No. 14-996

# In The
# Supreme Court of the United States

---

TORINA A. COLLIS,

*Petitioner,*

v.

BANK OF AMERICA, N.A., et al.

*Respondent.*

---

**On Petition For A Writ Of Certiorari To The Court of Special Appeals of Maryland**

---

## PETITIONER'S SUPPLEMENTAL BRIEF

---

TORINA A. COLLIS
Pro Se Petitioner
13240 Star Gazer Place
Waldorf, MD 20601
(240) 508-5492
torina.collis@hotmail.com

## INTRODUCTION

Pursuant to U.S. Supreme Court Rule 15.8, Petitioner respectfully submits this Supplemental Brief to bring to the Court's attention the 1) Plaintiff's Motion in Opposition to Defendants Bank of America, N.A.; Melody Vaughn; Lisha Thorne Holloway and Scott Meehan's Motion To Dismiss and For Sanctions, 2) Plaintiff's Memorandum in Support of Opposition to Defendant's Motion to Dismiss and for sanctions and 3) Motion for Leave to Supplement Plaintiffs' Motion in Opposition to Defendant Bank of America, N.A, Melody Vaughn, Lisha Thorne Holloway, Scott Meehan Motion to Dismiss and For Sanctions.

Respectfully submitted,
TORINA A. COLLIS
Pro Se
13240 Star Gazer Place
Waldorf, MD 20601
(240) 508-5492

IN THE CIRCUIT COURT OF MARYLAND
PRINCE GEORGE'S COUNTY

| | | |
|---|---|---|
| TORINA A. COLLIS,<br><br>Plaintiff | ) | Civil Action<br>No. CAL-10-34393 |
| V. | ) | JURY TRIAL<br>DEMANDED |
| BANK OF AMERICA N.A,<br>The Corporation<br>Trust, Inc. (CT)<br>300 E. Lombard St.<br>Baltimore, MD 21201<br>-Resident Agent<br>Defendant | ) | |
| MCGUIRE WOODS, LLP.,<br>John S. Barr-Resident Agent<br>One James Center<br>901 East Cary Street<br>Richmond, VA 23219<br>Defendant | ) | |
| MELODY VAUGHN,<br>1684 Brooksquare Dr.<br>Capitol Heights, Md 20743<br>Defendant | ) | |
| LISHA THORNE HOLLOWAY,<br>301 C. St. N.W.<br>Washington, DC 20001<br>Defendant | ) | |

)
ELENA MARCUSS, )
7 St. Paul St Suite 1000 )
Baltimore, Md 21202 )
Defendants )
)
SCOTT MEEHAN, )
117 Idlewilde Rd. )
Severna Park, Md 21146 )

**PLAINTIFF'S MOTION IN OPPOSITION TO DEFENDANTS BANK OF AMERICA, N.A.; MELODY VAUGHN; LISHA THORNE HOLLOWAY AND SCOTT MEEHAN'S MOTION TO DISMISS AND FOR SANCTIONS**

Torina A. Collis,Plaintiiff, pursuant to Maryland Rule 2-311 (b), hereby submits this Opposition to Defendant's Motion to Dismiss and Motion for Sanctions. Plaintiff timely filed this instant case and has stated claims upon which relief can be granted. In addition, Plaintiff has filed her case in good faith, good grounds and this case is well justified. Plaintiff has abided by all Local, State and Federal rules in her litigation against Defendant Bank. Defendants seek sanctions and an injunction on Plaintiff to prevent her from seeking government redress on her claims and the request is without merit. It is an attempt to suppress Plaintiff after she exposed Defendant's actions on the record in her federal cases.

Plaintiff hereby moves this Court to deny Defendant's Motion to Dismiss and the Motion for Sanctions and Injunctive Relief. In support of this Motion, the Plaintiff states as follows:

1) Plaintiff has filed timely causes of action in her Defamation, Intentional Infliction of Emotional Distress and Civil Conspiracy claims. Although Defendant's made false statements in 2005 and 2006, there has been a continuing violation of fraudulent conduct over the past 8 years. Some of the conduct took years for Plaintiff to discover. Plaintiff was abandoned and had to

conduct a 4 day trial on her own and it was in preparation of and at trial that Plaintiff discovered the wrongful acts committed by Defendants.

2) Defendant misstates the date Plaintiff her complaint. They put "October 28, 2012" and it was October 28, 2010. Plaintiff is relying on the Maryland Discovery Rule and the continuing violation of conduct regarding the statue of limitations.

3) Plaintiff will get in more detail in her claims for intentional infliction of emotional distress in her Memorandum in Support of her Motion.

4) Plaintiff will get in more detail in her claims for civil conspiracy in her Memorandum in Support of her Motion.

5) Plaintiff defamation

6) Plaintiff has filed this case in good faith and well justified. The Defendant's Motion for Sanctions is without merit.

7) Plaintiff did not settle with Defendant Bank of America. Plaintiff should not have an injunction set on her to prevent her from seeking redress from the government due to the fraudulent conduct of Defendants. Plaintiff is fully prepared to show cause why there should be no injunction on her.

WHEREFORE, for the foregoing reasons and the reasons outlined in Plaintiff's Opposition to Defendants Motion to Dismiss and Motion for Sanctions, pursuant to Rule 2-311, Plaintiff Moves this Court to Deny Defendant's Motion to Dismiss and Motion for Sanctions and Injunctive Relief.

Respectfully Submitted,

_____

Torina A. Collis
Pro Se
13240 Star Gazer Place
Waldorf, Md 20601
240-508-5492

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3rd day of February, 2013, a copy of the foregoing was delivered via fax to the following:

Jaime Walker Luse
TYDINGS & ROSENBERG, LLP
100 East Pratt Street
26th Floor
Baltimore, MD 21202
Fax 410-727-5460

Attorney for Defendants
Elena Marcuss and McGuire Woods, LLP

Joshua J. Gayfield
MILES & STOCKBRIDGE P.C.
10 Light Street
Baltimore, Md 21202
Fax 410-727-6464

**IN THE CIRCUIT COURT OF MARYLAND**
**PRINCE GEORGE'S COUNTY**

| | | |
|---|---|---|
| TORINA A. COLLIS, | ) | |
| Plaintiff | ) | Civil Action |
| | ) | No.CAL-10-34393 |
| | ) | |
| V. | ) | JURY TRIAL DEMANDED |
| | ) | |
| BANK OF AMERICA N.A, | ) | |
| The Corporation | ) | |
| Trust, Inc. (CT) | ) | |
| 300 E. Lombard St. | ) | |
| Baltimore, MD 21201 | ) | |
| -Resident Agent | ) | |
| Defendant | ) | |
| | ) | |
| MCGUIRE WOODS, LLP., | ) | |
| John S. Barr | ) | |
| -Resident Agent | ) | |
| One James Center | ) | |
| 901 East Cary Street | ) | |
| Richmond, VA 23219 | ) | |
| Defendant | ) | |
| | ) | |
| MELODY VAUGHN, | ) | |
| 1684 Brooksquare Dr. | ) | |
| Capitol Heights, Md 20743 | ) | |
| Defendant | ) | |
| | ) | |
| LISHA THORNE HOLLOWAY, | ) | |
| 301 C. St. N.W. | ) | |
| Washington, DC 20001 | ) | |
| Defendant | ) | |

ELENA MARCUSS, )
7 St. Paul St Suite 1000 )
Baltimore, Md 21202 )
Defendant )
)
SCOTT MEEHAN, )
117 Idlewilde Rd. )
Severna Park, Md 21146 )
Defendant )

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF OPPOSITION TO DEFENDANT'S MOTION TO DISMISS AND FOR SANCTIONS**

Plaintiff, Torina A. Collis, pursuant to 2-311, hereby submits this Memorandum in support of her Opposition to Defendant's Motion to Dismiss and For Sanctions.

## INTRODUCTION

Plaintiff filed a pro se Complaint in this Court on October 28, 2010 assertingclaims for defamation, intentional infliction of emotional distress, and civil conspiracy. Plaintiff, through her then attorney, filed three separate causes of action against Defendant Bank of America in the U.S. District Court of Maryland in Greenbelt. One case was under the Sarbanes Oxley in which Plaintiff claims she was terminated for reporting Bank of America changing customer's accounts without their knowledge and customers incurring fees of $20.00 a month.

Plaintiff was abandoned by her attorneys numerous times when she refused to settle with the Defendant. Plaintiff chose civil rights over money and her pursuit has continued for 8 years. In addition, Plaintiff was left with no choice but to represent herself at a four day trial in October of 2009. Plaintiff appealed to the Fourth Circuit Court of Appeals on the three separate cases and Petitioned the U.S. Supreme Court twice. Seeking no redress, Plaintiff filed a Motion seeking to vacate a judgment in which the Bank is trying to force Plaintiff to settle against her will. When the Fourth Circuit denied Plaintiff, she later had Defendant's served on this case. Defendant is trying to portray Plaintiff as a vexatious and abusive litigant and nothing can be further from the truth. Plaintiff has rights and she is fighting for them and obeying all Local, State and Federal Laws while doing so.

Plaintiff's claims are not barred as untimely. Defendant claims in their motion that "Moreover, the allegations underlying Plaintiff's claims are nothing more than petty work-related grievances that are

simply not actionable under any theory and that have been fully litigated through three prior cases". Plaintiff's claims in this instant case have not been litigated. Plaintiff did not file a cause of action for Defamation, Intentional Infliction of Emotional Distress, or Civil Conspiracy in the prior three cases.

## THE LEGAL STANDARD GOVERNING MOTIONS TO DISMISS

In deciding the issues raised by Defendants in their Motion to Dismiss, the Court must first briefly examine the purpose and function of the Motion to Dismiss under the Maryland Rules.

Maryland Rule 2-322, titled "Preliminary Motions" provides in section (b) that: "The following defenses may be made by motion to dismiss before the answer, if an answer is required. (2) failure to state a claim upon which relief can be granted." The Rule further provides in subsection (c) that:

> A motion under sections (a) and (b) of this Rule shall be determined before trial, except that a court may defer the determination of the defense of failure to state a claim upon which relief can be granted until trial. In disposing of the motion, the court may dismiss the action or grant such lesser or different relief as may be appropriate. If the court orders dismissal, and amended complaint may be filed only if the court expressly grants leave to amend.

When moving to dismiss, a defendant is asserting that, even if the allegations of the complaint are true, the plaintiff is not entitled to relief as a matter of law. *Lubore v. RPM Assocs.*, 109 Md.App. 312, 674

A.2d 547 (1996). Thus, the question which must be addressed by this court is whether or not Plaintiff, assuming the truth of all relevant and well-pleaded facts, has properly asserted claims in its complaint for which relief can be granted.

**Rule 2-323. Answer**
**(g) Affirmative defenses. Whether proceeding under section (c) or section (d) of this Rule, a party shall set forth by separate defenses: (1) accord and satisfaction, (2) merger of a claim by arbitration into an award, (3) assumption of risk, (4) collateral estoppel as a defense to a claim, (5) contributory negligence, (6) duress, (7) estoppel, (8) fraud, (9) illegality, (10) laches, (11) payment, (12) release, (13) res judicata, (14) statute of frauds, (15) statute of limitations, (16) ultra vires, (17) usury, (18) waiver, (19) privilege, and (20) total or partial charitable immunity.**

In this case, Defendants have not filed an answer and until such time this Court should not permit their argument on statue of limitations. Plaintiff, however, will respond accordingly.

## STATUE OF LIMITATIONS

Md.Code Ann., Courts and Judicial Proceedings Art. ("CJP") § 5–101 provides that "[a] civil action at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced." Slander and libel fall under a different provision, CJP § 5–105, which provides that "[a]n action for assault, libel, or slander shall be filed within one year from the date it accrues."

For purposes of the statute of limitations, when a cause of action accrues in a civil case is determined by application of the "discovery rule." Doe v. Archdiocese of Washington, 114 Md.App. 169, 177, 689 A.2d 634 (1997). The "discovery rule" provides that "the action is deemed to accrue on the date when the plaintiff knew or, with due diligence, reasonably should have known of the wrong." Id. (citing Doe v. Maskell, 342 Md. 684, 690, 679 A.2d 1087 (1996), cert. denied, 519 U.S. 1093, 117 S.Ct. 770, 136 L.Ed.2d 716 (1997)). "Nevertheless, the cause of action does not accrue until all elements are present, including damages, however trivial." Archdiocese of Washington, 114 Md.App. at 177, 689 A.2d 634 (citations omitted).

Under the "discovery rule," which was expanded generally to all civil cases in Poffenberger, 290 Md. at 636–38, 431 A.2d 677, the Court of Appeals held that the statute of limitations is activated by:

[A]ctual knowledge—that is express cognition, or awareness implied from knowledge of circumstances which ought to have put a person of ordinary prudence on inquiry [thus, charging the individual] with notice of all facts which such an investigation would in all probability have disclosed if it had been properly pursued. In other words, a [person] cannot fail to investigate when the propriety of the investigation is naturally suggested by circumstances known to him; and if he neglects to make such inquiry, he will be held guilty of bad faith and must suffer from his neglect.

