

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION
By: JAMES W. MCCORMACK, CLERK
DEP CLERK

MICHAEL GALSTER

PLAINTIFF

V.

NO. 4:03-CV-01013 JMM

KELLY DUDA

DEFENDANT

ANSWER TO ORIGINAL COMPLAINT

COMES NOW THE DEFENDANT, by and through his attorneys David O. Bowden and Steven R. Smith, and as his answer, states:

1. Denies paragraph 1. Plaintiff's legal residence is in Royal, Garland County, Arkansas, to the best of Defendant's knowledge, information and belief.
2. Admits paragraph 2.
3. Admits venue although not for the reasons stated in paragraph 3.
4. Denies that this Court has jurisdiction as no copyrightable materials have been produced by Plaintiff. Admits that this Court retains jurisdiction to investigate the matter and to determine that it has no jurisdiction.
5. Admits that the novel "Blood Trail" was written and published by Jameson Publishers in 1998, and reasonably believes Galster and Sullivan to be the same person.
6. Denied and specifically denies that there is a film entitled "Factor Eight". Moreover, Factor Eight is a medical term of art denoting the clotting factor in blood that is missing in the genetic makeup of those with hemophilia. As such, this title is not capable of being copyrighted. Defendant categorically denies that he was ever hired to act as an assistant

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director by Plaintiff on any such project.

7. Denies paragraph 7 and specifically denies that Plaintiff has generated any footage for any documentary. Initially there was some discussion of Plaintiff and Defendant working on such a film together and a tentative agreement to do so, but Plaintiff failed and refused to live up to his end of the bargain and, therefore, the project did not come together. The only role of Plaintiff in Defendant's film was that of on-camera interviewee.
8. Defendant admits that he was interviewed by National Public Radio. As to the rest of the paragraph, there is no film called "Factor Eight" of which Defendant is aware. He has, through his own efforts, produced a documentary entitled "Factor Eight, the Arkansas Prison Blood Scandal" and has submitted same for viewing in an event correctly called the Slamdance (single word) Film Festival, although not on the date indicated.
9. Defendant admits that "Factor Eight" is not a registered copyright of Plaintiff. Indeed, Plaintiff's only work on the subject of tainted blood is a poorly written novel called "Blood Trail" which was published by Jameson Press, which is, upon information and belief, a vanity publishing house. By its own terms, "Blood Trail" is a work of fiction loosely based upon the facts of the Arkansas prison blood program. See excerpt of "Author's Afterword", Exhibit A herewith. Unlike Defendant, Plaintiff is not a film maker and has no training in the making of films. He has produced no product in a fixed form that is capable of copyright protection and seeks to have this Court copyright an idea.
10. Denies paragraph 10. "Factor Eight, the Arkansas Prison Blood Scandal" in no way compromises, modifies, or distorts the only work on this subject that Plaintiff has ever created in any fixed form, to wit, the subsidized publishing of "Blood Trail".

Categorically denies that Plaintiff has produced any film whatsoever that belongs to him. Notes and denies the idea that one person making a film on a given subject will preclude others from doing so and would simply point to the number of documentaries made on such events as the Kennedy assassinations, the events of September 11, 2001, Watergate, the sinking of HMS Titanic, and Pearl Harbor as but a few of the myriad historical events which have had more than one telling in more than one form without violation of copyright.

11. Denies paragraph 11 insofar as it applies to "Factor Eight, the Arkansas Prison Blood Scandal".
12. Plaintiff is not entitled to injunctive relief in that the work he seeks to enjoin is not his, nor have his ideas for a documentary ever been placed into a fixed form capable of copyright protection, nor has Defendant plagiarized any materials properly copyrighted by Plaintiff. Plaintiff's prospects of success appear minimal and great harm will accrue to the life and career of Defendant, a trained film maker seeking to work in this profession, if the injunction be granted.
13. Defendant denies that Plaintiff is entitled to damages in any sum whatsoever especially given the fact that he admits that his alleged copyright is unregistered.
14. This lawsuit amounts to a frivolous attempt to stop the showing of this film when Plaintiff knows, or should know, that he owns no copyright in this matter. As such, Plaintiff should be required to pay attorney fees and costs to Defendant as provided under the copyright statute.
15. Defendant prays that he have a jury trial on the merits, should this matter ever reach trial
16. Defendant reserves the right to amend, to plead further and to assert a counterclaim,

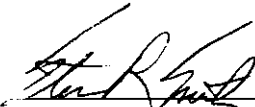
should such a course be necessary or desirable.

WHEREFORE, Defendant prays that the case be dismissed and that he receive his costs and attorney fees and all other just and appropriate relief.

Respectfully submitted,



David O. Bowden, #89119



Steven R. Smith, #91177

Attorneys at Law

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the individual(s) indicated herein below by placing a copy of same in the United States Mail, postage prepaid, or by such other service as may be indicated herein.

Dated this 8th day of January, 2004

Joseph W. Woodson, Jr., 400 W. Capitol Ave, Suite 2990, Little Rock, AR. 72201

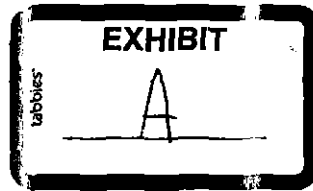


asked the bartender.
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 wd. Then he handed it to the
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rowd as he unfolded the back
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 the camera panned in for a

cast of a bullfight in Mexico

ake so much of that garbage.



AUTHOR'S AFTERWORD

THIS IS PURELY A WORK OF FICTION. DAVID, RICKY, SYLVIA, AND THE others are the products of a fertile imagination.

All but Zack, that is. Zack is not "real" either, but his character represents real people—hundreds of real people who are suffering and dying throughout Canada after contracting AIDS and Hepatitis C from contaminated blood.

This underlying story is true. I wish it too were imaginative fiction, but it is not. David Farr's quest to avenge his son could be that of any father of an innocent child whose life is shattered or lost due to the greed of a few powerful, unscrupulous men.

I believe that thousands of Canadians today endure the agonies of incurable, blood-borne disease because of just such unconscionable greed. Hundreds have died.

It is a story that all Canada knows to its sorrow, but one that few Americans are even aware of. Its cost in treasure and lives rises every day.