

Jack M. Weinzierl
2608 Round Table Blvd.
Lewisville, TX 75056
817.205.9513

*Mr. Foster
Hearing has been
set for 11-30-09.
at 9AM.*

November 9, 2009

Clerk of the 296th Judicial District Court
PO Box 578
McKinney, TX 75070

Re: Zena Karelin vs. Advantage Conferences, LLC, Timothy S. Darnell,
Individually, Jack M. Weinzierl, Individually, and James McHugh, Individually; Cause
No. 296-04376-07

Dear Clerk:

Enclosed please find the original copy of Defendant's Motion to Dismiss and
Motion for Sanctions in the above styled matter. I respectfully request that you file said
pleading with the Court.

Thank you for your assistance in this matter. I am providing a copy of said
documents to the Plaintiff's attorney noted below.

Sincerely Yours,

Jack M. Weinzierl
Jack M. Weinzierl

cc: VIA CMRRR# 7008 1830 0001 12460922
Foster & Foster, P.C.
Attorneys and Counselors at Law
2701 N. Dallas Parkway, Suite 540
Plano, TX 75093

FILED
09 NOV 09 PM 2:59
HARRIS KUNKLE
DISTRICT CLERK
COLLIN COUNTY, TEXAS
BY: [Signature] DEPUTY

Cause No. 296-04376-07

ZENA KARELIN, PLAINTIFF	§ IN THE DISTRICT COURT
	§
VS.	§ 296 TH JUDICIAL COURT
	§
ADVANTAGE CONFERENCE, LLC	§
Timothy S. Darnell, individually	§
Jack M. Weinzierl, individually	§
James McHugh, individually	§
Defendants	§ COLLIN COUNTY, TEXAS

DEFENDANT'S MOTION TO DISMISS AND MOTION FOR SANCTIONS

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, Jack M. Weinzierl ("Defendant"), acting in behalf of himself, files this Motion to Dismiss and Motion for Sanctions pursuant to Rule 13, **TEXAS RULES OF CIVIL PROCEDURE** and Rule 10, **TEXAS CIVIL PRACTICE & REMEDIES CODE** and in support thereof would respectfully show unto the Court the following:

I.

DEFENDANT'S MOTION TO DISMISS

Plaintiff's petition is groundless with no basis in fact, and was filed in bad faith and brought for the purpose of harassment of the Defendant, as evidenced by the multiple online postings of confidential settlement offers from Defendant, as well as the posting of confidential information presented in the mediation.

Not one single piece of supporting evidence was presented by the Plaintiff or Attorney Thomas Foster in the Summary Judgment hearing on November 2, 2009, when the Motion for Summary Judgment against Defendant was dismissed. Charges of fraud, deceptive trade practices and conspiracy are serious charges and the Motion for Summary Judgment and mediation was not done in good faith, as evidenced by the public dissemination of the Defendant's confidential mediation offer.

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DISTRICT CLERK
COLLIN COUNTY, TEXAS
BY _____ DEPUTY

The Plaintiff and Foster have allowed this legal action to be used to intimidate and harass the Defendant with dozens of posts calling Weinzierl a "fraud" over a two-year period by the Affiant and Advisor for Plaintiff, Heather Dobrott. Weinzierl has never been convicted of, or otherwise charged with any fraud, outside of this case. Dobrott posted that the Defendant is engaged in blackmail and bribery in direct connection to the terms of confidential settlement offers that Dobrott was provided and then posted. No one would subject oneself to mediating in good faith or attempt to settle, if they knew that terms of their confidential offer would simply be posted for the world to see, in order to harass, intimidate and harm one's reputation and business further.

Foster has stated on multiple occasions that there was nothing he could do about these postings online, but Foster and the Plaintiff provided the two confidential settlement offers from the Defendant to Dobrott. Dobrott, a former client of Foster and a friend and advisor of the Plaintiff, had posted these 2 confidential settlement letters online on October 19, 2009 at 9:42 PM post #1421 on scam.com as well as confidential mediation details from the Defendant's attempt to settle, only hours after the mediation.

