IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO
GENERAL DIVISION

ANN M. YEAGER,	:		
Plaintiff,	:	**Case No.**	**11 CVC-04-4434**
v.	:	**Judge:**	**Guy L. Reece, II**
	:		
GO DADDY GROUP, INC., GO DADDY.COM, et al.,	:		
Defendants.	:		

DECISION AND ENTRY
GRANTING IN PART DEFENDANTS GODADDY GROUP, INC. AND GODADDY.COM'S MAY 3, 2011 MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR A MORE DEFINITE STATEMENT
AND
STAYING DISCOVERY PENDING PLAINTIFF'S COMPLIANCE WITH THE COURT'S ORDER HEREIN

RENDERED THIS 20th DAY OF JUNE 2011.

REECE, J.

The Court conducted an initial status conference in this matter on June 16, 2011. Counsel for Defendants Go Daddy Group, Inc. and GoDaddy.com (collectively "GoDaddy") and Defendant International Corporation of Assigned Names and Numbers ("ICANN") participated in person and via telephone. Plaintiff Ann M. Yeager ("Plaintiff"), *pro se*, did not appear for the status conference, which was scheduled upon Plaintiff's initiation of this action on April 7, 2011. As Plaintiff has not provided the Court with a telephone number, the Court was unable to reach Plaintiff to afford her an opportunity to participate in the status conference via telephone.

One of the issues raised during the status conference was GoDaddy's pending motion requesting a dismissal or, in the alternative, a more definite statement.

GoDaddy filed a Motion to Dismiss or, in the Alternative, For a More Definite Statement of the Complaint on May 3, 2011. GoDaddy requests that the Court dismiss Plaintiff's Complaint pursuant to Civ.R. 12(B)(6), as the same is unintelligible and fails to state a claim upon which relief could be granted. In the alternative, GoDaddy urges the Court to order Plaintiff to provide a more definite statement of her claims pursuant to Civ.R. 12(E). GoDaddy argues that:

> To say that the Complaint is confusing is an understatement. Plaintiff appears to seek $1,000,000,000.00 in damages, asks for summary judgment, and claims she has suffered a "severe loss to her work, including direct, indirect, and copyright (including 70 years after death).["] *** However, it is unclear what claims, if any, Plaintiff has asserted against Go Daddy and what facts Plaintiff believes support those claims. *** Go Daddy cannot even set forth a more detailed statement of facts, because it cannot determine what Plaintiff is alleging in the Complaint.
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> ***
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> While Plaintiff provides a listing of claims on the cover page of the Complaint, many of which do not exist under Ohio law, the allegations in the Complaint are nonsensical and do not appear to correspond to the claims Plaintiff indicates she is asserting on the cover page of her Complaint. Rather, the Complaint contains ten pages of unnumbered paragraphs containing rambling, disjointed allegations from which no discernible cause of action can be gleaned. Thus, Plaintiff's Complaint does not meet the essential, minimum pleading requirements of the Ohio Rules of Civil Procedure because it utterly fails to put Go Daddy on notice of what conduct and/or causes of actions Plaintiff has asserted against them. Rather, the Court and Go Daddy must guess as to what claims Plaintiff is actually asserting against them and the other various Defendants.

(GoDaddy Mtn. to Dismiss, at 2, 6.)

GoDaddy notes Plaintiff has filed four other actions[1] in the Franklin County Common Pleas Court, arguing they are all equally confusing and rambling. These actions all appear to be related, to some extent, to the alleged misuse of Plaintiff's copyrighted word "aypress," various

[1] Case No. 11 CVC-03-3348 (J. Serrott; dismissed for failure to comply with Civ.R. 8(A) and Civ.R. 12(B)(6)); Case No. 11 CVC-03-3961 (J. Lynch; active); Case No. 11 CVC-03-3962 (J. Sheward; transferred venue to Carroll County); and Case No. 11 CVC-04-4433 (J. McIntosh; removed to U.S. District Court).

telecommunications breaches, and defamatory comments published in an online forum. In its May 18, 2011 Notice of Filing Supplemental Authority, GoDaddy informs the Court that in one of those cases, Case No. 11 CVC-03-3348, Judge Serrott dismissed Plaintiff's Complaint without prejudice, after notice of his intent to do so, based on Plaintiff's failure to remedy the Civ.R. 8(A) deficiencies identified with respect to the same. GoDaddy urges the Court in this case to take similar action and dismiss Plaintiff's Complaint or, in the alternative, order Plaintiff to provide a more definite statement in accordance with Civ.R. 8(A).

