





website or homepage established, owned and maintained by the Defendant, Michael Glassic.

5. That the Amended Complaint alleged the following causes of action or claims, based upon the homepage/website established by Michael Glassic:

- A. Lanham Act – Trade name infringement under Section 1125(a);
- B. Lanham Act – Cyber Squatting under Section 1125(d);
- C. Pennsylvania Anti-Dilution of Trade name;
- D. Misappropriation of corporate name;
- E. Unfair competition;
- F. Common law trade name infringement; and
- G. Lanham Act – Anti-dilution of trade name under Section 1125(c).

6. That Rule 11(b)(1) provides as follows:

“(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.”

7. That the Plaintiff instituted this action in violation of Rule 11(b)(1), based upon the following:

- A. That the action was instituted to cause the Defendants financial harm in that they would have to bear the cost of this litigation;

B. That the action was instituted to harass the Defendants in retaliation for a complaint filed with the Pennsylvania Bureau of Consumer Protection.

C. That the Complaint named Noreen Gorke as a Defendant, notwithstanding the fact that she was not an owner of the homepage/website and had no involvement with the maintenance and administration of the homepage/website at the time the litigation was instituted, a fact which was known to the representatives and agents of the Plaintiff.

D. The Defendant, Michael Glassic, was not in competition with the Plaintiff and in establishing the website, the Defendant, Michael Glassic, was simply exercising his First Amendment rights to freedom of speech concerning a quasi political activity, said action then being brought in violation of the said First Amendment rights of Michael Glassic.

E. Stillwater Lakes is a geographic location.

F. That prior to the institution of this litigation, changes to the homepage/website had been made, which are now satisfactory to the Plaintiff and which were, therefore, satisfactory at the time of this litigation, the said litigation being instituted with full knowledge that the website pages had been changed for a period of time prior to the filing of the lawsuit.

G. That the Plaintiff, in defending against the Rule 12(b) Motion to Dismiss filed by the Defendants, including, *inter alia*, your Movants, made misrepresentations to this Honorable Court.

8. That the Plaintiff, at the time of the institution of this litigation, with the exception of Subparagraph G of the preceding paragraph, had full knowledge that such was the situation and conducted no reasonable investigation for purposes of determining whether or not a viable cause of action existed for any of the Counts alleged in the Complaint.

9. That Rule 11(b)(2) provides as follows:

“(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.”

10. That the Plaintiff instituted this action in violation of Rule 11(b)(2) in that:

A. The Defendants were not engaged in the sale of goods or services in interstate commerce.

B. The homepage/website posted by the Defendants was posted prior to any website page by the Plaintiff.

C. The Plaintiff does not and did not engage in the sale of goods or services in commerce and, therefore, no likelihood of confusion could, as a matter of law, exist.

D. The Defendants were not in competition with the Plaintiff in the sale of goods and services, since neither party was involved in such trade or commerce.

E. The homepage/website complained of did not dilute the name of the Plaintiff and at the time of the filing of the lawsuit contained sufficient disclaimers that no one could reasonably interpret that such, in fact, was the case.

F. The Plaintiff did not, as a result of any actions complained of the Defendants, suffer a loss of profits due to unfair competition.

G. The Plaintiff had no common law right to trademark for its name, since it never used a trademark designation.

H. The Defendants did not misappropriate the corporate name of the Plaintiff.

I. The homepage/website which sought involvement from members of the Plaintiff Association was critical of actions and decisions of the Board of Directors of the Plaintiff.

11. That at the time this litigation was instituted, the Plaintiff, its employees, representatives and agents were aware of the facts in the preceding paragraph and filed this lawsuit anyway in bad faith.

12. That Rule 11(b)(3) provides as follows:

“(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and”

13. That the Plaintiff, in instituting this action and proceeding thereafter, violated Rule 11(b)(3) in that:

A. Your Movant Noreen Gorka was named as a Defendant, when, in fact, she was not an owner and she had no involvement in the operation, administration or maintenance of the website.

B. The name Stillwater Lakes is a geographic location and, therefore, is not actionable.

C. The Plaintiff did not sell products or services in commerce.

D. The Defendants did not sell goods or services in interstate commerce in competition with the Plaintiff.

E. Based upon the homepage/website, there was no likelihood of confusion.

F. That there was no factual basis for a claim that the Defendants diluted the name of the Plaintiff.

G. That the Plaintiff, from an evidentiary standpoint, could not establish that it had a common law trademark.

H. That from an evidentiary standpoint, the Plaintiff cannot establish that at the time it filed the Complaint, the allegations contained therein concerning the content of the homepage/website.

14. That as a result of the conduct previously alleged in this Motion, which was accomplished in violation of Rule 11 of the Federal Rules of Civil Procedure, your Movants incurred the following attorney's fees:

A. Stewart Rosenblum at \$175.00 per hour, totaling \$13,980.91.

B. Anders & Masington, L.L.C., Marshall E. Anders, Esquire, at \$240.00 per hour, totaling \$11,022.50.

15. That as previously alleged, this litigation was brought in bad faith simply for purposes of harassing the Movants herein without legitimate purpose or cause of action.

16. That in addition to an award of attorney's fees, sanctions pursuant to Rule 11(C)(4) should be imposed.



WHEREFORE, your Movants, by their attorneys, respectfully request this Honorable Court to enter sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure.

RESPECTFULLY SUBMITTED

ANDERS & MASINGTON, L.L.C.

By:



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(570) 424-1117

Attorney for Movants, Noreen Gorka  
and Michael Glassic.

VERIFICATION

I, MICHAEL GLASSIC, Defendant, in the within action, verify that the statements made in the attached Motion for Sanctions are true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

  
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MICHAEL GLASSIC

Date: 5/19/11

**VERIFICATION**

I, NOREEN GORKA, Defendant, in the within action, verify that the statements made in the attached Motion for Sanctions are true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

  
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NOREEN GORKA

Date: 5/19/11