

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Civil Action N^o 05-cv-01858-EWN-MJW

SEAN HARRINGTON

Plaintiff,

v.

MADELINE WILSON, *et al.*

Defendants

**PLAINTIFF'S OBJECTION TO DEFENDANT WILSON'S JOINDER IN MOTIONS TO STAY
DISCOVERY**

COMES NOW, the Plaintiff, for the limited purpose of objecting to Wilson's Joinder in Motions to Stay Discovery. As grounds therefor, Plaintiff states as follows:

1. Plaintiff adopts his arguments in their entirety as set forth in his November 29th 2005 *Response to the Fyfe Defendants' Motion to Stay Discovery* and *Response to Defendant Ryan's Motion to Stay Discovery* and incorporates those arguments herein by reference.

2. To clarify, Plaintiff is not even remotely suggesting that he did not have or does not have factual basis for any of his claim[s] against Ryan or Wilson (as suggested by Defendant Ryan in her December 6, 2005 Reply at ¶¶ 2-3 (referencing Plaintiff's arguments at ¶¶ 4 of his November 29 Response)). Rather, Plaintiff is merely pointing out that discovery (including "early discovery") serves to narrow, clarify and refine the issues between the parties. The benefit is mutual: in some cases, it may benefit a Plaintiff, such that he or she is able to obtain information known only to defendants and as needed to prove a claim; in other cases, it may benefit a defendant, by demonstrating that a claim was without merit or overstated or subject to mitigation of damages, thereby requiring a plaintiff to withdraw or amend his claim[s]. In any case, a conspiracy claim can never be pleaded in the absolute, because there are always facts known only to the defendants. Early discov-

ery cannot be characterized as a fishing expedition, so long as the pleaded circumstances give rise to a reasonable inference that a meeting of the minds existed to achieve an unlawful end, or to unlawfully act to achieve a lawful end. A Plaintiff is not required to prove his case in his Complaint or Amended Complaints; rather, he is required to present actionable claims that put the defendants on clear notice. The refinement of such claims and positions is aided by early discovery.

3. Defendants' efforts to undermine the federal Rules by eliminating early discovery serves only to prejudice Plaintiff, by compressing the amount of time needed to develop his case.

4. Defendants appear to contend that, if this court does not have jurisdiction to hear this case, that it cannot permit early discovery. However, if this court does not have jurisdiction to hear this case, then it cannot entertain their Motions, Plaintiff's Response or defendants' replies, thereto.

5. Defendants now also contend that they should vicariously enjoy any abeyance of discovery that the State defendants may have (which was also based solely on assertions of immunity). Defendants argue that such is applicable to their motions, as well. However, this is circular logic. If such immunities are available only to the State defendants and not to Ryan or Wilson, then there can be no applicability.

WHEREFORE, for the reasons more fully set forth hereinabove, Plaintiff respectfully requests an emergency injunction enjoining the Denver County Court from exercising personal jurisdiction over Plaintiff and from exercising subject matter jurisdiction over claims that are already before this Court. Plaintiff further requests sanctions to be entered against Defendant Wilson, to include opposing counsel Huff, to whatever extent he facilitated or acquiesced to this undertaking. Plaintiff also asks for any other relief that this Court deems proper in the premises.

Respectfully submitted this 6th day of December, 2005:

/s/ Sean Harrington
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CERTIFICATE OF SERVICE

I hereby certify that on December 6th 2005, I served the foregoing *Objection to Defendant Wilson's Joinder in Motions to Stay Discovery* by electronic mail to the following ECF participants.

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