

Glenda E. Johnson, Pro Se
PO Box 95332
South Jordan, UT 84095
(801)-369-5951

Pro Se Plaintiff

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

FEB 12 2021

D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

GLEND A. JOHNSON,
Plaintiff,

v.
INTERNAL REVENUE SERVICE
DEPARTMENT OF JUSTICE, agencies of
the United States, and DAVID NUFFER,
Defendants

Civil No. 2:20-cv-00090

OPPOSITION TO REPORT AND
RECOMMENDATION TO GRANT
MOTION TO DISMISS (DOC.NO, 7)
WITHOUT PREJUDICE

Judge Howard C. Nielson, Jr.

Magistrate Judge Daphne A. Oberg

NOTICE

Because of a wrong address I didn't receive document until Feb 11, 2021. The address listed is the correct one.

Rule 12(1)(C), A party must serve a reply to answer within 21 days after being served with an order to reply, unless the order specifies a different time. I was not served a court order to respond.

Rule 12(e) Motion for a More Definite Statement. A party may for a more definite statement of a pleading which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion MUST be made before filing a

reponsive pleading and MUST point out the defects complained of and the details desired. If the court orders a more definite statement and the order is not obeyed within 14 days after notice of the order or within the time the court sets, the court may strike the pleading or issue any other appropriate order.

In Ms. Gallagher motion she failed to follow the procedural rules. The court was accurate not to respond to her motion for lack of specific information concerning any defect in the pleadings..

No such order was granted.

Also occurring to rule 15(a) amendments before trial. Rule 15(a)(1) A party may amend its pleading once as a matter of courseThis I did as allowed. The only objections to the amended pleadings was that they were vague. Again the court accurately and according to law Rule(e) did not respond or make a ruling that I was required to respond.

SUBJECT MATTER JURISDICTIONAL

If the original court had jurisdiction to hear the matter that is now before this court then either the original court did not have subject-matter jurisdiction or this court has jurisdiction. Since subject-matter jurisdiction can be raised at any time then if this court does not have jurisdiction the original court lacks subject-matter jurisdiction as well. This would mean that the original court lacks subject-matter jurisdiction and it's findings are void. We agree and ask the court to render a court order to dismiss the original case as lacking subject matter jurisdiction.

Ms Gallagher has now made a statement that under the rules of estoppel that she now cannot change her position. Since one of the pleadings asked this court to dismiss the original com-

plaint for lack of jurisdiction on the grounds of lacking any controversy. I ask this court to rule that this court and the original court lacks jurisdiction for the same issues and for the same reasons. Or this court must rule that it has jurisdiction to hear the same case since both courts have the same jurisdiction.

Motions by the moving party must show all relevant evidences to support their positions. Once filed no changes are allowed. In their reply only relevant points made by the non-moving party are allowed. No evidence was offered in the motion to support a subject-matter jurisdictional challenged.

THE TIME FOR RESPONSE HAS PASSED.

RULE 12(1) When Some Are Waived. A party waives any defense listed in Rule 12(b)2-(5) by: (A) omitting it from a motion in the circumstances described in Rule 12(g)(2); Or (B) failing to either; (i) make it by motion under this rule; or (ii) include it in a responsive pleading or in an amendment allowed by Rule 15(a)(1) as a matter of course.

NO RELEVANT EVIDENCE FROM PREVIOUS CASE.

I have the right to collateral attack a case that involves me and affects my constitutional rights. That also means that I have the right to put on my own defense with my own evidence and my own expert witness.

Now that the plaintiff in the previous case has admitted that their expert witnesses perjured himself. Their whole case rested upon his testimony which is now not admissible in this court as evidence.

And now that the plaintiff admitted that the panels in question is and always has been considered solar energy property by judicial notice that evidence is admissible in this court.

HISTORICAL BACKGROUND OF THE RULE 60 MOTION PRESENTED TO JUDGE NUFFER.

The original R60 motion was filed in Judge Nuffer's court by NSDP law firm in behalf of all defendant's except Neldon P. Johnson. Att. Ms. Gallagher filed sanction 11 on NSDP law firm and they decided to withdraw from the R60 motion. However, NSDP was not the Attorney's for the defendants at this time.

Neldon P. Johnson was asked by NSDP law firm if he would take the R 60 motion and refile it with him acting pro-se which he did. I do not know who NSDP represented in this R 60 motion. I do know that it was not IAS, Ra-Power-3 or any of the other defendant's since the receiver has control of these entities.

After a motion by Att. Ms. Gallagher to try and block Mr. Johnson's filing the R60 motion the R60 motion was allowed.

Att. Ms. Gallagher then filed for a stay of the R60 motion pending how the court would rule on sanction 11 against NSDP law firm. In her memorandum she mentioned that the time to file her response on Mr. Johnson's R 60 motion had elapsed but asked the court to extend her

time pending the stay that she had asked for and would later file her response once the sanction's against NSDP had been decided. No stay or extension of time was granted that I am aware of.

Mr. Johnson was curious to see how Judge Nuffer would respond so he waited for a response to be filed by Att. Ms. Gallagher. No response was filed.

It was at this time that Judge Nuffer ruled on the motion in favor of the plaintiff. This seemed strange to Mr. Johnson and inconsistent with the prescribed proceeding. Not having notice given as to the respondent's position Mr. Johnson was not given any opportunity to counter her reply. The indication was that her information cited in her sanction's would also suffice for her reply. Mr. Johnson, however, was never given that information and therefore, could not reply nor could he know that her response had been given before he even filed the R60 motion.

In Att. Ms. Gallagher sanction's filed she never contended Mr. Johnson's position on plaintiff admitting that the property in question was always considered Solar Energy Property or that Mr. Mancini perjured his testimony, or that the way the financial's where incorrectly allocated.

The only evidence that she cites from the record are conclusions based upon Dr. Mancini's testimony and/or based upon the product not being solar energy property. These two positions that have now been proven absolutely false. If the foundation from whence her evidence is cited no longer exist how is it that the information cited is valid. It is obvious, it can't it violates the rules of evidence and cannot be used to substantiate the claims she implies that it does. This violates the constitution and therefore the court order is also unconstitutional.

Mr. Johnson has filed for an appeal on those and other issues. U.S. Congress has allowed to the U.S. Supreme court the right to define any all procedures used by the court. If a court violates those procedures they are making up there own law. This is law that is unconstitutional and lacks jurisdiction.

It is self evident that if the product in question is solar energy property then it qualifies in every aspect the same as all other solar energy property by definition. To deny those rights would violate the equal protection clause of the U.S. Constitution.

I can and will show that the solar energy property does, has done and will comply with all of the laws and statutes that now apply to solar energy property.

Att. Ms. Gallagher has now admitted that the plaintiff in this case has admitted to all the allegations. These include Dr. Mancini perjury and that the plaintiff always knew that the product in question is solar energy property and now is estopped from changing their positions.

Federal rules of evidence Rule 102 purpose. Cite. These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

The evidence proves that our system functions as purported in all of its reports with over 20 experts in their related fields will testify. But what is the most heart breaking is the fact that Judge Nuffer knows that it works. Att. Ms. Gallagher knows that it works and knows that the information in her reports are not true. She has personally witnessed the system working. It

is an utter-shame that a football game is more honestly refereed than our federal court system. Who cares about the truth, fairness or honesty and integrity. The very fabric that holds our system and guarantees our freedoms is an honest court. Once lost it can never be recovered. This country cannot survive very long with dishonest courts. Our open and integrated unprotected commerce system relies on the honesty and integrity of our courts systems. Our un-walled open cities with fairness exhibited on a national level opens each state, county and city for open unobstructed travel and commerce. This two will be destroyed and forever lost once the people have lost faith in the integrity of our law enforcement and judicial systems.

I would hope that those that are in control of the integrity and the honesty of the court system would believe that the those values are more important than winning a game.

My husband Mr. Johnson has over 30 patents 40 pending 1000 new concepts and new ideas. See exhibit (Patents) All of the self-service check out lanes are his patents. The automatic finger print and facial recognition systems are his patents. He is the only person that has developed new patents in solar energy technology that actually work in over 50 years. Some of which are in the market place to this day. The allegation that solar energy is the only item IAS is not true and again has no evidence to support such allegations other than his own allegations which again violates the procedures in how the courts can receive evidence. This again would violate the constitution.

IAS was not in the business of selling since 2013 solar energy equipment but was involved in other endeavors which I believe as others in the continuing success of the company. I believe as others believe that IAS owed less than \$6,000,000. that this amount could easlity

have been raised through either the stock market or other joint ventures. These opportunities were lost because of the illegal acts taken by the court to shut down the trading.

The court also ruled that it was not illegal for IAS to sell the solar products just could not sell them on basis of receiving tax benefits. This order now would have to be considered unconstitutional law since it now has been proved that the product in question is solar energy property. The order would violate the constitution of equal protection and would have to be changed or thrown out and considered void.

STANDING

Definition of derivative Actions BY Shareholders

Fed civ Rule 23.1 Derivative Actions by Shareholders:

In a derivative action brought by one or more shareholders or members to enforce a right of a corporation or of an unincorporated association, the corporation or association having failed to enforce a right which may properly be asserted by it.

I am a stockholder and have standing to bring a lawsuit. The first issue is stop the trading. As pointed out this is reserved for SEC exclusively. I acquired the stock on the bases that the federal rules governing the buying selling of said stock would be controlled in a manner prescribed by the U.S. Supreme court.

