

23<sup>th</sup> of September 2013.

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CLERK OF DISTRICT COURT  
DISTRICT OF NEVADA

BY \_\_\_\_\_ DEPUTY

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

**CASE N° 2:12-cv-00591-JCM-GWF**

**Motion to protect and guarantee  
the integrity of the proceeding  
in support of  
EMERGENCY MOTION  
FOR CASE - DISPOSITIVE SANCTIONS  
(#143)**

Teller, an individual  
  
Plaintiff.  
  
v.  
  
Gerard Dogge (Gerard Bakardy),  
an individual  
  
Defendant.

Honourable Judge George Foley Jr.,

Forgive me for approaching the Court in this way, for defending myself in a poor English vocabulary. As mentioned before, I'm not a lawyer, and especially not an American lawyer.

I'm also not an American citizen, I'm European, with a Dutch nationality, born and residing in Belgium and therefore obliged to 'know' the Belgian law. Logical. In the same way as, I believe, the American citizens are expected to know the USA Federal Law.

So, forgive me, I don't know the American law. Although plaintiff was so kind to send me a 150 pages with the *Federal Rules of civil procedure* and another 150 pages with the *Local Rules of practice*, it is not realistic to expect that these documents make me a American citizen or lawyer. To translate and understand these 300 pages, written in English, into my language (Flemish-Dutch) would take a long time. To practice the USA law would take another number of years.

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MEMORANDUM OF POINTS AND AUTHORITIES

**I. Introduction**

On August 6<sup>th</sup>, 2013, defendant filed an EMERGENCY MOTION (#143) for Case-Dispositive Sanctions and to dismiss the case since defendant proves that plaintiff committed multiple felonies such as tampering, perjury, spoliation, bribing witnesses, and instructing others to create evidence in favour of the plaintiff and to destroy evidence not in favour of the plaintiff. The Court's official website PACER states that responses are required due by 08.23.2013.

On August 23<sup>rd</sup>, 2013 plaintiff filed his RESPONSES timely (#155). The Court's official website PACER states that replies to #143 are required due by 09.02.2013.

On August 30<sup>th</sup>, 2013 defendant filed his final REPLY (#157) in this matter. The Court's official website PACER states that the REPLY to #147 to response to #121 entered the Court at 08.30.2013.

Defendant filed the emergency motion (#143) informing the Court that plaintiff intentionally and deliberately destroyed important evidence to obstruct and hinder the pro-se defendant in his defense. Spoliation, tampering and destroying evidence as such hinders and impedes the defendant in having a fair trial, where he is legally entitled to and forms a ground for the Court to dismiss plaintiff's claim.

This motion is needed because the PACER website shows that the Court incorrectly ranked or incorrectly indexed defendants REPLY #157 in this important motion. **(Exh. 1, hereby)** Defendant is afraid that due to this improper classification the Court will or could disregard defendants most important motion, again impeding the defendant in having a fair trial, where he is legally entitled to.

Defendant respectfully requests the Court to grant this motion for the same.

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2 **II. Factual background**

3 Defendant is not familiar with the way how the USA Court works but he learned in this  
4 proceeding that the Court replies within 3 days on previous emergency motions filed  
5 by the plaintiff.

6 The Court is aware that plaintiff filed a complaint for alleged infringement on  
7 04.11.2012, without having any evidence. Plaintiff stated that he 'forgot' to organize  
8 his evidence and that he started this litigation just to intimidate the defendant hoping  
9 to come to 'wonderful' terms. Up until today, plaintiff filed thousands of documents  
10 but did not file a single evidence proving that defendant performed, sold, shipped,  
11 exposed, revealed, or 'stole' Tellers work 'shadows'.

12 Plaintiff will NEVER file such evidence, simply, because he can't. Simply  
13 because the defendant NEVER committed any infringement.

14 Nevertheless, plaintiff had plenty of time to organize his evidence. Still, 18  
15 months later, plaintiff did not show or file any evidence but while he is fully aware of  
16 his lack of any key evidence, plaintiff filed two motions for summary judgement.

17 The Court will notice that after defendant responded or opposed to plaintiff's  
18 motions, plaintiff filed multiple motions to extend the time limit for his replies:

- 19  
20 a) 07.08.2013 - Plaintiff filed two motions for summary judgement (#122#123)  
21 b) 07.26.2013 - (Court hearing) the Court grants a time extension for the  
22 defendant to reply due by 08.15.2013. (#134)  
23 c) 08.14.2013 - Defendant responded with an opposition.(#150#151) Although  
24 plaintiff's REPLIES were required due by 09.01.2013.  
25 d) 08.20.2013 - Plaintiff files the first request (#152) for time-extension to file his  
26 reply  
27 e) 08.23.2013 - The Court grants plaintiff's motion.(#154) requiring plaintiff's  
28 reply due by 09.09.2013.