In her June 3, 2011 Motion to Strike Defendant's Motion to Dismiss for Alleged Failure to Comply With Civ.R. 12(E), Plaintiff argues there is nothing vague, ambiguous or incomprehensible about her pleading. She maintains "Godaddy.com – created the platform – in which Defendant Ibrahim Kazanci infringed. Were it not for the platform – Godaddy.com would not be named and Ibrahim Kazanci would not be able to use the Plaintiff's copyrighted word as a domain." (Pltf. Mtn. to Strike, at 1.) Plaintiff alleges she "created and copyrighted said word, Aypress, which was also the Plaintiff's business name, and registered with the State of Ohio. *** Defendant Kazanci, using GoDaddy's consent – and nature of its business – to register said copyrighted name, Aypress – is using the original spelling of the Plaintiff's copyrighted word at the website, when one views said website *** ." (Id., at 2.) Plaintiff further argues the fact that her Complaint in Case No. 11 CVC-03-3348 was dismissed for failure to comply with Civ.R. 8(A) does not mean that her Complaint in this case likewise fails to comply with that rule. She argues, instead, that she did provide "a simple statement providing a clear basis for the nature of the injury on page 1 [of the Complaint], titled 'synopsis.'" (Id., at 3-4.) Plaintiff contends whether GoDaddy registered the copyrighted word as its property "then sold said infringing word to any number of persons – will be

known to the Plaintiff through interrogatories – as Defendant is the only one privy to that fact at the moment." (Id., at 4.)

In its June 9, 2011 Memorandum in Opposition to Plaintiff's Motion to Strike, GoDaddy argues Plaintiff's Motion to Strike is not a proper response to its motion requesting dismissal or a more definite statement, and its motion is therefore unopposed and should be granted. However, in the event the Court views the motion as a proper response, GoDaddy argues the same still fails to actually rebut GoDaddy's arguments for dismissal or, in the alternative, for a more definite statement. GoDaddy notes Plaintiff cites 74 O.Jur. Pleadings §42 for the proposition that the Ohio Rules of Civil Procedure do not require her to plead a specific legal theory of recovery or to be bound by any specific legal theory of recovery. While GoDaddy acknowledges this general proposition is correct, it nonetheless argues the same does not address the grounds for dismissal under Civ.R. 12(B)(6) or for a more definite statement pursuant to Civ.R. 8(A). GoDaddy maintains "[t]he fact that Plaintiff is not required to plead a theory of recovery or be tied to a particular theory of the claim does not excuse her failure to plead a short and plain statement of her claims allegedly entitling her to relief against Go Daddy." (GoDaddy Memo. in Opp., at unnumbered page 2.)

Civ.R. 12(E) provides that, "[i]f a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within fourteen days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just."

Ohio generally follows "notice pleading," rather than fact pleading. *Bridge v. Park National Bank*, Franklin App. No. 03AP-380, 2003-Ohio-6932, at ¶5, citing *In re Election Contest of Democratic Primary Held May 4, 1999 for Clerk, Youngstown Municipal Court* (1999), 87 Ohio St.3d 118, 120, 717 N.E.2d 701; *State ex rel. Williams Ford Sales, Inc. v. Connor* (1995), 72 Ohio St.3d 111, 113, 647 N.E.2d 804. Indeed, Civ.R. 8(A) only requires that a compliant contain "(1) a short and plain statement of the claim showing that the party is entitled to relief, and (2) a demand for judgment for the relief to which the party claims to be entitled." Accordingly, a complaint "need not state with precision all elements that give rise to a legal basis for recovery as long as fair notice of the nature of the action is provided." Id., citing *Fancher v. Fancher* (1982), 8 Ohio App.3d 79, 83, 455 N.E.2d 1344.

Acknowledging that "notice pleading" under Civ.R. 8(A) and 8(E) "requires that a claim concisely set forth only those operative facts sufficient to give 'fair notice of the nature of the action,'" the Tenth District Court of Appeals has noted that, although a plaintiff "is not ordinarily required to allege every fact in her complaint that she intends to prove, as such facts may not be available until after discovery is conducted," the complaint must nonetheless "'contain either direct allegations on every material point necessary to sustain a recovery on any legal theory, even though it may not be on the theory suggested or intended by the pleader, or contain allegations from which an inference fairly may be drawn that evidence on these material points will be introduced at trial.'" *Welch v. Finlay Fine Jewelry Corp.*, Franklin App. No. 01AP-508, 2002 Ohio App. LEXIS 503, at *7-8, citing *DeVore v. Mutual of Omaha* (1972), 32 Ohio App.2d 36, 38, 288 N.E.2d 202; *York v. Ohio State Highway Patrol* (1991), 60 Ohio St.3d 143, 144-145, 573 N.E.2d 1063; *Fancher*, 8 Ohio App.3d at 83; *Killilea v. Sears, Roebuck & Co.* (1985), 27 Ohio App.3d 163, 165, 499 N.E.2d 1291.

Having reviewed Plaintiff's Complaint, the Court finds Plaintiff's Complaint does not sufficiently satisfy the requirements in Civ.R. 8(A) and (E). Plaintiff presents the following bullet-point list on the cover page of the Complaint, presumably as her causes of actions contained therein:

- WILLFUL THEFT OF COPYRIGHT
- WILLFUL CONTRIBUTORY – SLANDER OF TITLE & PROPERTY
- WILLFUL CONTRIBUTORY – LIBEL, DEFAMATION, SLANDER, FALSE LIGHT – WORLDWIDE – TO INDUCE EMOTIONAL & MENTAL – AGGITATION [SIC] & ANGUISH – IN AN AUTHOR (WHOSE WORK IS THE MIND)
- WILLFUL CONTRIBUTORY – ASSAULT (TOUCHING OF THE MIND)
- WILLFUL CONTRIBUTORY – FALSE IMPRISONMENT (RESTRICT OWN MOVEMENTS)
- WILLFUL CONTRIBUTORY – INJURY TO REDUCE & REMOVE: ETHICAL REPUTATION, REPUTATIONAL CAPITAL, LOSS OF STANDING IN WORLDWIDE COMMUNITY;[]LOSS OF DIRECT, INDIRECT, COPYRIGHT INCOME (INCLUDING 70 YEARS AFTER DEATH) – OF AN AUTHOR
- WILLFUL CONTRIBUTORY – LIBEL, DEFAMATION, SLANDER, FALSE LIGHT – WORLDWIDE – RESULTING IN LOSS OF GOOD REPUTATION – AFFECTING MARITAL & DEPENDENT STATUS (INCL. HEIRS TO COPYRIGHT)

Plaintiff then begins her Complaint, titled a Petition, with a discourse on new torts. She then informs the Court that she is a philosopher, a researcher and a poet, who has authored, among other things, two books. She also allegedly burned a third book she had written, in frustration over what appears to be the loss of the domain name of Aypress.com. Plaintiff alleges GoDaddy registers and maintains domain names, ICANN approves, accredits and oversees domain name registrations, and Defendant Ibrahim Kazanci ("Kazanci") is listed as the current registrant and contact for the allegedly stolen copyrighted word "aypress." What follows, however, is a rambling and disjointed summary of the allegedly unauthorized and malicious use of Plaintiff's copyrighted word and the

resulting harm therefrom, along with allegations of telecommunications breaches involving five of Plaintiff's cell phones and two of her land lines. However, it is difficult to discern much about the copyrighting of the word "aypress," or the alleged unauthorized registering or using of the word "aypress," which appears to have been converted to "Aypress" and then to "Ay Press" at some point in time. It is equally difficult to discern how the telecommunication breaches were carried out or even who is allegedly responsible for the same.

Despite the rambling and disjointed nature of the pleading, the Court is able to glean the following from it:

Plaintiff maintains she hired a third party, BookMasters, Inc., to register her business name "aypress" for online use, but she subsequently terminated her contract with BookMasters and herself maintained her business's website. She was then notified that the domain name "aypress.com" was set to expire, but she maintains "[c]opyright notice – to said coined word – existed prior to registration of said domain – and to expiration." (Complaint, at page 3.) While Plaintiff was apparently learning HTML, a third party registered the copyrighted word as "Aypress.com." Plaintiff alleges "aypress" would not have existed " – on the Internet – or domain registration – if the Plaintiff – had not coined it." (Id.) Plaintiff further states that "[a]ttaching a suffix to a copyrighted word – does not give one rights to the word" and "[d]omain name suffixes, such as .com, .net, .biz, etc. – affect the copyright ownership – and distort the public trust." (Id.) Plaintiff alleges GoDaddy and ICANN aided and abetted in the theft of her copyrighted word. (Id.) Plaintiff maintains this 'hostile takeover – has presented Plaintiff in a defamatory, false light – to the world – to those who have encountered her books – and know the Plaintiff as the business owner, Aypress, and first original creator of domain, aypress.com." (Id., at 1.) However, Plaintiff also

