



Legal Document

Massachusetts District Court
Case No. 1:11-cv-12000-RBC
Greenspan v. Random House, Inc. et al

Document 34



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**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

AARON GREENSPAN,

Plaintiff,

v.

**RANDOM HOUSE, INC.; MEZCO, INC.;
BENJAMIN MEZRICH; COLUMBIA
PICTURES INDUSTRIES, INC. a/k/a SONY
PICTURES a/k/a COLUMBIA TRISTAR
MOTION PICTURE GROUP,**

Defendants.

Case No.: 1:11-cv-12000-RBC

**RESPONSE TO DEFENDANTS' RESPECTIVE MOTIONS FOR LEAVE
TO FILE REPLY MEMORANDA IN SUPPORT OF MOTIONS TO DISMISS**

Plaintiff respectfully opposes Defendants' respective motions for leave to file reply memoranda in support of their respective motions to dismiss. Defendants fail to assert any valid justification for filing their replies well after the 7-day period clearly stipulated by Fed. R. Civ. P. Rule 27(a)(4). Defendants' purported sur-reply memoranda each consist of the same general arguments that either were made or should have been made in their respective motions to dismiss, and that further could have been filed in a timely manner following Plaintiff's response thereto. Instead of clarifying any point of extreme importance worthy of a motion for leave, Defendants instead spend several pages reiterating the same flawed arguments they have already put forth, insulting Plaintiff, and generally wasting the Court's time.

With or without their respective purported sur-replies, Defendants fail to explain why Defendant Mezrich, whose actions in writing *The Accidental Billionaires* are the impetus for these proceedings, would have bothered seeking out the assistance of an individual such as Plaintiff, who Defendants now portray as someone incapable of articulating a clear point, perpetuating a “misguided” “rant,” and whose statements (they falsely allege) never amount to anything more than unsubstantiated, unauthenticated claims. These same allegations, long since validated by multiple parties, were of particular interest to Defendants in 2008, when Plaintiff was in Defendant Mezrich’s view a respectable and “very knowledgeable source.” This fundamental inconsistency in Defendants’ argument reveals it to be nothing more than a smokescreen designed to evade accountability for unlawful actions.

Defendants Random House, Inc., Mezco, Inc. and Benjamin Mezrich allege that there are “new facts and allegations” in Plaintiff’s response, without specifying what those facts actually are. They go on to excuse Defendant Mezrich’s derogatory use of the word “kid” by claiming that he simply refers to everyone of importance in such terms, but even that argument is flawed. Mark Zuckerberg, introduced on pages 14 and 15, is indeed referred to as a “kid,” but one who is also “certainly a computer genius.” He has, according to Defendant Mezrich, “made a name for himself,” as early as his sophomore year, as a “master hacker” who had turned down offers of millions of dollars. What minimal criticism the author directs toward Mark’s character is immediately offset by these glowing, hyperbolic commendations. Yet on these pages, the word “kid” almost never appears directly adjacent to Mark’s name, whether first or last. In contrast, “some kid named Aaron Greenspan” who had “gotten in trouble” on page 80, thereafter referred to as “the Greenspan kid” and “Grossman,” sounds downright pathetic and small. In short, word placement matters, and the meaning of “kid” changes accordingly.

The semantic argument over one particular word within an entire book generally serves to distract from the main point of Plaintiff's claim, which goes far beyond "kid." The meaning of language is dynamic depending on context and is consequently completely relative; this fact, after all, is why a judicial system is necessary to interpret the words that make up laws, which lack absolute meaning. Defendant Mezrich used language—sometimes the very same word, and sometimes different words—as a lever in *The Accidental Billionaires* and in person to prop up his preferred characters, such as Mark and Eduardo, while diminishing others, such as Plaintiff. Once cast, this mold, based in part on Plaintiff's own protected expression, and made-to-order for Defendant Sony Pictures, was rushed to Hollywood to form the screenplay for *The Social Network*, so that all Defendants might enjoy financial success at Plaintiff's expense.

Defendants, unsurprisingly, now wish to silence Plaintiff, and they have had their chance to attempt to do so, which they have availed themselves of to the maximum extent allowed. Their sur-replies are nothing more than a means to improperly bypass the page limits set forth in Rule 27(d)(2), all without following the proper procedure set forth in Rule 27(a)(4). It is worth noting that as a *pro se* litigant, Plaintiff has complied with the Rules and filed briefs in a timely manner, whereas Defendants, who collectively have at least *seven* full-time attorneys at their disposal nationwide, and who are assuredly well-trained and well-equipped to file reply briefs, seem unable.

At this point, the Court has before it more than enough information to reach an informed decision on Defendants' motions to dismiss. However, should the Court grant Defendants' motions, Plaintiff respectfully requests leave to file a response to each sur-reply to address the myriad deliberately misleading and baseless arguments contained therein.

WHEREFORE, Plaintiff respectfully requests that this Court deny both Motions for Leave to File filed by Defendants.

Respectfully submitted this 5th day of February, 2012.



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CERTIFICATE OF SERVICE

I, Aaron Greenspan, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

By 

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