

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

Civil Action No. 75-1996

U.S. DEPARTMENT OF JUSTICE,

Defendant

## PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION FOR RECONSIDERATION OR, IN THE ALTERNATIVE, FORE REOPENING OF ACTION

Defendant has moved for reconsideration of the Court's order of May 29, 1981, as amended. That order dismissed this action without prejudice.

Defendant grounds its motion on Rule 60(b). The thrust of the motion is to make unsavory innuendos about the conduct of plaintiff's counsel.

Defendant's accusations are baseless. On May 29, 1981, plaintiff and his counsel conferred by phone about plaintiff's desire to seek a dismissal of this action without prejudice. Plaintiff was aware that there were a number of motions pending before the Court and that delay in notifying the Court might result in unnecessary work forthe Court and her clerk, so he asked his counsel to promptly notify the Court of his decision. Plaintiff's counsel first tried to contact counsel for defendant, but to no avail. In notifying the Court and her clerk of Mr. Weisberg's decision, plaintiff's counsel did nothing that was improper.

Defendant's vehement opposition to the Court's May 29 order belies its past repeated declarations that this case must be brought to and end as soon as possible. Instead, defendant seeks to obstruct its termination by whatever means, even going so far as to make the ludicrous claim that "this Court has already adjudicated all outstanding issues in this case." (Defendant's Memorandum of Points and Authorities, p. 1)

From the outset defendant has sought to delay and to deny plaintiff's access by whatever means possible. Defendant's tactics have been part of a calculated campaign to grind down plaintiff and his counsel, run up the costs of the case, and weary the Court. Because defendant has seized upon the Court's May 29 order as a pretext for continuing this campaign, and might still carry it further by appealing that order, plaintiff suggests that the Court may wish to vacate that order, then grant the Motion to Dismiss Pursuant to Rule 41(a)(2) which plaintiff is filing concurrently herewith, after first allowing defendant an opportunity to oppose said Motion to Dismiss on the merits. <u>See Diamond v.</u> <u>United States</u>, 267 F.2d 23 (5th Cir. 1959); Moore, <u>Federal</u> <u>Practice and Procedure</u>, § 41.05.

Respectfully submitted,

LESAR

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Attorney for Plaintiff

## CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of July, 1981, mailed a copy of the foregoing Plaintiff's to Defendant's Motion for Reconsideration Or, In the Alternative, for Reopening of Action to Mr. William G. Cole, Civil Division, U.S. Department of Justice, Washington, D.C. 20530.

JAMES H. LESAD JAAA

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