

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

ROY L. DENTON)	
)	
Plaintiff)	Case No. 1:07-cv-211
)	
v.)	JURY DEMAND
)	
STEVE RIEVLEY)	Collier/Carter
)	
Defendant)	

**DEFENDANT STEVE RIEVLEY’S REPLY TO PLAINTIFF ROY L. DENTON’S
RESPONSE AND OBJECTION FOR ATTORNEY FEES**

Comes the Defendant, Steve Rievley, in his individual capacity, (herein “Officer Rievley”), through counsel, and hereby files his Reply to Plaintiff Roy L. Denton’s Response and Objection For Attorney Fee. Officer Rievley respectfully requests that this Court grant his Motion. For cause, he would show this Court the following:

The Plaintiff is incorrect in his statement that only a “plaintiff must be ‘prevailing party’” in order to qualify for attorney’s fees pursuant to §1988. *See Doc. 154*, pg. 2. A defendant may also be a prevailing party, entitled to his attorney’s fees. *Hensley v. Eckerhart*, 461 U.S. 424, 429, 103 S.Ct. 1933, 1937 (U.S.S.C., 1983). As the *Hensley* court stated, “[a] prevailing defendant may recover an attorney’s fee only where the suit was vexatious, frivolous, or brought to harass or embarrass the defendant.” *Id.*

The Plaintiff’s suit is the very embodiment of vexatious. The Merriam-Webster Dictionary defines “vexatious” as “intending to harass”. The Plaintiff’s conduct throughout this case can only be described as vexatious. Each of the Plaintiff’s pleadings has required the Defendant to respond

in some form or fashion. It is clear from his conduct that he harassed not only the Defendant, but also the Defendant's counsel.

Of the 156 court documents filed to date, the Plaintiff has filed over 55 pleadings compared to the Defendant's approximately 37. The Plaintiff's numerous pleadings have included several motions to reconsider this Court's denial of his Motions for Summary Judgment followed by more motions to reconsider the denial of this Court's denial of its Orders to deny the Plaintiff's Motions to Reconsider its denial of the Plaintiff's Motions for Summary Judgment. The Plaintiff has filed motions to disqualify the Defendant's attorney one week before trial, stating that he intended to call the attorney as a witness to testify against the Defendant. The Plaintiff has filed Responses to Motions wherein he has accused opposing counsel of plagiarism, misrepresentation to the Court, and other violations of professional conduct. Most recently, the Plaintiff has accused both the Defendant's counsel of subordination of perjury and moved the Court for investigation by the United States Attorney's Office into such an alleged matter. The Plaintiff's conduct has been reprimanded by Magistrate Carter at the very beginning of this case as an "utter lack of civility".

The Defendant, having prevailed in a trial by a jury of his peers, should not be expected to bear the burden of the Plaintiff's misconduct throughout the litigation of this case. Therefore, the Defendant respectfully requests that this Court grant him his attorney's fees pursuant to Rule 54(d)(2) of the *Federal Rules of Civil Procedure* and 42 U.S.C.A. § 1983 and § 1988.

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Attorney for Defendant, Steve Rievley

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

This the 27th day of September, 2010.

Robinson, Smith & Wells

By: s/ Elizabeth Roderick

c: Roy L. Denton
120 6th Avenue
Dayton, TN 37321

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