

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

DR. JAMES BENNETT,

Plaintiff,

v.

2004-CV-0031

**VIRGIN ISLANDS GOVERNMENT
through VIRGIN ISLANDS BOARD OF
OPTOMETRIC EXAMINERS, DR. PETER
KUMPITCH, and DR. CRAIG
FRIEDENBERG,**

Defendants.

**TO: Lee J. Rohn, Esq.
Raymond James, Esq., AAG
William J. Glore, Esq.**

ORDER

THIS MATTER came before the Court for show cause hearing and hearing upon Plaintiff's Motion For Sanctions Against Defendants Dr. Peter Kumpitch, [sic] and Dr. Craig Friedenberg (Docket No. 90) on October 22, 2007. K. Glenda Cameron, Esq., represented Plaintiff. Raymond James, Esq., appeared on behalf of Defendant Virgin Islands Government. William J. Glore, Esq., appeared on behalf of Defendant Dr. Peter Kumpitch and Defendant Dr. Craig Friedenberg. Defendant Dr. Craig Friedenberg also appeared personally.

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With respect to the Order to Show Cause, Defendant Dr. Craig Friedenbergr appeared and explained that he was not aware that he was being sued individually as well as a member of the board of optometric examiners. Dr. Friedenbergr stated that he now understands the need for personal representation and has retained the law firm of Dudley, Clark and Chan to represent him. Attorney Glore has filed a notice of appearance, and he affirmed at the hearing that he is now counsel for Dr. Friedenbergr. The Court accepts Dr. Friedenbergr's explanation regarding his failure to appear for previous court hearings and conferences. Thus, the Court will decline to hold Dr. Friedenbergr in contempt.

Plaintiff alleges that all Defendants have completely failed to comply with the Court's Orders entered February 6 and 7, 2007, and September 19, 2007 (Docket No. 76, 77, and 111), ordering Defendants to respond to Plaintiff's discovery requests. All Defendants admitted that they have failed to submit the discovery as required. Because the Court finds that Defendant Dr. Craig Friedenbergr's failure, in part, resulted from his misunderstanding regarding his need for individual representation, the Court will deny Plaintiff's request for sanctions against Dr. Friedenbergr. However, the Court will grant Plaintiff's request for costs and attorney's fees against Defendants Virgin Islands Government and Defendant Dr. Peter Kumpitch.

Accordingly, it is now hereby **ORDERED**:

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1. Plaintiff's Motion For Sanctions Against Defendants Dr. Peter Kumpitch, [sic] and Dr. Craig Friedenbergl (Docket No. 90) is **GRANTED IN PART AND DENIED IN PART**.
2. Within twenty (20) days from the date of entry of this order, specifically, on or before November 13, 2007, Defendant Virgin Islands Government, Defendant Dr. Peter Kumpitch, and Defendant Dr. Craig Friedenbergl shall serve upon counsel for Plaintiff responses to Plaintiff's Interrogatories and Demand For Production of Documents, as previously ordered. Failure to comply shall result in further sanctions.
3. Defendant Virgin Islands Government and Defendant Dr. Peter Kumpitch shall pay to counsel for Plaintiff, upon the Court's approval thereof, Plaintiff's costs and attorney's fees resulting from and associated with the filing of the motions to show cause, including court appearances.
4. Counsel for Plaintiff shall submit, within ten (10) days from the date of this order, a declaration or other affirmation of Plaintiff's costs and attorney's fees resulting from and associated with the filing of Plaintiff's motions to show cause, including court appearances.

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5. The Court declines to find Defendant Dr. Craig Friedenbergs in contempt of Court.

ENTER:

Dated: October 22, 2007

_____/s/
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE