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UNITED STATES FEDERAL COURT

CENTRAL DISTRICT OF CALIFORNIA

Havensight Capital LLC,	)	Case No.: 2:14-CV-07153
Plaintiff,	)	Plaintiff's Motion to
	)	Vacate Judgment and Ordered
	)	Attorney Fees and Motion
	)	for Second Judicial
Nike Inc, Defendant	)	Reassignment and First Re-
	)	Opening of Case.
Does 1 to 10	)	10:00 a.m.
	)	April, 20, 2015
Defendant	)	Hon. Manuel L. Real

**Plaintiff's Motion to, Vacate, Judgment, and Attorney
Fees, and Judicially Reassign Case, and Re-Open case.**

The Plaintiff moves this Court, to vacate its
granted Motion to Dismiss, and Attorney Fees. We also
move the Court to Reassign, and Re-open this case,
here, for the voluminous amount of illegal, and
improper acts committed by the Defendant, which was
inadvertently not addressed by the Court, and **committed**
before the discovery period. It is proper, here, to

1 move the Court, to reassign, and re-open this case, as
2 a result of the fact that the Court has been prejudiced
3 per se by such illegal, and improper acts. *Rule 60*
4 *FRCP. Federal Rules of Evidence.* Further, it is also
5 proper for the Court to Reassign, and Re-Open this
6 case, as it inadvertently did not adjudicate two of the
7 Plaintiff's Ex Parte applications for Default, and one
8 original Motion for Default, which referenced the
9 Defendant's violations. See Court Order. *Id.* 28 U.S.
10 Section 455. Further, it also inadvertently
11 incorporated Defendant's improper discovery into the
12 Court's Motion to Dismiss, before the discovery period
13 occurred. *Id.*

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20 **A Motion to Dismiss standard is based, on**
21 **adjudication before the discovery period, and not**
22 **taking any discovered facts into consideration.**

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24 *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699
25 (9th Cir.1988). The Court, here, explicitly, and
26 inadvertently, references the Defendant's illegal
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1 deposition, as the driving force behind, its Motion to
2 Dismiss. *Doc. 124 Court Record. Id. Rule 30 FRCP.*
3 *McArthurs v. Bockman*, (1989) 208 Cal. App. 3d 1076.

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5 The Court's Order notes that the a soccer store
6 customer, **who did not have an attorney present, and was**
7 **not deposed with Plaintiff's counsel's permission,** has
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9 suddenly changed his mind, and now believes that he is
10 not obligated to purchase large quantities of soccer
11 products to obtain service from Nike. *Id.* If it is
12 true that this customer faces no minimums then that
13 would be evidence alone to demonstrate Nike's price
14 fixing, as the Defendant makes no pleading of zero
15 minimums, in his Motion to Dismiss, as such a premise
16 is totally farcical. *See Motion to Dismiss in Court*
17 *Record. State Farm Fire Cas Co. v. Superior Court,*
18 *(1996) 45 CA 4th 1093, 1104.* This is improper, and an
19 inadvertent mistake, likely caused by the 300 page
20 filings of the Defendant, which were filed with the
21 intent to confuse, and draw the Court's attention away
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1 from the Defendant's tortious conduct. See Court
2 Record.

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5 More importantly, a Court is obligated to strike
6 awarded attorney fees, after discovering that an
7 awarded attorney has materially interfered with a
8 Plaintiff's customer by conducting discovery before a
9 case has progressed, into the Discovery period.

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12 *Leasing Corp. v. Geltman*, 406 Mass. 811, 812, 551
13 N.E.2d 20 n. 6 (Mass. 1990). *FRCP Rule 11, Rule 26*
14 *FRCP, Federal Rules of Evidence*. Moreover, an attorney
15 that has allowed an attorney not of record to
16 substantially interfere three times in a case also
17 cannot be awarded attorney fees. *Id. Bortz v Bortz*,
18 675 So. 2d 622 (Fla. 1st DCA 1996). **As a result of**
19 **these violations being brought, to the Court attention,**
20 **in this filing, it legally is bound to strike any**
21 **awarded attorney fees to the offending attorney.** *Id.*
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1 Lastly, we also move the Court to present this
2 motion to a Justice, other than Judge Wright for
3 adjudication, as one of our points of contention is a
4 material attorney not of record interference, and
5 participation, in this case, in an earlier Reassignment
6 hearing that Judge Wright presided over. *18 U.S.*
7 *Section 455. Bortz v.* It is in the interest of
8 Justice for both parties, to allow a Judge that did not
9 preside over the alleged violation, to determine
10 whether this granted Motion to Dismiss should be
11 expediently vacated, even though we have incredible
12 respect for, both, Judge Wright's, and Judge Real's
13 incredible Judicial experience and service. *Id.*
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20 Enclosed, we carefully describe the multitude of
21 improper, and illegal violations, committed by the
22 Defendant. Also, in a separate designated section, we
23 reference a number of the inadvertent errors that
24 occurred in the Judicial process, which are grounds
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1 stand alone for immediate re-opening, and reassignment
2 of the case at hand, upon the discovery of these facts.
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8 /s/ Benjamin Woodhouse esq.
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Table of Points and Authorities

