

Exhibit

21

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MAID OF THE MIST	:	
CORPORATION, et al.,	:	
Plaintiffs,	:	
	:	CIVIL ACTION NO.
v.	:	1:09-CV-1543-WSD
	:	
ALCATRAZ MEDIA, LLC, et al.,	:	
Defendants.	:	

OPINION AND ORDER

This matter is before the Court for resolution of a large number of motions [60, 64, 65, 78, 80, 95-1] and specific requests for approval to file additional motions [85, 86, 87, 88, 89, 90, 92, 93, 94, 97] filed by *pro se* defendant William M. Windsor. This matter is also before the Court for resolution of a motion [96-1] filed by Windsor's wife, who is also *pro se*. For the reasons set forth below, those motions and specific requests for approval – with one exception [97] – will be denied.

Windsor and his co-defendants were the losing parties in *Maid of the Mist Corp. v. Alcatraz Media, LLC*, 1:06-CV-714-ODE (N.D. Ga. filed Mar. 28, 2006) (“*Maid of the Mist I*”). Because they were found to be “stubbornly litigious,” Windsor and his co-defendants were ordered by United States District Judge Orinda D. Evans to pay the plaintiffs’ attorneys’ fees [*Maid of*

the Mist I 251 at 43]. The United States Court of Appeals for the Eleventh Circuit affirmed Judge Evans' finding that Windsor and his co-defendants had been "stubbornly litigious." See *Maid of the Mist Corp. v. Alcatraz Media, LLC*, 294 F. App'x 463, *passim* (11th Cir. 2008). On remand to determine the amount of those attorneys' fees, all parties, including Windsor, negotiated and signed a Consent Final Order and Judgment fixing the attorneys' fees award at \$395,000 [*Maid of the Mist I* 354]. The Consent Final Order and Judgment that Windsor voluntarily signed in November 2008 further provided that: "The case is hereby closed all issues having been decided. . . . No appeals shall be taken from this Judgment, and the parties waive all rights to appeal" [*Id.* at 4].

In early 2009, Windsor – but none of the other defendants – launched a post-judgment collateral attack on the Consent Final Order and Judgment that he had voluntarily signed less than six months earlier. Among other things, Windsor sought to take Judge Evans' deposition. This case originated when Judge Evans moved to quash Windsor's deposition subpoena [1]. This Court stayed proceedings [4] and, after full briefing, quashed the deposition subpoena [32]. Windsor then moved for reconsideration [34] and change of venue [36], which this Court denied [42].

Windsor appealed [44]. The Eleventh Circuit “*sua sponte* DISMISS[ED] [Windsor’s] appeal AS FRIVOLOUS AS BRIEFED” [52 at 2 (emphasis in original)]. “After review of the matters pending, [the Eleventh Circuit] readily conclude[d] that [Windsor’s] conduct . . . met the requirements for imposition of Rule 38 sanctions” and directed the plaintiffs to file a statement of costs and expenses [52 at 4]. A few months later, the Eleventh Circuit granted plaintiffs’ “application for Rule 38 sanctions in the form of attorneys’ fees and single costs in the amount of \$37,333.67” [54 at 2]. “As a final matter, [the Eleventh Circuit] DIRECT[ED] [its] Clerk to accept no further filings from [Windsor] in this closed appeal” [54 at 3 (emphasis in original)].

The Eleventh Circuit’s judgment in the amount of \$37,333.67 was signed by a deputy clerk and entered on this Court’s docket on May 7, 2010. After Windsor failed to pay or appeal further, the Clerk of this Court issued a Writ of Execution on June 16, 2010.

The following day, the plaintiffs served post-judgment interrogatories and a request for production of documents on Windsor [55]. Windsor responded by filing a “Notice of Appeal to the United States Supreme Court” [58]. Windsor also filed an Emergency Motion for Protective Order and to

Quash Interrogatories and Request for Production of Documents [60], a Motion to Expunge Writ of Execution and Motion for Stay [64], and a Motion for Recusal [65]. The plaintiffs responded [75, 76 & 77]. Windsor then filed an Emergency Motion for Extension of Time and Stay [78], and a Second Emergency Motion for Extension of Time and for Stay [80]. The plaintiffs again responded [82].

When the plaintiffs, still seeking to collect on the judgment against Windsor, expanded the post-judgment discovery they sought by serving subpoenas on, among others, Windsor's wife and Windsor's son [83], Windsor's dispatched a courier to this Court, prompting the entry of an Oral Order providing as follows:

Mr. Windsor's courier appeared today [September 23, 2010] in the Clerk's Office to file several pleadings, including motions, in the above-styled action. This action was closed and judgment was entered on June 30, 2009. Based on the history and current disposition of this case and [Windsor's] previous request to stay all action in his cases because of issues with his eye, the Court directed the Clerk's Office not to accept the pleadings for filing in their present form. The Court instead ordered Mr. Windsor to first request permission to file the pleadings in this closed case and further ordered that any request for permission to file in this case be limited to five pages or less in length. The purpose of this 'request' procedure is so the Court can evaluate if the

pleadings are appropriate to be filed in this closed case and, if so, the proper form in which the pleadings should be submitted, if allowed.

[Docket Entry of September 24, 2010].

