

FILED

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

2011 AUG 30 PM 4:00
CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FL
JACKSONVILLE, FLORIDA

FEDERAL ELECTION COMMISSION,
999 E STREET, N.W. WASHINGTON
D.C 20463,

Civ. No. 3:10-CV-1155-G-99 TGC- JRK

Plaintiff

Vs.

SAM KAZRAN, 1531 HARRINGTON
PARK DR., JACKSONVILLE, FL, 32225

Defendant

DEFENDANTS MOTION FOR RECONSIDERATION

Defendant Sam Kazran (defendant) hereby files this motion for reconsideration of this Honorable courts order denying the Defendants motion to Join Mr. Buchanan, and Vern Buchanan for Congress (VBFC) as the proper party in this action. As grounds for relief requested, Defendant further states:

1. On August 8, 2011, the undersigned Defendant learned for the first time that this Honorable court had entered an order denying Defendants request to join Mr. Buchanan as the proper party in this action.
2. It appears this Honorable court's ruling was pursuant to the case management agreement that was signed on or about May 3, 2011 and entered in to the courts records on or about May 18, 2011.

3. Defendant respectfully objects to plaintiff's characterization of, and reliance on the case management agreement as the basis to object to Defendants efforts in joining Mr. Buchanan in this action.

4. Defendant assert that Plaintiffs reference and reliance on its case management agreement is disingenuous and grossly mischaracterized as the issues surrounding Mr. Buchanan was specifically discussed and excluded from the parties agreement.

5. Defendant agreed to sign a verbatim copy of plaintiffs proposed case management schedule, and further agreed to waive trial by jury specifically based on discussions and understanding that, the subject agreement did not prevent the Defendant from obtaining leave to join Mr. Buchanan as the proper party in this action.

6. On May 2, 2011, while in hospital, the undersigned received a phone call from Counsel for Plaintiff to sign the plaintiffs' case management order.

7. Prior to signing these papers the undersigned Defendant specifically and unambiguously referred to the June 1, 2011 and made abundantly clear that the deadline does not limit the Defendants ability to Join Mr. Buchanan in this action.

8. Defendant was led to believe that the June 1, 2011 deadline did was in reference to Plaintiffs efforts in joining any potential new parties in this action.

9. Plaintiff specifically acknowledged and agreed that, while FEC would oppose Defendants efforts, this subject disagreement, and the decision to join Mr. Buchanan will be settled by this Honorable court based on facts and the evidence relevant to this matter.

10. Plaintiff was fully aware that the undersigned was in process of preparing a motion to seek leave from this Honorable court to join Mr. Buchanan.

11. Plaintiff was also aware that the Defendant was unavailable for several weeks due to his wife's health conditions.

12. Counsel for plaintiff will not deny the foregoing including multiple other phone calls and emails regarding this subject matter.

13. The Defendant would have not agreed to the terms of management order, specifically the June 1, 2011 deadline, nor would he have agreed to waive trial by jury had Plaintiff not specifically acknowledge and agree to Defendants terms.

14. Plaintiffs' sudden change of posture and disingenuous utilization of the case management agreement is contrary to parties' clear understanding and agreement.

15. Plaintiffs approach is contrary to its own purpose. That is, Federal Election Commissions role is to investigate the truth and form its conclusion based on competent and substantial evidence.

16. An attempt to deprive the Defendant from the opportunity to present his case to this court defeats the purpose of this entire process.

17. The plaintiffs' motion outlines an elaborate and lengthy argument that suggests the Defendant status as a *pro se* is means to ask for special treatments.

18. Plaintiffs characterization is out of line and unsubstantiated in that the undersigned does not expect this Honorable or the Plaintiff to consider the *Pro se* status as the basis for any special treatments.

19. The Defendant has regularly communicated his unavailability and time restrains to the Plaintiff that is primarily due to his wife's health condition.

20. While not an Attorney, and certainly unable to counter balance a growing team of seasoned Attorneys in an effective adversarial proceeding, the undersigned has reasonable intelligence and understands his responsibilities and obligations to this court and to the plaintiff.

21. The issue before the court is not whether Defendant actions mount to a request for special treatments. The underline issue is to adjudicate this action based on its merits.

22. **"The policy of the law is it have every litigated cause tried on its merits"**. *Barri v. Rigero (1914) 168 Cal, 736,740, 145 Pac. 95*. An indication of how far the courts are willing to go to bring a case to trial before them on its merits is given by the decision of *Toon v, Pickwick Stages (April 7, 1924) 43 Cal. App. Dec 80 Pac. 628*.

23. Defendant seeks the opportunity to show the court "clear and convincing" evidence including the results of Plaintiffs own investigation to establish gross inconsistencies in Plaintiffs conclusion.

24. Defendant alleges under oath, and is able to demonstrate that, FEC has either overlooked, or ignored material facts that deserve significant weight.

25. Motion to strike are disfavored by the courts and infrequently granted because the remedy is drastic and because such motions are often made simply as dilatory tactic. *Dixon vs. JEA 2005 WL 2304954. (Richardson, Magistrate J MD. Fla. 2005)*. See also *Morell Vs. United States 185 F.R.D 116,117 (D.P.R 1999)* (Because striking a portion of pleading is a drastic remedy, and because it often is sought by movant simply as dilatory tactic. Motions under 12(i) ... are infrequently granted.)

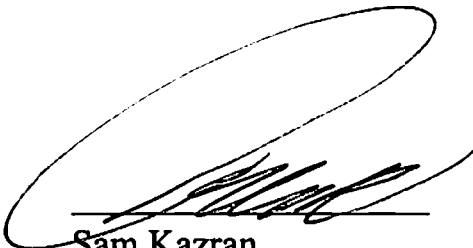
26. "Before a court strike a pleading, it must be convinced that there are no questions of fact that any question of law is clear and not in dispute, and that under no set of circumstances could the Defense succeed". *Allstate insurance Co. vs. Choi. 2007 WL 29384 (E.D NY Jan 4, 2007)*.

27. A judgment to dismiss because of some trumped up technicality giving excuse to dismiss a non-lawyer prose litigant's complaint with merit in a lawyer dominated Court hearing. *Picking v. Pennsylvania Railway*, (151 F2d.240) Third Circuit Court of Appeals.

CONCLUSION

For the foregoing reasons, Defendant respectfully request that this Honorable court vacate its order denying the Defendants request to Join Mr. Buchanan in this action, and further issue an order permitting the Defendant to Join Mr. Buchanan and VBFC as the proper parties in this action. In the alternative, Defendant respectfully requests that this Honorable court grant an evidentiary hearing to examine the underline facts and merits in Defendants argument.

Dated this 24th day of July 2011.



Sam Kazran
1531 Harrington Park Dr.
Jacksonville, FL. 32225
(904) 874-0304
Kazran52@aol.com

CERTIFICATE OF SERVICE

I hereby certify that on August 24th, 2011, I served the foregoing Defendants Motion for reconsideration to Plaintiff Federal Election Commission via E- mail.

Erin Chlopak

Adav Noti

FEDERAL ELECTION COMMISSION

999 E Street NW

Washington, D.C. 20463

(202) 694-1650 ph.

(202) 219-0260 fx.

Counsel to Plaintiff Federal Election Commission



Sam Kazran