Cases

<i>In Alexander v. City of Greensboro</i> , 762 F. Supp. 2d 764 (2011).	9
<i>Balistreri v. Pacifica Police Dept.</i> , 901 F.2d 696, 699 (9th Cir.1988)	2
<i>Bortz v Bortz</i> , 675 So. 2d 622 (Fla. 1st DCA 1996).	4
<i>Buckaloo v. Johnson</i> , (1975) 14C3d, 815, 830. Cal Penal Code Section 499c.	9
<i>Leasing Corp. v. Geltman</i> , 406 Mass. 811, 812, 551 N.E.2d 20 n. 6 (Mass. 1990).	4
<i>McArthurs v. Bockman</i> , (1989) 208 Cal. App. 3d 1076	3
<i>Pasco v. Quail Hollow</i> , 693 So. 2d 82 (Fla. 2d DCA 1997).	13
<i>State Farm v. Sup. Court</i> , (1996) 45 CA 4th 1093, 1104.	3

Rules

<i>Rule 5 FRCP</i>	
<i>Rule 6 FRCP Amendment 2009</i>	
<i>Rule 11 FRCP</i>	4
<i>Rule 12 FRCP</i>	
<i>Rule 26 FRCP</i>	4, 8, 10, 12
<i>Rule 30 FRCP</i>	3, 9, 10
<i>Rule 55 FRCP</i>	12
<i>Rule 60 FRCP</i>	2, 12
<i>Rule 68 FRCP</i>	9, 13
<i>Federal Rules of Evidence</i>	2

Statutes

<i>18 U.S. Section 455.</i>	2, 5
<i>18 U.S.C. Section 1030.</i>	9
<i>18 U.S.C. 1512.</i>	11
<i>Cal Penal Code Section 499c.</i>	9

1 **I. Illegal and Improper Violations Pleaded by the**
2 **Defendant.**
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5 First, the Defendant, here, decided to commit a
6 number of discovery violations, before the case had
7 progressed to the Discovery phase, and violated a
8 number of Federal laws in the process. *Rule 26 FRCP.*
9 Specifically, the Defendant, here,:
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13 took an illegal deposition of Plaintiff's customer,
14 and entered it into the record three times, entered
15 all settlement offers into the public record,
16 illegally appropriated, and entered into the record
17 a confidential customer email, which contained a
18 trade secret, allowed an attorney not of record to
19 interfere materially three times with this case,
20 with two sixty page entries, and an entered
21 settlement offer from his case, along with making
22 his own not of attorney record entry, in case 2:14-
23 cv-07153, and served his answer 52 minutes late on
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1 the 21st day. *Rule 5 FRCP. Rule 6 Amendment 2009*
2 *FRCP. Rule 12 FRCP. Rule 30 FRCP. Rule 68 FRCP. 18*
3 *U.S.C. Section 1030. In Alexander v. City of*
4 *Greensboro, 762 F. Supp. 2d 764 (2011). Pasco*
5 *County v. Quail Hollow Properties Inc., 689 So. 2d*
6 *82 (Fla. 2d DCA 1997). Bortz v. Bortz, 675 So.2d*
7 *622 (Fla 1st DCA 1996). McArthurs v. Bockman, (1989)*
8 *208 Cal. App. 3d 1076. Buckaloo v. Johnson, (1975)*
9 *14C3d, 815, 830. Cal Penal Code Section 499c.*

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15 it is proper, here, to reference case 2:14-cv-07153, as
16 a **multitude of the material attorney not of record**
17 **interferences** are at issue, in this Motion. *Id.*

