

FILED
07-14-2023
Anna Maria Hodges
Clerk of Circuit Court
2023FJ000002

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

JOHN DOE 1 % JEN LAW FIRM, APC,

Creditor/Plaintiff,

vs.

Case No. 23-FJ-2

PATRICK S. TOMLINSON,

Debtor/Defendant.

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR CONTEMPT

NOTICE OF MOTION

PLEASE TAKE NOTICE that pursuant to Wis. Stat. §§ 785.01(1)(b), 785.03(1)(a), and 785.04(1), the plaintiff, by and through its attorneys, West & Dunn, will move the court for an Order finding that the defendant, Patrick S. Tomlinson, is in contempt of court. The plaintiff will further move the court for the imposition of appropriate remedial sanctions for the purpose of curing such contempt. This motion shall be heard by Branch 8 of the Milwaukee County Circuit Court, the Honorable William Sosnay presiding, at the Milwaukee County Courthouse, 901 North 9th Street, Milwaukee, Wisconsin 53233 at a date and time to be set on the Court's calendar.

MOTION

Pursuant to Wis. Stats. §§ 785.01(1)(b), 785.03(1)(a), and 785.04, the plaintiff, by and through its attorneys, West & Dunn, moves the court for an order finding that the defendant, Patrick S. Tomlinson, is in contempt of court as a consequence of his violation of a court order to appear for a supplemental examination.

The plaintiff further moves the court for the imposition of the following remedial sanctions:

1. The issuance of a warrant for Mr. Tomlinson's arrest and confinement until such time as the defendant complies with the order for supplemental examination by providing a complete sworn financial disclosure to the plaintiff;
2. In the event a warrant is issued for Mr. Tomlinson's arrest, an order requiring him to reimburse Milwaukee County for the costs and fees associated with his confinement; and,
3. A monetary sanction awarding the plaintiff costs and fees, including actual attorneys' fees, incurred in connection with bringing this motion plus an award of \$100 per day for each day that the defendant fails and/or refuses to comply with the order;

This motion is supported by the record, affidavit of the plaintiff's counsel, and as follows:

FACTUAL AND PROCEDURAL BACKGROUND

1. On September 30, 2021, creditor/plaintiff John Doe 1 % Jen Law Firm, APC, was granted a judgment against Patrick S. Tomlinson in Case Number CPF-21-517455, in the Superior Court for the State of California in the County of San Francisco ("Judgment"), said Court being a Court of general jurisdiction then and there having jurisdiction over the Parties and the subject matter of the Action. Affidavit of David J. Pawlowski ("Pawlowski Aff."), ¶ 3, Ex. A.

2. The Judgment balance through September 30, 2021, was \$23,739.25 (*see* Pawlowski Aff., ¶ 3, Ex. A) plus costs in the amount of \$7,124.55 and accrued interest in the amount of \$1,846.00 (*see* Pawlowski Aff., ¶ 3, Ex. B) resulting in a total outstanding balance due and owing from Mr. Tomlinson to the plaintiff in the amount of \$32,709.80. Pawlowski Aff., ¶ 3, Ex. B.

3. On January 6, 2023, this Judgment was docketed in Milwaukee County. Pawlowski Aff., ¶ 4, Ex. C.

4. On March 15, 2023, Honorable Peter Hemmer, Court Commissioner in Milwaukee County, signed the Order for Supplemental Examination, calling for Patrick S. Tomlinson to appear at the Hemmer Law Offices, LLC, on Wednesday, April 19, 2023, at 1:30 p.m. *See* Pawlowski Aff., ¶ 5, Ex. D.

5. The defendant, Patrick S. Tomlinson, was served the signed Order for Supplemental Exam, the signed and notarized Affidavit in Support of Order for Supplemental Examination, and the Plaintiff's First Set of Written Interrogatories and Request for Production of Documents to Discover Defendant's Financial Condition on March 30, 2023. *See* Pawlowski Aff., ¶ 6, Ex. E.

6. The defendant failed to appear for the supplemental examination at the Hemmer Law Offices, LLC, 5232 West Oklahoma Avenue, Milwaukee, Wisconsin, on Wednesday, April 19, 2023, at 1:30 p.m. and remains deficient in his obligations under the March 15, 2023 Order. Pawlowski Aff., ¶ 7.

7. Two days after the scheduled supplemental examination, on April 21, 2023, Mr. Tomlinson filed a petition to amortize debts pursuant to Wis. Stat. § 128.21,

initiating Milwaukee County Case No: 23-CV-2836. *See* Pawlowski Aff, ¶ 8, Ex. F.