Windsor then submitted a Request for Specific Approval to File William M. Windsor's Emergency Motion for Production of Documents For In Camera Inspection by this Court [85], a Request for Specific Approval to File Notice of Filing of William M. Windsor's Motion for Stay with the United States Supreme Court [86], a Request for Specific Approval to Obtain Subpoenas [87], a Request for Specific Approval to File William M. Windsor's Emergency Motion for Sanctions [88], and a Request for Specific Approval to File Motion to Expunge the Writ of Execution [89; *see also* 90 (duplicate)]. Windsor later submitted a Notice of Filing of Request for Specific Approval to File Motion for Stay[92], a Notice of Filing of Request for Specific Approval to File William M. Windsor's Emergency Motion for Conference [93], a Notice of Filing of Request for Specific Approval to File Motion to Compel Production of Documents for In Camera Inspection [94], and (without seeking or receiving specific approval to file) a Motion to Expunge Writ of Execution and Motion for Stay [95-1]. Windsor's wife (also without seeking or receiving specific

approval to file) filed Non-Party Barbara G. Windsor's Motion for Protective Order and Motion to Quash Subpoena [96-1].

Windsor correctly notes that "[i]f a judgment is a lien on the judgment debtor's property under the law of the state where the court is located, the judgment debtor is entitled to the same stay of execution the state court would give." Fed. R. Civ. P. 62(f); *see also* 28 U.S.C. § 1962. And Windsor correctly notes that Georgia law provides that "[i]n civil cases, the notice of appeal . . . shall serve as supersedeas upon payment of all costs in the trial court." O.C.G.A. § 5-6-46(a).

But the notice of appeal on which Windsor says he principally relies is his September 15, 2009 notice of appeal in the Eleventh Circuit [*see, e.g.*, 64 at 3]. As the Eleventh Circuit has already made quite clear, Windsor *lost* that appeal in February 2010 [52]. Indeed, the Eleventh Circuit imposed Rule 38 sanctions on Windsor *because* that appeal was frivolous. The amount of those sanctions was finally determined in April 2010 [54]. At that point, Windsor's appeal to the Eleventh Circuit was concluded and the stay pending appeal ended.

Windsor seems not to grasp that the judgment of the Eleventh Circuit imposing Rule 38 sanctions in the amount of \$37,333.67 on him for filing a frivolous appeal is not automatically stayed while he pursues relief in the United States Supreme Court. Federal law provides that to the extent that a specific federal statute applies, that statute rather than state law governs “[t]he procedure on execution – and in proceedings supplementary to and in aid of judgment or execution.” Fed. R. Civ. P. 69(a)(1). There is no automatic stay while a party seeks review in the Supreme Court; a stay must be affirmatively granted. *See* 28 U.S.C. § 2101(f) (“In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution of and enforcement of such judgment *may* be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court.”) (emphasis added). In this case, neither the Eleventh Circuit nor the Supreme Court has issued any such stay, or, if either has, Windsor has not brought that stay to this Court’s attention.

At this point, there is no stay preventing the plaintiffs from collecting the \$37,333.67 Rule 38 sanctions judgment entered against Windsor. As is readily apparent from the docket, Windsor has sought to impede and complicate the

collection of that judgment by filing (or seeking approval to file) a large number of frivolous motions. It is past time for Windsor to pay the plaintiffs \$37,333.67, plus accrued interest. Windsor is **ORDERED** to do so immediately. In the extremely unlikely event that Windsor persuades the United States Supreme Court to reduce or eliminate the Rule 38 sanctions imposed on him by the Eleventh Circuit, he may seek to recover any overpayment from the plaintiffs.

Windsor's motions [60, 64, 65, 78, 80]¹ and his requests for specific approval to file additional motions [85, 86, 87, 88, 89, 90, 92, 93, 94] are **DENIED** as frivolous.²

The motions that William M. Windsor [95-1] and Barbara G. Windsor [96-1] filed after entry of this Court's oral Order of September 24, 2010

¹ Windsor's motions for recusal and stay in this case repeat arguments that he made in a related case. *See Windsor v. United States*, No. 1:09-CV-2027 (N.D. Ga. filed July 27, 2009) ("*Windsor*"). Windsor's motions for recusal and stay in this case are denied for the reasons set forth in that case as well [*see Windsor* 22, 70, 150, 161].

² In light of the denial of Windsor's motions, Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd.'s Motion for Leave to File Response in Opposition to Defendant William M. Windsor's First Emergency Motion for Extension of Time and Stay Out of Time and Indwelling Memorandum of Law [84] is **DENIED** as moot.

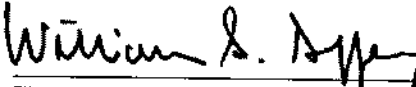
requiring that specific approval to file motions be requested and received from this Court are also **DENIED**; neither Windsor nor his wife sought – let alone received – specific approval before filing those two motions.

Windsor's Request for Specific Approval to File Notice of Filings with the United States Supreme Court [97] is **GRANTED**.

Windsor is advised that if he persists in presenting filings that violate Federal Rule of Civil Procedure 11(b), he risks subjecting himself to additional sanctions.

The Clerk is **DIRECTED**, in the future, to discard any Request for Specific Approval that does not comply with the terms of this Court's September 24, 2010 Order and to discard any other filing for which this Court has not granted specific approval.

SO ORDERED, this 3rd day of November, 2010.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE