

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

received

SUPERIOR COURT OF
COUNTY OF N

CHRISTIAN DOSCHER,
Plaintiff,
v.
Defendant.

NO. 11-2-01224-1
DECLARATION OF IN
RESPONSE TO PLAINTIFF'S FILINGS

I, G , declare as follows:

I am the attorney for Defendant in this matter and I make this declaration in respond to the multiple and repetitive and often incorrect filings of Mr. Doscher in this matter regarding discovery, and his multiple requests for sanctions.

When I began this case, I presumed of Mr. Doscher that I would be dealing with someone as I would normally deal with another attorney or pro se client. My practice is to treat the other counsel/pro se with courtesy and respect, including extending courtesies which ultimately facilitate and expedite the litigation at hand. Included in that general approach is a presumption is that I am dealing with someone who deals in good faith and is basically trustworthy. I began dealing with Mr. Doscher in the same way.

For example, we were initially willing to make copies of documents for Mr. Doscher that he had either not made copies for himself initially or We did this for him on two different

1 locations as well as emailing him copies of one of his deposition notices. At some point, we
2 continued willing to provide him copies but decided we were going to charge him. He then put a
3 quarter on the counter for the page that was copied for him, but when he left, he took the quarter
4 with him. It is this type of sly behavior which has led me and my staff to distrust him. There are
5 other examples, which will be noted below that show he misinterprets twist, misquotes, and
6 misapplies statements made.

7
8 In cases where I have found where an opposing attorney, for one reason or another,
9 shown himself to be untrustworthy or to be exhibiting other negative characteristics, I will come
10 to the conclusion that further communication with that attorney is best done in writing and/or that
11 cooperative and collegial communication is not in my client's interest when such communication
12 is not reciprocated. At some point in the process of representing Ms. all of my staff and I
13 have individually have come to the conclusion that Mr. Doscher cannot be trusted and that he
14 twists words and that he seeks improper advantage in order to better his case. As a result, we
15 have told Mr. Doscher that we no longer wanted him in our office and any further service on our
16 office should be make to the receptionist upstairs - a location of which Mr. Doscher is familiar.
17 I cannot at this point locate in Mr. Doscher's voluminous materials where he specifically
18 identifies that, but I believe it was in one of the emails from my paralegal Jodie but we
19 as we do not want him in our office.
20
21

22 In addition, his relentless pursuit of default and his specious claims to having served Ms.
23 show to me that he appears more interested in the process of litigation rather than in
24 moving forward with his lawsuit. He also has shown himself to be primarily wanting money, and
25 I believe taht hs sees his multiple requests for sanctions as a potential avenue to obtain instant
26 financing. He has told me that he needed to travel somewhere and needed money rather quickly.

1 On another occasion, after a court hearing, he offered my \$1,800.00 as settlement of the case if I
2 would give him a ride back to on a very rainy day. Normally, I would extend courtesy
3 to individuals who are in need, and the \$1,800.00 offer of settlement was certainly less than the
4 attorney's bill he is creating for for his multiple and repetitive motions. nevertheless,
5 because I had come to distrust him and his motives, I felt it would be inappropriate and
6 potentially dangerous to my and my client's interests to acced to his request.
7

8 Apart from what could have been passed ff of the foibles of a pro se litigant and therefore
9 could have been put up with in the process (such as his paying quarter and taking it back on his
10 way out the door), I suppose the turning point for me in dealing with Mr. Doscher is an email he
11 sent me on March 21, 2012, at 3:16 p.m. I have attached a redacted copy hereto, redacting the
12 amount of his offer to settle because of ER 408.¹
13

14 As can be seen from the excerpt reproduced immediately below, (1) Mr. Doscher
15 threatened to run up the cost of litigation by dragging out discovery, claiming as an excuse that
16 he as a pro se would end up taking more time. (2) He also acknowledged that he received social
17 security disability payments due to his "mental disability". (3) He then stated that even if we
18 were awarded sanctions against him, he would not have the money to pay and that, moreover, (4)
19 he would be filing bankruptcy in 2013 and add l in that event, to "the other creditors
20 that I must name". (5) He then stated that "unless somebody gives me a whole bunch of money
21 in the next two years, Ms would not recover any fees or costs even if she is successful.
22 (6) Finally, he ended with a cheeky comment about his own legal abilities. (7) In a portion not
23
24

25 ¹ I presume that such redaction is unecessary in fact because Mr. Doscher has not excluded or
26 redacted any settlement offers from the many emails he has included in his motions or
"affidavits".

1 excerpted below, Mr. Doscher also threatened Ms. Trupp with a bar complaint and (8) threatened
2 to file the same case in federal court so that N would have to defend parallel litigation in
3 both venues.

4 Assuming you charge something around \$100 per hour, you could easily
5 exhaust 100 hours of work in this case, especially if we engage in discovery. I
6 will use every minute allowed by law to depose and conduct other
7 discovery. Since I am not a lawyer, I will have to take my time, which means
8 what I could have learned in 2 hours as a lawyer, will likely take me several days.
9 The law is really complex, I don't want to mess up and become injured by some
10 legal technicality! Assuming is not rich, she would likely move for costs
11 and fees should she win summary judgment or jury trial. I have subsisted on
12 nothing but \$763 in monthly social security disability, and \$200 in foodstamps for
13 the last two years due to mental disability (yup, be sure to ask for my medical
14 records in discovery so you can tell the jury that maybe some of my emotional
15 distress at discovery of malpractice is not attributable to
16 malpractice and fraud). You should consider that not only would I not be able to
17 pay your fees and costs, I have nothing you could legally garnish or place a lien on
18 to pay back your costs if wins. And yes, if that happens, I will declare you
19 among the other creditors that I must name in my anticipated bankruptcy filing in
20 2013. Please tell that unless somebody gives me a whole bunch of money
21 in the next two years, she will not be recovering ANY fees or costs even if she
22 wins this case.

23 But like I said, I'm not a lawyer, so I'm probably wrong about almost every legal
24 issue I speak about, right?

25 Upon receiving the above email, I realized that Mr. Doscher's relentless pursuit of
26 litigation had some aspects of it being a game to him, that he could use and manipulate for his
own purposes. Coupled with his mental disability and his explicit promise to run up costs, I
realize that I could not deal with him in the same manner that I deal with the normal attorney and
pro se litigant. I am reminded of a statement that a contractor once told me. "Arguing with the
building inspector is like wrestling with a pig. You get dirty and after a while you realize the pig

1 likes it.”² The reason I use this analogy is because engaging in the constant disputation with Mr.
2 Doscher will only unnecessarily waste time and end up getting me dirty. I therefore concluded
3 that my contact with Mr. Doscher should be limited.

4 In addition, because Mr. Doscher seems to have some abilities in legal matters (“You
5 now have a very good idea of my ability to litigate”), I see no need to assist him in the process of
6 his wasting my time, my client’s money and the court’s resources. When he thus served us with
7 a notice of deposition with no time on it, we noted the date he had chosen on our calendar and
8 stood ready to have a deposition according to the court rules. We never told him that the date of
9 the deposition was inconvenient and we expected it to go forward.
10

11 For some reason,³ Mr. Doscher filed a second notice of deposition, which he has attached
12 to one of his affidavits. As can be seen, it stated that the deposition would be taken by audio
13 recording “in accordance with Rule 30”. Again, we did not indicate to Mr. Doscher that the date
14 he had selected was inconvenient for us, and we noted the date on the calendar. As the court has
15 already ruled, and as CR 30(a) states, an audio recorded deposition can only be taken by
16 agreement of the parties or order of the court. Since neither of these had occurred, Mr. Doscher
17 had not properly noticed the deposition and I did not intend to allow him to depose my client in
18 violation of the rules.⁴ *See also* CR 30(e) and (f). As Mr. Doscher points out in several of his
19
20

21
22 ² By using this statement, I do not intend to equate Mr. Doscher to a pig nor do I intend to
ascribe to him the authority of a building inspector.

23 ³ Someone from our office may have notified him that he had no time on the deposition notice.

24 ⁴ CR 26(g), which essentially applies CR 11 to the discovery process, applies to much of Mr.
25 Doscher’s submissions. His notice of deposition was not warranted by existing law or a good
26 faith argument for its extension or reversal. He had already stated in his prior email that he
would run up costs in discovery, which is certainly an improper purpose as harassment and
unnecessary delay and needless increase in the cost of litigation.

1 submissions, I contacted him on the day before his purported deposition as a courtesy to him. I
2 had also emailed him, which is again included in his submissions, regarding a discovery
3 conference and 26(i) conference. When he told me he did not intend to have a court reporter, I
4 told him it would be a waste of his time to come because there would be no deposition without a
5 court reporter.
6

7 As an example of Mr. Doscher's twisting of my statements, the fourth page of Plaintiff's
8 Affidavit in Support of Plaintiff's Third Motion for Sanctions, presumably filed May 14, 2012,
9 the page being denoted as 43, Mr. Doscher quotes a portion of what I believe was an illegal tape
10 recording of my communication with him. I presume Mr. Doscher's transcription is accurate. At
11 paragraph 11 of page 43, Mr. Doscher stated, " agreed to attend the deposition with
12 on May 1, 2012". As can be seen from the transcript that follows, I did not agree whatsoever that
13 he had properly noted the deposition. What I apparently and probably said was, "if you've noted
14 it, noted the deposition, then, um, fine." In no way did I agree that he had properly noted a
15 deposition—for he had not—though on the morning of May 1, the start time of the purported
16 deposition, I was willing to go forward if he had a reporter. Specifically, I said in my portion of
17 the conversation which was transcribed by my assistant who was listening to my side of the
18 conversation:
19
20

21 Let's put it this way, any deposition must follow the court rules. If you intend to
22 follow the court rules, then fine. I'll be here at noon. If you are not going to be
23 here at noon, I would appreciate you calling me. Again, this is a courtesy I'm
24 giving you. But I will seek sanctions if you wish to go through with this today in
25 violation of the court rules. Okay? So, again, who is the stenographer you intend
26 to have here. Ok. Why don't you tell me right now. Ok. So you're not interested
in cooperating in good faith as to discovery matters. Is that correct? I'm giving
you the good faith that you have a problem with your deposition notice if you
intend to have a deposition without a stenographer.... Ok. I'm telling you that if
you don't have a court reporter that there will be no deposition.... You can't have a
deposition without a stenographer under the rules as things currently stand.

1 He adamantly refused to acknowledge the need to have a court reporter, and typical with his
2 interaction with us, hung up on me.

3 Similarly, Mr. Doscher had filed a motion for a CR discovery conference, yet even
4 his own submissions admit that he did not previously seek to speak to me about it. Nor did he
5 include the CR certificate. Commissioner Whitehouse ruled that Mr. Doscher's
6 subsequently filed CR certificate satisfied the rule, but also ruled that Mr. Doscher's notice
7 of deposition was inadequate and that Mr. Doscher could not have a deposition without
8 agreement or order of the court. (Mr. Doscher continued to argue the point with the
9 Commissioner even after the Commissioner's ruling.) The Commissioner ruled then that Mr.
10 Doscher could audio record a deposition, and I indicated that my office and Mr. Doscher had
11 already agreed on the date of May 30 for that deposition. The Commissioner also ordered that
12 we provide a notary public to swear in the witness. I did not object at that time, indicating that
13 my office did have a notary public available; however, I perceive there to be a conflict of interest
14 in having my office swear in my client for her deposition. I believe the more appropriate course
15 would be to require Mr. Doscher to obtain his own "officer" before whom the deposition is to be
16 taken. I will, however, comply with the court's direction.

17
18
19 Mr. Doscher also alleges many specious accusations about me and my motives in dealing
20 with the case. As such, he is without foundation beyond the workings of his own mind. As
21 noted above, and in numerous locations in Mr. Doscher's submissions, Mr. Doscher tape
22 recorded me without my permission. Since the only conversation I recall with Mr. Doscher that
23 occurred when we were at the courthouse on April 30, 2012, occurred in a hallway where we
24 were seated, and also standing, I believe that Mr. Doscher's recording of me violated my
25 expectation of privacy in the conversation. He appears to claim that the recording occurred in a
26

1 different conversation, though I do not recall a different conversation occurring. Because I only
2 recall one conversation, in which we were separated from other people who could hear us
3 (including another client of mine seated behind me during the conversation, who did not hear the
4 conversation), it appears to me that Mr. Doscher violated the law on surreptitious recording. I
5 did not consent to, nor did he notify me of, his recording of me. Because I believe he violated
6 the law, I contacted the Police Department with evidence there of. I do not recall
7 providing a declaration to the police department, and question Mr. Doscher's statements that I
8 did so. I also provided the police department an email from my other client regarding his
9 proximity to our conversation and his inability to hear our conversation.
10

11 On page 21 of Plaintiff's THIRD Motion for Sanctions Against Defendant etc., Mr.
12 Doscher sets forth in the first three paragraphs the purposes of his three motions for sanctions. It
13 would appear that the issues of the first two motions have already been addressed by
14 Commissioner Whitehouse on May 14, 2012 because he did not sanction me for "ignoring all of
15 plaintiff's March and April 2012 attempts to initiate discovery". (As indicated above we noted
16 his deposition dates on our calendar and stood ready to proceed were he to follow the court
17 rules). Commissioner Whitehouse also did not sanction Ms. for not appearing at the
18 deposition on May 1, 2012 because the Commissioner clarified to Mr. Doscher that he could not
19 have a deposition without a court stenographer absent agreement or order. These two motions,
20 therefore, would appear to already have been addressed by Commissioner Whitehouse.⁵
21

22 Mr. Doscher's third motion is based on wild speculation by Mr. Doscher that I had
23 nefarious ulterior motives regarding discovery in making a criminal complaint against Mr.
24

25 _____
26 ⁵ I would note that I did not object to Commissioner Whitehouse hearing the second motion for
an audio deposition on May 14, even though it was noted for May 21.

1 Doscher. I initiated a criminal complaint against Mr. Doscher because I perceived I was the
2 victim of his crime committed at the County Courthouse.⁶

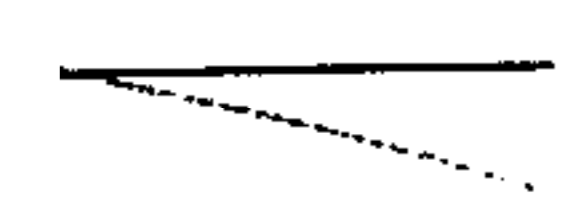
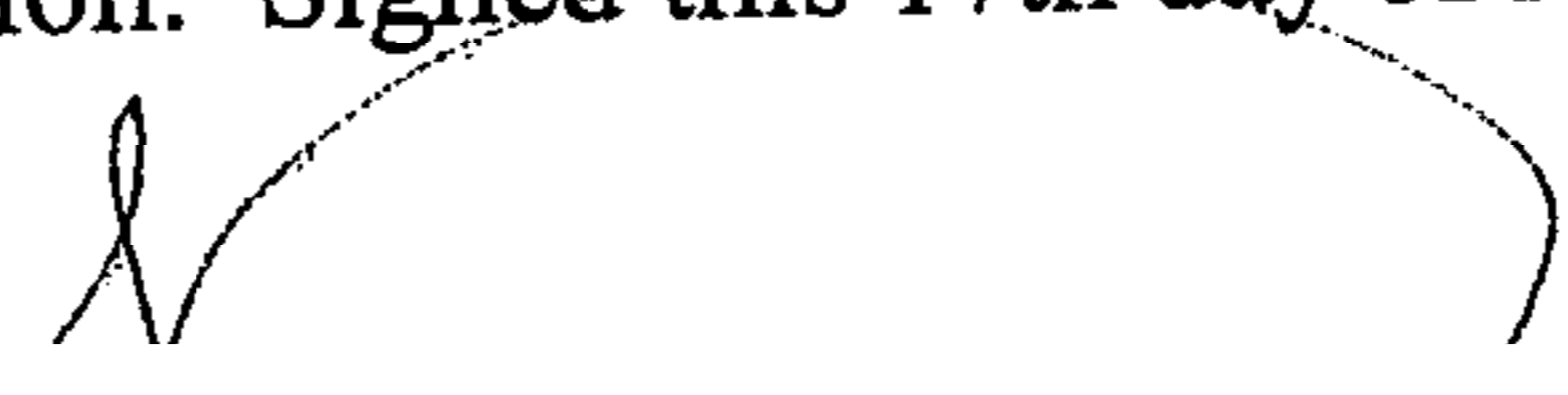
3 Finally, the court in the present case should not allow Mr. Doscher to abuse the judicial
4 process. He is continually granted orders of indigency and he continually wastes mine and the
5 court's time with repetitive motions in which he regurgitates much of what has been previously
6 stated at least once. Since by his own admission he labors under a mental disability, it is
7 inappropriate for his mental disability to determine the course of litigation in light of the
8 willingness of the court to overlook, in some instances, his being pro se. If Mr. Doscher chooses
9 not to have communication with me, that is his choice. And due to his actions, neither my staff
10 or myself wish him to be present on our premises. He has therefore been requested to serve all
11 documents upstairs. And the deposition that he intends to hold will also be held upstairs. I
12 believe the court should recognize the inappropriate—if not bad faith—actions of Mr. Doscher in
13 conducting the litigation. I do not know what measures the court can put into place to prevent his
14 continuing to do so, but I would request the court to give serious consideration to placing some
15 limits or restrictions upon Mr. Doscher's filing of motions.

16
17
18 There are many other emails and telephone memoranda that I have not had the time to
19 review, but I believe I have answered all of Mr. Doscher's accusations. Because of my intense
20 schedule, including this week taking and remaining with my wife at a medical appointment, as
21

22
23 ⁶ Mr. Doscher also states his conclusion that I had recorded him in a telephone conversation.
24 The Declaration of Jodie filed herewith answers Mr. Doscher's speculative conclusion.
25 In a conversation we were having, out of the blue Mr. Doscher asked if I was recording him. (If
26 he is in the habit of recording others without notice, I can understand the basis for his suspicion.)
I was so taken aback and offended by his question that I initially did not know how to respond,
and I believe that I did indicate I would not answer the question. Mr. Doscher's telephone
demeanor in that conversation was yet another circumstance that has lead to my unwillingness to
have anything but written communication with him.

1 well as attending the funeral in of one of my oldest friends, I am going to be getting
2 this to the court and Mr. Doscher after the noon filing and serving time today. I would therefore
3 request the court to accept this filing and serving even though it will occur a few hours late.

4 I declare under penalty of perjury under the laws of the state of that the
5 foregoing is true and correct to the best of my recollection. Signed this 17th day of May, 2012 at



7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Subject: Doscher v. [redacted] plaintiff's initiation of discovery
From: skeptic dude <skepticdude@hotmail.com>
Date: 3/21/2012 3:16 PM
To: [redacted] >, skeptic dude <skepticdude@hotmail.com>

Mr.

I make a second offer to settle with your client [redacted] and will consider any counter offer she wishes to propose. Rest assured, it is the last offer of settlement I will be making. You now have a very good idea of my ability to litigate, so you can no longer justify refusal to settle on the grounds that the pro se plaintiff won't know enough about the law to actually win.

Your refusal to consider settling forced me to file a complaint against [redacted] with the State Bar Association
[http://www.\[redacted\].licensing%20and%20Lawyer%20Conduct/Discipline/File%20a%20Complaint%20Against%20a%20Lawyer](http://www.[redacted].licensing%20and%20Lawyer%20Conduct/Discipline/File%20a%20Complaint%20Against%20a%20Lawyer)

My home number is [redacted], and my email address is skepticdude@hotmail.com. I haven't actually filed the complaint with the Bar just yet, but will do so in the next few days. You are a knowledgeable lawyer, which means your past refusal to even make a counter offer of settlement means either I have missed some miraculous defense you plan on making (not possible, I've read your answer to complaint, there are no miracles there, and some defenses you allege involve contested issues of fact a court cannot resolve as a matter of law, so jury trial is inevitable), or you don't know the half of the legal trouble your client is actually facing.

If you do not serve me with notice of deposition within the next two weeks, scheduling me to be deposed any place, time and date of your convenience within the next month, I will file this same case in federal court. I have case law that specifically supports parallel litigation of identical subject matter in federal and state court at the same time, and this is not prevented by either the Younger or the Rooker-Feldman abstention doctrines. I am very well aware of your alleged defense of statute of limitations, and will build a rebuttal to it into my federal complaint. Ask [redacted] if she is willing to litigate TWO lawsuits against her.

I intend to depose [redacted] please let me know when she can be available for an all day deposition sometime between March 22, 2012, and April 6, 2012, and I can do it on a weekend or holiday if need be. This is my good faith attempt to make sure that my notice of deposition schedules her to be deposed at a mutually agreed time, date and place. Of course, I have no place to depose her, so this would have to take place at your law office, and I can't think of a reason why you would insist that she be deposed outside of her comfort zone. I am proceeding with discovery because your failure to respond to my previous offer to settle indicates that settlement is not possible, so unless you have changed your mind, proceeding with discovery does not violate any court rule at this point.

Assuming you charge [redacted] something around \$100 per hour, you could easily exhaust 100 hours of work in this case, especially if we engage in discovery. I will use every minute allowed by law to depose [redacted] and conduct other discovery. Since I am not a lawyer, I will have to take my time, which means what I could have learned in 2 hours as a lawyer, will likely take me several days. The law is really complex, I don't want to mess up and become injured by some legal technicality! Assuming [redacted] is not rich, she would likely move for costs and fees should she win summary judgment or jury trial. I have subsisted on nothing but \$763 in monthly social security disability, and \$200 in foodstamps for the last two years due to mental disability (yup, be sure to ask for my medical records in discovery so you can tell the jury that maybe some of my emotional distress at discovery of [redacted] malpractice is not attributable to [redacted] malpractice and fraud). You should consider that not only would I not be able to pay your fees and costs, I have nothing you could legally garnish or place a lien on to pay back your costs if [redacted] wins. And yes, if that happens, I will declare you among the other creditors that I must name in my anticipated bankruptcy filing in 2013. Please tell [redacted] that unless somebody gives me a whole bunch of money in the next two years, she will not be recovering ANY fees or costs even if she wins this case.

But like I said, I'm not a lawyer, so I'm probably wrong about almost every legal issue I speak about, right?

Christian Doscher

COPY

received
5-17-2012

Sandy Bach

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

SUPERIOR COURT OF
COUNTY OF

CHRISTIAN DOSCHER,
Plaintiff,
v.
Defendant.

NO. 11-2-01224-1

DECLARATION OF JODIE IN
RESPONSE TO PLAINTIFF'S MOTION
FOR SANCTIONS

I, Jodie , being over the age of 18, declares as follows:

I am a paralegal employed by w Firm, and personal paralegal to attorney Gary

On or about May 1, 2012, Mr. Doscher telephoned our office regarding a conversation he had earlier with Mr. Preble regarding the deposition that was noted for that day.

Mr. came into my office and I advised Mr. Doscher I was putting him on speaker phone so Mr. F e would be included. Mr. Doscher and Mr. were discussing the need for a stenographer at deposition. Mr. Doscher became angry and sounded to me like he was trying to get Mr. to clarify their discussion. Mr. Doscher then asked Mr. if he was recording their telephone conversation, Mr. Preble replied with an insulted look on his face "I'm not going to answer that". Mr. would not dignify his ridiculous question with an answer. Then Mr. asked Mr. Doscher if he was recording our telephone conversation, and Mr. Doscher hung up on him.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I have requested of Mr. [redacted] that I not have to speak with Mr. Doscher by telephone or in person. I am willing to converse with him through emails or correspondence. Mr. Doscher twists the conversations with me to later use in his motion documents and demands me to give legal answers to questions he has that can only be answered by Mr. [redacted]. I also feel he is tape recording my conversation with him, unknowingly.

I declare under penalty of perjury the foregoing is true and correct. Dated this 17th day of May, 2012. Signed at

[redacted] 
v