8. Filed contemporaneously with Mr. Tomlinson's petition was an affidavit of debts. This affidavit listed a single creditor, the plaintiff, Doe 1 c/o Jen Law Firm, APC, John, aside from the debtor's currently retained counsel. Pawlowski Aff., ¶ 9, Ex. G.

9. As a result of this filing, the plaintiff could not file a motion to compel or a motion for sanctions following Mr. Tomlinson's disregard for the previously issued court order. Pawlowski Aff, ¶ 10.

10. Following the filing of the petition, Mr. Tomlinson made a number of representations regarding the debt owed to the plaintiff. *See* Pawlowski Aff., ¶ 11, Ex. H. Mr. Tomlinson made statements including, but not limited to, that the judgment is illegitimate, that he can ignore it, that he owes nothing, and that the plaintiff will never get paid. Pawlowski Aff., ¶ 11, Ex. H. Mr. Tomlinson also made representations as to his financial liquidity, his ability to travel, and his monthly income. *See id.*

11. On June 20, 2023, Mr. Tomlinson's petition, Milwaukee County Case No. 23-CV-2836, was dismissed on a motion from the trustee. Pawlowski Aff., ¶ 12, Ex. I.

LEGAL STANDARD

12. Statutory law in Wisconsin provides that "[d]isobedience, resistance or obstruction of the authority, process or order of a court" constitutes contempt of court. Wis. Stat. § 785.01(1)(b). In such an event, the court may impose a remedial sanction "for the purpose of terminating a continuing contempt of court." Wis. Stat. § 785.01(3). Among other things, the following constitute remedial sanctions that the court is

permitted to impose: 1) monetary payment sufficient to compensate a party for loss suffered as a result of the contempt; 2) imprisonment or confinement; 3) forfeiture not to exceed \$2,000 for each day the contempt continues; 4) an Order designed to ensure compliance with the Court's prior Order; or 5) a sanction other than the above, if the Court finds the standard statutory sanctions would be ineffectual. Wis. Stat. § 785.04(1).

ANALYSIS

13. The defendant has exhibited a lack of respect for this Court's or anyone else's time and authority. His recent conduct cannot be construed as anything other than a continuation of his contemptuous attitude and demeanor.

14. Currently, Mr. Tomlinson owes the plaintiff approximately \$32,709.80, from the original judgment entered on January 6, 2023, plus post-judgment interest owed as of April 19, 2023, the date of the Supplemental Examination that the defendant failed to appear for, in addition to attorneys fees and costs incurred pursuant to this Motion for Contempt.

15. For this reason, the plaintiff attempted to perform a supplemental examination of the Defendant's finances. Pawlowski Aff. at ¶¶ 5-7. The defendant ignored this order of the court, which wasted the court's time, attorney time, and the plaintiff's money.

16. Subsequently, Mr. Tomlinson filed a petition for relief, pursuant to Wis. Stat. § 128.21, in bad-faith to avoid paying a judgment owed to the plaintiff. The petition was a transparent attempt to avoid the debt, supplemental examinations, and the incurrence of sanction fees for his blatant disregard for court orders.

17. As is evident from the affidavit of debts, the defendant sought to avoid a single debt in response to a judgment in the amount of \$32,709.80. Pawlowski Aff., Ex. G. Aside from a single terse statement claiming that he was indebted beyond his ability to pay the debt, the defendant provided no evidence as to his insolvency or inability to pay the Judgment. Pawlowski Aff., Ex. F at ¶ 2. In fact, the defendant has made public statements confirming that he was and is not insolvent. *See* Pawlowski Aff., ¶ 12, Ex. H.



See, e.g., Pawlowski Aff., ¶ 12, Ex. H. Most recently, Mr. Tomlinson contacted the plaintiff to once again make derogatory comments concerning the plaintiff's efforts to collect on the Judgment and boast about his monthly income. *See* Pawlowski Aff., ¶ 12, Ex. H ("Made that this month, stalker. Enjoy prison.").

18. Furthermore, this pattern of behavior is not isolated nor is infrequent. The defendant has demonstrated a pattern of behavior that displays a deliberate and intentional effort to avoid paying the Judgment owed to the plaintiff. As an example of the defendant's attitude toward the plaintiff and debt, Mr. Tomlinson, on a number of occasions, has publicly stated that either he does not recognize the debt or that he simply is not going to pay the judgment.



