learned of any troubling issues with Attorney White in his personal or professional life.
18. The other Plaintiffs and I have now scrambled just to find an attorney to file the Rule 59 Motion and let your honor know that the Plaintiffs in this matter had nothing to do with the tactics of Attorney White.
19. Moreover, prior to the dismissal, I had contact with Attorney White, and he never told me that I needed to take any action, answer any questions, or appear for a deposition. Rather, he told me that things were going well, and that he hoped to set up a settlement conference.
20. I believe there is merit to this case. I faced multiple felony charges in Winnebago County Circuit Court, and they were all dismissed. I believe that those dismissals came because of the improper government conduct as detailed in the Complaint.

21. I understand that the sins of an attorney may sometimes fall upon their clients, but this is truly a case where the clients were kept in the dark, made false promises, and Plaintiffs took no action or omission to obstruct the Court or the Defendants.
22. The other Plaintiffs and I respectfully request this Court to consider reopening this case and amending the Judgment to give us a second chance. I can certify to this Court that I will take a proactive role and do my best to ensure that our counsel follows deadlines and court orders.

Dated this 17 day of February, 2016.

 /s Steven V. Erato
Steven V. Erato

Subscribed to and sworn before
me this 17 day of February, 2016.

 /s Robert E. Bellin, Jr.
Robert E. Bellin, Jr.
Winnebago County, Wisconsin
My Commission is permanent.