That the market would control the price and no one had the right to manipulate that price except for the public market. The court decided to interfere with the orderly trading of the companies public held stock. By doing so through external forces chose to devalue said stock.

This was illegal and unconstitutional.

Now the courts are trying to maintain this illegal act through trying to prevent me from proving a second illegal act which is Fraud on the court by the plaintiff's expert witness and from withholding pertinent information about the product in question being Solar Energy Property.

If I am allowed to pursue this lawsuit they know and I know that their lawsuit against IAS will not stand and would be considered void for lack of standing on their part because of lack of a point of controversy. Their whole case rests on this one issue. These are clearly out lined in my pleadings and I incorporates those pleadings here.

If I win will I receive compensation. Besides voiding all of the proceedings there are damages that have been caused to IAS which is recoverable and allowed. This would be compensation to IAS in a derivative stockholder's lawsuit. This would of course be very beneficial to me personally and would in this regard compensate me for that loss. This satisfies the second issues of if I win will I be compensated and this is of course, I will.

I have personal liabilities that directly affect me. I personally declare under penalty of perjury that I have a contract dated 2003 December 25 with my husband Mr. Johnson that I was to receive half of his wages that he received from IAS. I was to receive \$500,000.00 a year from IAS. I agreed to defer receiving my wages from him as he agreed to differ his wages from

IAS with the understanding and contract with IAS that he would receive these wages at any time.

Plus I personally loaned money directly to IAS in several millions of dollars with an agreement with IAS that I could recover those loans on demand. The value of that loan was affected by the illegal acts by the defendants are liable for the damages that I incurred.

I have the right to be compensated. That also gives me personal standing to bring this lawsuit.

Ra-Power-3 was a multi-level marketing company. This means each member owned their own company. When the defendant's decided to withhold information that would have prevented the lawsuit from happening because lack of "controversy" which when lacking in federal court the court loses jurisdiction and no court action could or can take place. This act is illegal and has destroyed 1000's of companies and income and potential income. Not considering the loss of reputation and character. According to the law of STANDING all of these people also have standing to sue. I am also one of those. I have standing to sue from being a member and owning my own marketing company that without the illegal acts committed by the defendant's would have been very profitable. I have standing.

There are for your information many stock holders that live in other countries. Some with BIT treaties with the U.S.. these have agreed not to sue if the courts here demonstrate honesty and integrity as a favor to my husband. All we've ever wanted is a fair and honest court willing to show the law and follow the law. For example the original trial the defendants asked for a jury trial at the very beginning of the trial. The court denied the right to a jury trial with the

promise that if an issue arose that would require a jury trial that the defendants would be given that right. Before the actual trial began an issue that would require a jury arose. The defendants were told that they asked to late. But that was not the case the case was that if an issue arose that a jury could hear they would be given a jury trial. Didn't happen. (a) Where both legal and equitable issues are presented in a single case, any legal issues for which a trial by jury is timely and properly demanded must be submitted to a jury *Beacon theatres, inc. v Westover*, 359 U.S. 500.Pp 369 U.S. 470-473.

Utah state constitution as well as U.S. Constitution provides for jury trial on any issue that can be tried by a jury. I have asked for a jury trial. A jury can hear disputed facts. If there are disputed facts I want to present my evidence to them to determine my right to have this trial.

Grace v Bank Leumi Trust. co. 443 F.3d 180(2d cir 2006 This case allows 3rd party to file R 60 motion based upon fraudulent transfer to the 3rd party. This is a fraudulent conveyance action against a third party, the third party is "strongly affected" by the judgment and entitled to bring a rule 60(b) motion. *Eyak native Villiage v Exxon Corp* 25 F.3d 773, 777. Stating that "a non-party may seek relief from a judgment procured by Fraud if the non-party's interest are directly affected.

Also *Kem Manufacturing Corp. v. Wilder* indicates Holding that non party did not have standing under Rule 60(b) based on fraud; non-party's rights were not directly affected since the the judgment did not bind the non party in any way... This is not the case with me. My property and assets were bound and not in my control.

The court claimed that I took money that belonged to the Ra-Power-3 (fraudulent transfer) and collected from me personally millions of dollars in property and cash. This money was allocated to build out the project. I showed that there were contracts between me and IAS as well as contracts between me and a foreign company called Soltice. I Showed the court that a contract between Ra-Power-3 and Soltice existed and would receive 81 percent of all proceeds from Ra-Power-3. The contract was between me and Soltice to erect and build out the project. There was a total of over 100,000 solar panels purchased and on site before the end of the trial. About 30,000 had been installed and concentrating sunlight. The court canceled the contracts and fined me several million dollars. They did this without a trial by jury. The law on contract is U.S. Constitution article 1 section 10 which states that no law can be formed that would interfere with the obligations of contracts.

I have personal standing in recovering my money from those contractual agreements. If successful in voiding the original court case I should be able to recover those damages.

To overcome my standing the court must prove that IAS did not or does not have the right to bring an action against the defendants, Which I have shown that they do. I incorporate the pleadings here.

Also I am being sued by the receiver over the original case. This gives me standing.

I have proved that I have personal standing I proved that the actions taken did directly affect me personally. That my personal properties and contracts where violated by those proceedings and I have proved conclusively that those actions to be illegal from the very beginning. That there expert witness did commit perjury and that the property is solar energy. That I am entitled to equal protection under the law which provides that Solar energy projects that take

two or more years according to, IRS form 3468, they can receive tax credits in the year that they purchased the product with their money. I incorporate my pleading for a more exact explanation,

I also have a mechanic's lien against IAS and now against the defendants, To block my actions against filing a Mechanics lien they used the original court case. I filed a cross claim using a collateral attack in state court to continue the action. That is on appeal with the state court I will include a copy of that case as an EXHIBIT. If I win this case I will also win that case because the only defense was the original court case. The original court case affects my rights to the mechanic's lien. I have standing.

Again this gives me personal standing to sue. And the law suit is for between \$9,000,000 and \$30,000,000.00. There are between 18 and 170 towers. Testimony given in the IRS court Mr. Olsen expert witness testified that all the towers where at the time working and producing electricity. This is part of our offense testimony that will be offered at trial.

The total project when complete is worth in excess of \$400,000,000. I can see why every one wants the defendants to win.

This is where the UNCAC treaty comes into play. When this treaty was ratified the Senate made this the law of the land. In so doing they made the statement that the U.S. Laws conforms to the laws that where stated in the U.N. Treaty. The US. Congress has the right to interpret their own laws. And have in the past given the right to interpret some of their laws to the U.S. Supreme Court. Since they ratified the UNCAC treaty it gave that right to the UNCAC council the right to interpret those laws that are now part of the UNCAC treaty's laws.

Making several acts criminal and providing a means to collect damages for those illegal acts. One that might be of interest to you is the definition of bribes. This definition includes giving one side of a judicial proceedings an advantage over the other. They also made the prosecution and investigation mandatory. Now I could be wrong in my interpretation but I'm willing to find out.

CONCLUSIONS

I have every right to collateral attack a case if that case affects me or my rights.

I have now proven that the product in question is Solar energy property. That I am and IAS and other defendant's have constitutional rights of equal protection under the law. What ever the law offered any solar energy property it must also apply to IAS's Solar energy property.

I have shown that I have Standing. I have shown that I suffered from the actions taken by the defendants. Those actions caused me harm. That the original trial would not have had jurisdiction if the defendants would have been honest and truthful and forthright in revealing material information that had a material impact on the court case.

I have shown that if the material information that was withheld would have removed courts jurisdiction to hear the case.

I have shown that the case would be void and the harm done would be redress able.

I also incorporate all of the pleadings and Exhibits.

I have shown many injuries that are directly traceable to the actions of the defendant's and how those actions have affected me personally.

I have shown that those actions are redress-able.

STANDING MEANS.

The plaintiff has to show that the defendant's actions will cause the plaintiff concrete harm.

In *Lujan v Defenders of Wildlife* (90-1424), 504 U.S. 555(1992), the Supreme Court created a three-part test to determine whether a party has standing to sue:

1. The plaintiff must have suffered an "injury in fact," meaning that the injury of a legally protected interest which is (a) concrete and particularized (b) actual or imminent.
2. There must be a causal connection between the injury and the conduct brought before the court.
3. It must be likely, rather than speculative, that a favorable decision by the court will redress the injury.

Item 1 true and I qualify. I have satisfied 2 in that their acts affected and caused me harm.

Item 3 If successful I will be compensated for my losses.

I declare under the penalty of perjury, that the foregoing is true and correct.

DATED this 12th day of February, 2021.


Glenda E. Johnson

NAME Glenda E. Johnson
ADDRESS, P.O. Box 95332
South Jordan, Utah 84095
Phone # 801-369-5951
Email address glendaejohnson@hotmail.com
Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed using the court's CM/ECF filing system and that system sent notice of filing to all counsel and parties of record.

February 12, 2021 OPPOSITION TO REPORT.

In addition, the foregoing was mailed or emailed as indicated to the following who are not registered with CM/ECF.

ERIN HEALY GALLAGHER
DC Bar No 985670, erin.healygallagher@usdoj.gov
Trial Attorney, Tax Division
U.S. Department of justice
P.O.Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone (202)353-2452
defendant

The Honorable David Nuffer
United States District Court for the District of Utah
351 S W Temple, Room 10.220
Salt Lake City, UT. 84101
defendant

Glenda E. Johnson Pro Se