See Pawlowski Aff., ¶ 12, Ex. H.



See Pawlowski Aff., ¶ 12, Ex. H.



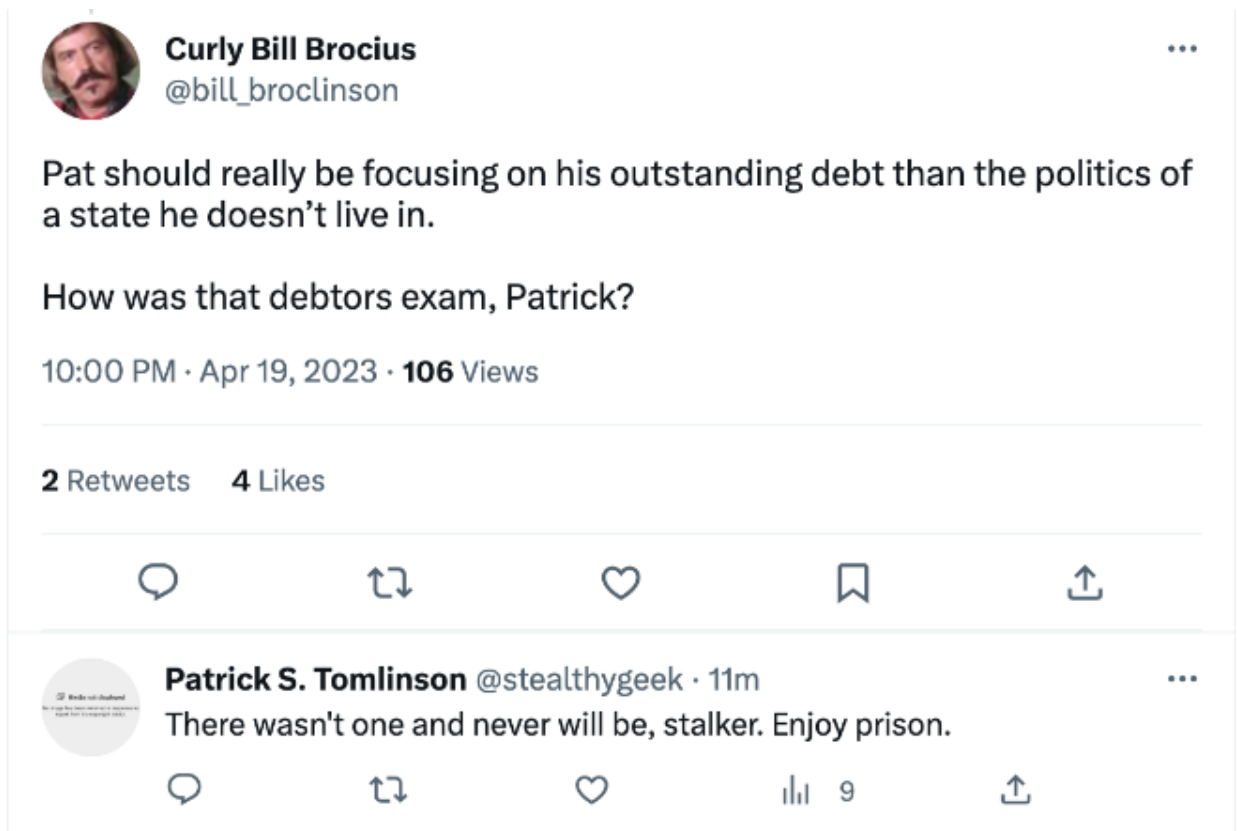
See Pawlowski Aff., ¶ 12, Ex. H.



See Pawlowski Aff., ¶ 12, Ex. H.



See Pawlowski Aff., ¶ 12, Ex. H.



See Pawlowski Aff., ¶ 12, Ex. H.

Clarence Whorley - @ClarenceWhorley · 1h

Have you paid the debt you owe yet?

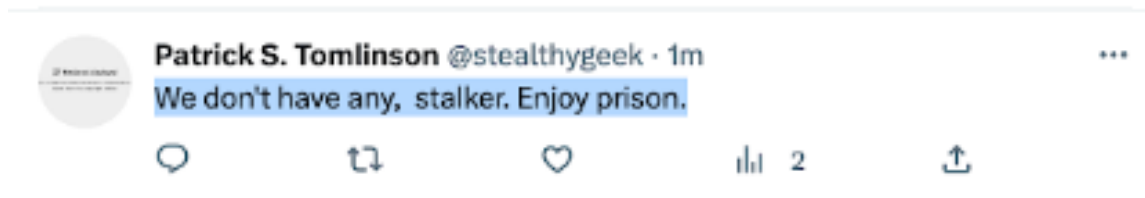
payquasi.lol



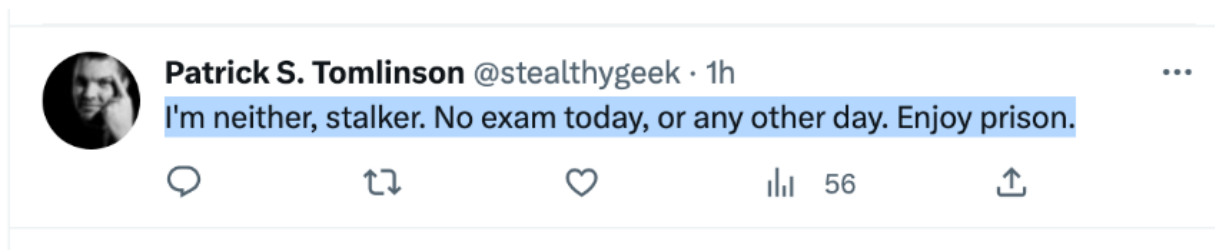
Patrick S. Tomlinson @stealthygeek · 47m

Don't have one, stalker. Enjoy prison.

See Pawlowski Aff., ¶ 12, Ex. H.



See Pawlowski Aff., ¶ 12, Ex. H. These statements demonstrate that the defendant has no intention in repaying his debt, and the filing of the chapter 128 petition was a deliberate delay tactic to avoid the Judgment. The timing of these messages coincides with the plaintiff's efforts to conduct a supplemental examination and collect on a valid judgment and exhibit his unwillingness to ever comply with the court order.



See Pawlowski Aff., ¶ 12, Ex. H. The defendant attempted to abuse the receivership system in order to delay, or ultimately avoid, the debts he owes while simultaneously outlining his motives in deliberately and persistently evading the Judgment.

19. The defendant's public statements about his solvency or ability to pay the Judgment are further supported by the plaintiff's thwarted efforts of to effectuate service on the defendant for the purpose of serving the supplemental examination order when the service processor reported back that Mr. Tomlinson was on a foreign vacation. *See Pawlowski Aff.*, Ex. E.

20. Mr. Tomlinson has made no effort to hide the fact that he intentionally disregarded this court's order and filed a bad faith petition to amortize debts in response to collection efforts on the Judgment. The ch. 128 action listed the plaintiff as the only creditor in his continued efforts to avoid payment. The plaintiff continues to be stymied in its efforts to collect on the Judgment and has been forced to endure further unnecessary legal fees in response to the filing of the frivolous chapter 128 case. The trustee saw through the defendant's actions and dismissed the chapter 128 proceeding. The plaintiff is now able to continue collection efforts and request that this court order appropriate sanctions against the defendant.

21. Since his case was dismissed, the defendant has made no effort to contact counsel for the plaintiff to either arrange for payment or reschedule the supplemental examination. However, he does continue to taunt the plaintiff online and make public threats about the Judgment he owes. The plaintiff respectfully requests the court to order sanctions in order to assist in the recovery of the Judgment owed to the plaintiff

and allow the dispute to resolve.

CONCLUSION

22. The plaintiff respectfully requests the Court grant this Motion; issue an Order finding that the Defendant is in Contempt of Court; and issue an Order imposing the following remedial sanctions:

23. An additional monetary sanction of \$100 per day for each day that the Defendant fails and/or refuses to comply with the Order;

24. The issuance of a warrant for Mr. Tomlinson's arrest and confinement until such time as the Defendant complies with the Order providing a full sworn financial disclosure or satisfying the judgment and fees owed;

25. In the event a warrant is issued for Mr. Tomlinson's arrest, an order requiring her to reimburse Milwaukee County for the costs and fees associated with his confinement; and,

26. A monetary sanction awarding the Plaintiff their costs and fees, including their actual attorneys' fees, incurred in connection with the Supplemental Examination and bringing this Motion and an additional monetary sanction of \$100 per day for each day that the Defendant fails and/or refuses to comply with the Order.

Dated this 13th of July, 2023.

WEST & DUNN

Electronically signed by David J. Pawlowski

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