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19 *Federal Rules of Evidence.* All of the egregious
20 referenced violations can be found, in the filed
21 Document, entitled, *Judicial Notice of Condensed Set of*
22 *Violations in the Court Record.* The Plaintiff filed
23 this document, here, because the Court should not be
24 overly burdened, with wading through all of the pleaded
25 violations, and this document allows the Justice to
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1 find one example of each kind of violation committed,
2 here, by the Defendant.
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5 Moreover, second, all of the illegal, and improper
6 conduct referenced, here, was not evaluated by this
7 Court and equitably adjudicated, in this case. This is
8 because almost all of the violations were raised, in
9 two Ex Parte Default applications, which were, either,
10 scheduled for hearing, after the granted Motion to
11 Dismiss in this case, or were never adjudicated on the
12 Court's own inadvertent mistake.
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17 Furthermore, a Discovery process is also critical,
18 here, to an equitable adjudication, as we do not know,
19 if the appropriated customer email, and trade secret,
20 was, either, stolen during the illegal deposition, or,
21 taken from a Nike private contractor hacking our
22 account. Rule 26 FRCP. Rule 30 FRCP. A discovery
23 process would allow the Court, to probe Nike's illegal
24 and quasi terrorist behavior, and decide how to move
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1 forward accordingly. It is in the interest of Justice
2 for the Court, to strike granted attorney fees, and
3 determine whether Nike's private contractors have
4 "wandered off the range," in participating in this
5 case, along, with Nike's fancy suits. *18 U.S.C.*
6 *Section 512.*
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10 **II. Inadvertent Ajudication Discrepancies, Which**
11 **Warrant Re-opening and Re-assignment.**
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15 The Court, here, should allow the granted Motion to
16 Dismiss be vacated, and the case to be Re-assigned as a
17 direct result of a number of inadvertent Judicial
18 errors. Specifically, first, the Plaintiff's Motion
19 for Default was originally struck with a Notice of
20 Deficiency form, which offered no known deficiency, and
21 simply stated that the Defendant had filed something
22 electronically. *18 U.S. Section 455.* This inadvertent
23 misajudication materially impaired the Plaintiff's
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1 legal position, and ability to negotiate, with the
2 Defendant.
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5 Further, the original Motion for Default Judgment,
6 which contained violations from a late service of
7 answer, was also not addressed by the Court, either,
8 and was to be adjudicated along with the Defendant's
9 filed Motion to Dismiss. *See Court Record. FRCP Rule*
10 *55. FRCP Rule 12. FRCP Rule 6 Amendment 2008.* The
11 Court, here, should recognize that the Defendant tried
12 to confuse it, by filing all emails sent by Plaintiff's
13 attorney and illegally obtained evidence, in a serial
14 fashion, in a sordid attempt to misguide the Court, and
15 over burden its clerks. The late service of the
16 Defendant's answer should have properly adjudicated,
17 and should not have been allowed to be covered up by
18 the Defendant, with his Motion for Sanctions. *Id.*
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26 Second, the Court inadvertently did not adjudicate
27 Document 104, which was an Ex Parte Application for
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1 Default based on the Defendant's violations, stated in
2 section I of this Motion. This Ex Parte Application
3 was unopposed, and there is no reason why it should not
4 have been granted, here, by the Court, before it ruled
5 on the Defendant's Motion to Dismiss. A new Justice
6 should evaluate this Application, under submission, and
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8 then determine the appropriate action for the Court to
9 take.
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12 Third, an Attorney not of record materially
13 interfered, in the initial Resassignment hearing on
14 this case, before Judge Wright, there, the Attorney not
15 of record sat at the Counsel table throughout the
16 proceeding, on this very case. See Court Transcript.

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18 Judge Wright had no legal obligation to stop the
19 attorney not of record from Defaulting his client,
20 both, in case 2:14-cv-07153, and this case at hand,
21 2:14-cv-08985 through his illegal participation. Bortz
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24 v. Pasco v. Quail Hollow Properties, 693 So. 2d 82
25 (Fla. 2d DCA 1997). Rule 68 FRCP. Further, the
26 Attorney Not of Record also answered questions, not
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1 from the Witness box, but from the counsel's table,
2 this is a per se violation of the Judicial process.

3 Id. **This is grounds alone for the Court to Vacate**
4 **Judgment and Default the Defendant, here,** and certainly
5 under the totality of the magnanimous amounts of
6 illegal, and improper violations, committed by the
7 Defendant. *Id.*

11 **III. Conclusion**

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14 In Conclusion, it is in the interest of Justice,
15 here, to Vacate the granted Motion to Dismiss, and
16 awarded attorney fees, and Reassign and Re-open this
17 case, because of the stated Defendant's illegal and
18 improper conduct, and the Court's inadvertent
19 adjudication errors. This conduct includes the
20 Defendant's counsel's conduct and the Attorney not of
21 record's conduct in this case.
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1 Further, attorney fees cannot be granted in a case,
2 where an attorney has committed discovery violations,
3 before the discovery period, and invited an attorney
4 not of record to materially interfere three times. The
5 Court, here, should continue to tenaciously seek
6 Justice, and probe this cacophony of newly brought to
7 light prejudicial acts by the Defendant.
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