Dobrott, who is an Affiant and advisor for the Plaintiff in this case, posted hundreds of times and has emailed the Defendant's Pastor, place of worship's staff, prospective employers, current landlord and former mortgage holder, and hundreds of friends to harass and intimidate the Defendant in this case. Dobrott has also posted information, as if the Defendant has already been found guilty in this case, further scaring off potential business partners, employers, friends and others, due to the public appearance of guilt. Dobrott has taken this harassment further sending links to this case and implying fraud to Defendant's former mortgage holder, IRS, and current landlord.

The evidence will show the intimidation tactics that have been used and on November 4th, Dobrott posted that Weinzierl was in for another "bloody battle" just one day following after the Summary Judgment against the Defendant was denied. This was in reference to the recommendation that the Defendant file a Motion for Sanctions for the breach in confidentiality from the mediation. Dobrott was not in the courtroom that day, although she was in the courthouse and this information was provided by Foster after the hearing, even when Foster repeatedly states that Dobrott is not involved in this case. This was a blatant attempt to intimidate the Defendant. On 1-25-08 at 12:43 PM, Dobrott posted on scam.com, "Did you notice we are on the "when I find Jack Weinzierl I will kill him myself thread. Should we start taking numbers for the privilege?"

These actions have caused the Defendant physical, mental and financial harm. The Defendant's professional, financial and personal reputation has been damaged beyond repair, due in large part to these public postings and this groundless case. The Defendant's ability for gainful employment has been adversely affected and Defendant's new landlord and neighborhood association has also been contacted by Dobrott with links to scam.com stating that the Defendant is a fraud and involved in blackmail related to this specific case, linking to the confidential offers, mediation and other posts.

II.

DEFENDANT'S MOTION FOR SANCTIONS

Defendant Weinzierl move the Court for Sanctions against Plaintiff KARELIN and Attorney FOSTER pursuant to Rule 13 TEXAS RULES OF CIVIL PROCEDURE and §10.004 of the CIVIL PRACTICE & REMEDIES CODE and in support thereof would respectfully show unto the Court the following:

One of the terms of the Defendant's offer in the confidential mediation held on Friday, October 30, 2009 was disclosed and posted on scam.com 3 days later by Dobrott on 11-02-09 at 7:22 AM post #1435. Two prior confidential offers made by the Defendant to the Plaintiff and Foster were also posted on scam.com in their entirety by Dobrott in October 2009. This breach in confidentiality and postings have led to the Defendant receiving a retraction of a job offer four days after the mediation, losing an estimated \$100,000 annual income with desperately needed family medical insurance, due to the confidential information and postings that the employer came upon during their Google search on the Defendant's name.

The Defendant has been tried and convicted online, harming the Defendant's ability to gain employment, work and provide for Defendant's family. Evidence regarding these postings and the lost job has been supplied to the Plaintiff's attorney, Foster, along with this Motion.

Defendant Weinzierl move that the Court dismiss with prejudice, Plaintiff's petition, and award sanctions in the amount Five Thousand (\$5,000.00) and for such other and further relief, both general and special, at law and in equity, to which may show itself justly entitled. Defendant cannot begin to calculate the damage that has been done to Defendant's personal reputation, business reputation, potential business partners, and future job opportunities, due to this case, continued online harassment ranking #2 on a Google search for Defendant's name with these related postings, threats and breach of confidentiality.

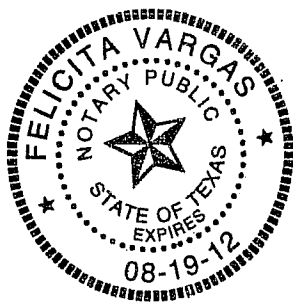
Defendant at this time is representing himself, due to the financial condition caused in large part to the Plaintiff and this continued lawsuit and related postings, Pro Se, and begs the leniency of the court for not knowing all legal details and intricacies as to strict form and procedure.

Respectfully submitted,

Jack M. Weinzierl

Jack M. Weinzierl
2608 Round Table Blvd.
Lewisville, TX 75056

Subscribed and sworn to before me this 9th day of November, 2009 to which
witness my hand and official seal.



[Signature]

Notary Public, in and for the
State of Texas