

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 1:15-cv-13297-NMG

BHARANIDHARAN PADMANABHAN MD PhD)
(Dr. Bharani))
- PLAINTIFF)

JURY TRIAL DEMANDED

vs.)

MAURA HEALEY)
STEVEN HOFFMAN)
CHRIS CECCHINI)
ADELE AUDET)
JAMES PAIKOS)
LORETTA KISH COOKE)
JOHN DOES)
JANE DOES)
- DEFENDANTS)

REQUEST FOR JUDICIAL NOTICE

Plaintiff Dr Bharani, *pro se*, pursuant to Federal Rule of Evidence 201(b), respectfully requests that the Court take judicial notice of the following facts that are supported by clear and convincing evidence that all reasonable persons would hold as true.

- 1 Plaintiff Dr Bharani has been fully compliant with Local Rule 7.1 and has filed with each pleading a Certificate of Compliance with printouts of the actual emails attached to them.
- 2 Co-counsel for the six named defendants, Mark Sutliff (BBO# 544308) did not file a Certificate of Compliance with their Motion to dismiss. (Document #23, #24)
- 3 Co-counsel Mark Sutliff then filed a Notice with this Court blaming Plaintiff for his not filing a Certificate of Compliance with Rule 7.1 with this Court. (Document #31)
- 4 The Notice filed by Co-counsel Mark Sutliff did NOT attach any of the actual emails to

support the filed Notice and thus did not present any evidence for the Court to evaluate and admit on the basis of merit.

5 The Notice filed by Co-counsel Mark Sutliff presented only the *ipse dixit* of the filer.

6 Co-counsel Mark Sutliff then filed an opposition (Document #45) on behalf of the six named defendants, opposing Plaintiff's Motion for citation of contempt for filing consciously fraudulent pleadings. (Document #44)

7 Once again Co-counsel Mark Sutliff (BBO# 544308) did not attach as evidence any of the emails or any document at all that would corroborate his claims.

8 Furthermore Co-counsel Mark Sutliff cut and pasted this Court's own words from a totally unrelated ruling in an effort to claim that it is the Plaintiff who is non-compliant with Court rules.

9 This Court should find unacceptable Co-counsel Mark Sutliff's attempt to label Plaintiff's motions as "excessive, inflammatory and groundless" without presenting a single document in support of his claim and where every one of the Plaintiff's motions was truthful and accompanied by actual documentary evidence.

10 Once again, the opposition filed by Co-counsel Mark Sutliff presented only the *ipse dixit* of the filer.

11 Respectfully attached as Exhibit 1 is the email chain between Co-counsel Adam LaGrassa, Co-counsel Mark Sutliff and Plaintiff Dr Bharani from one week prior to Co-counsel Mark Sutliff filing the opposition to citation of contempt (Document #45) without any documentary evidence in support. This email chain supports the fact that Co-counsel Mark Sutliff felt fully able to communicate directly with Plaintiff Dr Bharani

and repeatedly did so, contrary to his written statements to this Court.

- 12 Respectfully attached as Exhibit 2 is the email chain immediately before and after Co-counsel Mark Sutliff filed the six named defendants' Motion to dismiss and without the required Certificate of Compliance with L.R. 7.1 that supports the fact that Co-counsel Mark Sutliff felt fully able to communicate directly with Plaintiff Dr Bharani and repeatedly did so, contrary to his written statements to this Court.

ARGUMENT

- 13 This Court may take judicial notice of an adjudicative fact “that is not subject to reasonable dispute because it:

(1) is generally known within the trial court’s territorial jurisdiction; or
(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

Fed. R. Evid. 201(b)

- 14 The facts presented here are not in reasonable dispute as they are based exclusively on actual emails that have been entered into evidence and are not based on the mere *ipse dixit* of Plaintiff Dr Bharani.

- 15 The facts presented here “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2).

- 16 The email attached in Exhibit 1 contains the full header information proving that it did originate from the government’s own server and was indeed sent by Co-counsel Mark Sutliff despite his written statement to this Court that he felt unable to communicate with Plaintiff Dr Bharani.

- 17 The emails show that Co-counsel Mark Sutliff never ever respected Plaintiff's wish that he not communicate directly with Plaintiff. Email 22 December 2015 Exhibit 1.
- 18 The emails show that explicitly contrary to Co-counsel Mark Sutliff's written statements to this Court he has never ever felt personally constrained from communicating with Plaintiff Dr Bharani via email but chose to not communicate with Plaintiff Dr Bharani immediately prior to filing a Motion to dismiss without the required Certificate of Compliance. The sole conclusion based on the facts is that this refusal on the part of Co-counsel Mark Sutliff to confer and file a Certificate of Compliance was deliberate.
- 19 Going by the actual written clear and convincing evidence submitted to this Court, the only conclusion possible is that the statements submitted by Co-counsel Mark Sutliff on his mere *ipse dixit* are not facts supported by credible evidence and are mere opinions.
- 20 The Supreme Court held that "[n]othing in either *Daubert* or the Federal Rules of Evidence requires a district court to admit opinion evidence which is connected to existing data only by the *ipse dixit* of the expert."
General Electric Co. et al. v. Joiner et ux. No. 96-188
- 21 Giving Co-counsel Mark Sutliff's mere opinions any credence shall violate a clear Supreme Court ruling.
- 22 This Court "must take judicial notice" if, as here, "a party requests it and the court is supplied with the necessary information." Fed. R. Evid. 201(c)(2)
- 23 This Court has here the necessary information in the form of clear and convincing evidence to conclude as fact that Co-counsel Mark Sutliff's statements to this Court, including the Notice (Document #31), were consciously false and repeatedly so.

24 These adjudicative facts are “facts relevant to the case currently before the court.” United States v. Gilkerson, 556 F.3d 854, 857 n.2 (8th Cir. 2009).

REQUEST FOR ORAL HEARING

Pursuant to Local Rule 7.1(d) of the U.S. District Court for the District of Massachusetts, Plaintiff Dr. Bharani requests an oral argument in the belief it may be of assistance to the Court.

For all the detailed reasons set forth above, Plaintiff Dr Bharani respectfully requests that this honorable Court take notice of the identified facts.

Respectfully submitted,

30 December 2015

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