alleges that "Godaddy.com & ICANN – maliciously allowed used [sic] of this word – after a third contracted party did not renew it – on instruction of the Plaintiff." (Id., at page 5.)

Plaintiff alleges she then created the domain name AnnYeager.com, but that said website "has shown fraudulent, malicious, unauthorized, criminal use" and that "Canada references appear in 2006 criminal email – associated with domain email for AnnYeager.com." (Id.) This new website was allegedly black-listed in 2010. (Id.) Plaintiff also alleges she experienced severe telecommunications breaches since 2004, in five cell phones and two land lines, all registered with the same residential location, and those breaches are allegedly "all associated with the original creation and marketing of Aypress.com." (Id., at 6.) Plaintiff then lists a myriad of ways in which she was damaged by the foregoing, including depression, loss of reputation, loss of further work, loss of her third book that she burned, loss of heirs and marital status, and loss of potentially holding public office.

The Court finds Plaintiff's rambling and disjointed allegations fail to provide sufficient notice to the defendants herein of the alleged conduct constituting the elements of the claims asserted against them, or even a simple and clear statement of the claims that are actually being asserted against them. Although the Tenth Appellate District has found a plaintiff's claim for relief "need not state all the elements of the claim, *** there must be enough stated so that the person sued has adequate notice of the nature of the action." *Karras v. Rogers*, Franklin App. No. 08 AP-221, 2008-Ohio-5760, at ¶10. See, also, *Phelps v. Office of the AG*, Franklin App. No. 06AP-751, 2007-Ohio-14, at ¶7. Furthermore, as numerous Ohio courts have acknowledged, a litigant's *pro se* status does not excuse him/her from complying with the pleading requirements of the Ohio Rules of Civil Procedure, and it is not the court's or the opposing party's responsibility to search a *pro se* complaint to find a cause of action or to correct pleading deficiencies therein. See, *Phelps*,

2007-Ohio-14, at ¶8; *State ex rel. Fuller v. Mengel*, 100 Ohio St.3d 352, 2003-Ohio-6448, 800 N.E.2d 25, at ¶10, quoting *Sabouri v. Ohio Dept of Job & Family Services* (2001), 145 Ohio App.3d 651, 654, 763 N.E.2d 1238. As the Eleventh Appellate District noted in *McGrath v. Management & Training Corp.* (Dec. 14, 2001), 2001 Ohio App. LEXIS 5643,

> A court should make a reasonable attempt to read the pleadings to state a valid claim on which the plaintiff could prevail, despite the plaintiff's failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with the pleading requirements. See *Hall v. Bellmon* (10th Cir. 1991), 935 F.2d 1106, 1110. This standard does not mean, however, that *pro se* plaintiffs are entitled to take every case to trial. See *Pilgrim v. Littlefield* (6th Cir. 1996), 92 F.3d 413, 416. Indeed, courts should not assume the role of advocate for the *pro se* litigant.

McGrath, 2001 Ohio App. LEXIS 5643, at *5-6, quoting *Ashiegbu v. Purviance* (S.D. Ohio 1998), 74 F. Supp.2d 740, 746.

In light of the foregoing, the Court hereby **GRANTS IN PART** GoDaddy's May 3, 2011 Motion to Dismiss or, in the Alternative, For a More Definite Statement of the Complaint. Plaintiff **shall have fourteen days from the date of this Decision and Entry to provide a more definite statement** of her claims in accordance with Civ.R. 8(A) and (E) and Civ.R. 12(E). Failure to do so will result in the dismissal of Plaintiff's Complaint, without prejudice.

The Court further finds it appropriate, under the circumstances, to hold in abeyance ICANN's May 13, 2011 Motion to Dismiss and to stay discovery in this matter pending Plaintiff's compliance with this order.

IT IS SO ORDERED.

GUY L. REECE, II, JUDGE

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