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- 2 f) 09.03.2013 - Plaintiff files the second request (#159) for time-extension to file
- 3 his reply.
- 4 g) 09.05.2013 - The Court minute order (#161) granted the plaintiff a time
- 5 extension to reply due by 09.18.2013.
- 6 h) 09.05.2013 - Defendant files an opposition to the never ending time extension
- 7 requests from plaintiff (#162)
- 8 i) 09.13.2013 - The Court order (#164) grants another time extension for the
- 9 plaintiff to reply due by 10.11.2013.
- 10

11 All plaintiff's motions led to an extreme time extension granted by the Court, meaning

12 that plaintiff has 58 days to file his reply instead of 14 days, as stipulated in the Local

13 Rules.

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15 **III. LEGAL ARGUMENT**

16 Being pro-se, defendant cannot refer to previous verdicts in USA lawsuits, unknown to

17 the defendant. In fact, defendant is embarrassed and never expected that he needs to

18 file a motion in order to get a fair trial, because that's every ones right.

19 The Universal Declaration of Human Rights (UDHR) is a declaration adopted by

20 the United Nations General Assembly on 10 December 1948 at Palais de Chaillot,

21 Paris. The Declaration arose directly from the experience of the Second World War

22 and represents the first global expression of rights to which all human beings are

23 inherently entitled.

24 *"Everyone is entitled in full equality to a fair and public hearing by an*

25 *independent and impartial tribunal, in the determination of his rights and*

26 *obligations and of any criminal charge against him."* (Art.10)

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2 Further, defendant could learn that according art.7-2(e) of the USA Nevada Local  
3 Rules that a party filing motions for summary judgement may reply to the other  
4 parties responses within 14 days, meaning that plaintiff should have filed his reply on  
5 August the 29<sup>th</sup> since defendant's responses were filed on August 15<sup>th</sup> 2013.

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7 **IV. CONCLUSION.**

8 It concerns the defendant to see that the Court grants the plaintiff the four double  
9 amount of time to file his replies -- while defendant's EMERGENCY MOTION for Case  
10 dispositive sanctions filed on August 5<sup>th</sup>, 2013, is still pending.

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12 Defendant is afraid that the Court 'missed' the defendant's reply (#157) from  
13 08.30.2013. and that it was not brought to the Court's attention since it was  
14 incorrectly ranked/indexed on the PACER website. More than likely defendants reply  
15 got misplaced in Court in the wrong map which could unfortunately lead to an  
16 incorrect judgement or verdict .

17 In respect to the defendant's rights for a fair trial defendant insists to classify his  
18 filings in the correct way so that the Court can find and read them.

19  
20 Further, the defendant likes to call the Courts attention to the facts that the  
21 defendant's rights were violated in several ways due to plaintiff's acts:

- 22 **1.** Plaintiff abuses the US Court proceedings to intimidate Bakardy and to come in  
23 posses of defendant's copyrighted invention and creation, which he couldn't buy  
24 on the terms he proposed, to be able to perform defendant's illusion.
- 25 **2.** Plaintiff filed a complaint without any key evidence, counting on the fact that  
26 plaintiff's intimidations usually are successful. Plaintiff was asked in the  
27 deposition if he really filed his complaint without having the video to prove the  
28 alleged infringement, he answered: *"Yes, we did because I thought that you*

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2 *and I were going to come to wonderful terms.” (Exh.54)* Clearly a reckless  
3 and vexatious action.

- 4 **3.** Plaintiff tampered screenshots after they were filed as legal exhibits, without  
5 the defendants approval.
- 6 **4.** Plaintiff instructed other persons, multiple times, to destroy multiple important  
7 evidences for the defendant.
- 8 **5.** Plaintiff instructed others what he wants them to write in their name, carefully  
9 hiding that plaintiff is actually the one who writes misleading comments on the  
10 Internet, to obstruct the defendant in collecting evidence.
- 11 **6.** Plaintiff was lying ‘under oath’, stating that he does not know Hector, while he  
12 not only successfully instructs Hector to destroy important evidence for the  
13 defendant, but also instructs Hector what to write as if it was written by Hector,  
14 while he ‘rewards’ Hector for his co-operation with, probably amongst other  
15 benefits, a ‘free’ license.
- 16 **7.** Plaintiff was lying ‘under oath’ stating on March 13<sup>th</sup> 2013, that he knows of no  
17 professional magicians performing the ‘shadows’ illusion, while he gave a ‘free’  
18 license to Hector, on July 23<sup>rd</sup> 2012.
- 19 **8.** Plaintiff refused to produce all correspondence between ALSmagic and Teller,  
20 regarding ALSmagic performance of ‘shadows’ containing important  
21 information for the defendant, to prove that plaintiff approached and instructed  
22 ALSmagic to change his comments and to write what Teller wants him to write  
23 on the internet.
- 24 **9.** Plaintiff presents Mr. Hector as witness to testify in Court, while it is proven that  
25 the witness writes what Teller wants him to write. Hector was already rewarded  
26 for his co-operation, since the witness is already paid for.
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2 **10.** Plaintiff presents Guinee as witness to testify in Court, while it is proven that  
3 also this witness meekly follows Tellers instructions. As Hector, Guinee was  
4 already rewarded for his co-operation, and paid for.

5 **11.** Plaintiff commits perjury and subornation of perjury, since he falsely testifies in  
6 the deposition and convinces Hector to testify in such a manner.

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8 Defendant questions the integrity of all other possible witnesses selected by Teller or  
9 his attorneys.

10  
11 In contrast to the defendant, -- who was not aware that he had to provide  
12 plaintiff's key evidence, since this is not the way how proceedings are done in his  
13 continent, who accidently lost his video in his computer, but still can be retrieved by  
14 YouTube-Google, -- plaintiff's actions show that he was (not accidently but) willfully  
15 and deliberately tampering and destroying important multiple evidence for the  
16 defendant, that he 'approached' multiple persons to write what he wants them to  
17 write and that he pays multiple persons to testify what he wants them to testify as a  
18 legal witness.

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20 Plaintiff's acts should be considered as an obstruction to Justice in general.

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22 Obstructing Justice, committing perjury, tampering and destroying or instructing  
23 others to destroy important evidence needed by the pro-se defendant to prove that  
24 plaintiff's copyright is doubtful and questionable and that he did not infringe on a  
25 copyright or whatsoever, is doing wrong, and affects the defendant's right to a fair  
26 trial fundamentally.

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**It does not make any sense to continue the proceedings**

It does not make any sense to continue the proceedings since :

- Teller admit that Bakardy's performance is different anyhow.
- Shadows (as performed by Teller) is a manufactured trick, sold, rented and performed all over the world.
- The secret behind the shadows illusion is revealed on the internet, years ago, 'nota bene' ...not by the defendant.
- The United States Government - Copyright Office specialists informed the defendant on date of January 29, 2013 in an official letter that: "Copyright does not protect magic routines", confirming their statement on April 10, 2013, **(Exh.36a,b,c)**.
- But most of all, it would be wrong to proceed the litigation, with bribed witnesses, tampered evidence, knowing that the plaintiff did spoliation and destroyed important evidence for the defendant.

For these reasons defendant respectfully requests the Honourable Court,

- **to rank/index/classify defendants reply in support to his Emergency motion (#157) to case dispositive sanctions in the correct way,**
- **to dismiss plaintiff's complaint,**
- **to award the defendant maximum damages due to the plaintiff's blatant disregard for defendant's rights and the plaintiff's vexatious and reckless proceedings.**

With the deepest respect,

  
Hoevensebaan 2, B2950 Kapellen  
Belgium - Europe



**EXHIBIT 1**

08/05/2013	<u>142</u>	ORDER Granting <u>139</u> MOTION for Mirror Imaging Procedure. IT IS FURTHER ORDERED that Plaintiff shall send a copy of this Order to Defendant via electronic mail within one day of the date of this Order. Signed by Magistrate Judge George Foley, Jr on 8/5/13. (Copies have been distributed pursuant to the NEF - EDS) (Entered: 08/05/2013)
08/06/2013	<u>143</u>	EMERGENCY MOTION for Case-Dispositive Sanctions by Defendant Gerard Dogge. Responses due by 8/23/2013. (EDS) (Entered: 08/06/2013)
08/06/2013	<u>144</u>	OPPOSITION to <u>139</u> MOTION Response to Court's Order re <u>135</u> Order filed by Defendant Gerard Dogge. (EDS) (Entered: 08/06/2013)

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James C. Mahan on 8/23/13. (Copies have been distributed pursuant to the NEF - EDS) (Entered: 08/23/2013)

08/23/2013	<u>155</u>	RESPONSE to <u>143</u> MOTION for Sanctions, filed by Plaintiff Teller. Replies due by 9/2/2013. (Attachments: # <u>1</u> Declaration Peter H. Ajemian)(Tratos, Mark) (Entered: 08/23/2013)
08/29/2013	<u>156</u>	TRANSCRIPT of Proceedings, 149 Motion Hearing held on 8/15/2013, before Magistrate Judge George Foley, Jr. Court Reporter/Transcriber: Exceptional Reporting Services, Inc., 361-949-2988. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber using the court's "Transcript Order" form available on our website <a href="http://www.mvd.uscourts.gov">www.mvd.uscourts.gov</a> before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER Redaction Request due 9/19/2013. Redacted Transcript Deadline set for 9/29/2013. Release of Transcript Restriction set for 11/27/2013. (ABB) (Entered: 08/29/2013)
08/30/2013	<u>157</u>	REPLY to <u>147</u> Reply to Response to <u>121</u> Motion for Case Dispositive Sanctions; filed by Defendant Gerard Dogge. (SLR) (Entered: 08/30/2013)
09/03/2013	<u>158</u>	Emergency MOTION to Compel Google Inc. to Produce Videos and Documents by Plaintiff Teller. Motion ripe 9/3/2013. (Attachments: # <u>1</u> Declaration Nancy R. Ayala, # <u>2</u> Proposed Order)(Tratos, Mark) (Entered: 09/03/2013)
09/03/2013	<u>159</u>	Emergency MOTION to Extend the Time to File Teller's Reply in Support of <u>122</u> and <u>123</u> Motions for Summary Judgment by Plaintiff Teller. Responses due by 9/20/2013.

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