(Citations omitted). As such, under the "discovery rule," the statute of limitations begins to run when:

> [A] claimant gains knowledge sufficient to put her on inquiry. As of that date, she is charged with knowledge of facts that would have been

> disclosed by a reasonably diligent investigation. The beginning of limitations is not postponed until the end of an additional period deemed reasonable for making the investigation.

Bennett v. Baskin & Sears, 77 Md.App. 56, 67, 549 A.2d 393 (1988) (citation omitted) (In Bennett, 77 Md.App. at 75,77, 549 A.2d 393, we held that because plaintiffs delayed filing an action despite actual knowledge of potential wrongdoing and having been sued for damages for which they considered appellees responsible, the statute of limitations was not tolled). The Court of Appeals has noted, however, that the "discovery rule's" operation is not rigid in certain cases. Archdiocese of Washington, 114 Md.App. at 178, 689 A.2d 634. In general, the determination of when the statute of limitations begins to run is a determination for the court. Id. When there are "questions of fact relating to when the statute of limitations began to run, those questions should be determined, in a jury trial, by the jury and not the trial judge." Bennett, 77 Md.App. at 67, 549 A.2d 393 (citation omitted).

**The Continuing Harm Theory**

Another exception to the accrual of the statute of limitations is the continuing harm theory. In MacBride v. Pishvaian, 402 Md. 572, 584, 937 A.2d 233 (2007), the Court of Appeals explained the continuing harm theory as follows:

> This Court and the Court of Special Appeals have recognized the "continuing harm" or "continuous violation" doctrine, which tolls the statute of limitations in cases where there are continuous violations. Under this theory, violations that are continuing in nature are

> not barred by the statute of limitations merely because one or more of them occurred earlier in time · "[C]laims that are in the nature of a 'continuous tort,' such as nuisance, can extend the period of limitations due to their new occurrences over time [."] Continuing violations that qualify under this theory are continuing unlawful acts, for example, a monthly overcharge of rent, not merely the continuing effects of a single earlier act. [The] " 'continuing tort doctrine' requires that a tortious act—not simply the continuing ill effects of prior tortious acts—fall within the limitation period[."]

(Footnote and citations omitted). Bacon v. Arey No. 2339 (2012)

Plaintiff discovered the letter to PG County when her files were turned over to her in 2009 as she was preparing for trial.

## STANDARD OF REVIEW REGARDING PLEADINGS

Rule 2-302 of the Maryland Rules of Civil Procedure only require that pleadings contain sufficient facts "to show the pleader's entitlement to relief." Md. R. Civ. P. 2-302 (b). Notice is the paramount purpose of the pleadings. Scott v. Jenkins, 345 Md. 21, 28 (Md. 1997). A Plaintiff need only plead sufficient facts so that, among other things, the defendant is put on notice as to the nature of the complaint so that the Defendant may properly answer and defend. Fischer v. Longest, 99 Md. App. 368, 380 (Md. Ct. Spec. App. 1994).

While mere conclusory statements are insufficient to survive a motion to dismiss, Id at 644, a reviewing

court must not weigh each allegation in isolation, but rather, must view the complaint as whole. Cf Id. At 643 RRC Northeast LLC v. BAA Md, Inc 413, Md

Motions to dismiss are granted "sparingly and with caution". See Duckworth v. State Board of Elections, 213 F. Supp. 2d 543, 545 (D. Md 2002).

Defendant goes on to state in their Motion that "Plaintiff has filed three previous lawsuits against the Bank, one of which was settled for a nominal amount, the other two of which were ultimately found to be without merit (one dismissed and the other was denied after trial). Nonetheless, Plaintiff then appealed each of those matters (even the settled case) …."

Defendant is not truthful in their statement that Plaintiff settled. Plaintiff did not settle. There is no signed settlement agreement and the Defendant filed a Motion to enforce an alleged oral settlement agreement after Plaintiff exposed Defendants at a four day trial in 2009. Furthermore, Defendant's alleged agreement, which they also filed under seal, is to remain confidential in a terms. Plaintiff is adamant she did not settle and is seeking justice in that case as well. Defendant is trying to put the words "Nominal Amount" to give the impression Plaintiff settled and the case had no real value. Plaintiff did not settle.

Defendants terminated Plaintiff in February 2005 after 4 ½ years of excellent customer service. Plaintiff was given two write ups on the evening of February 24, 2005, one being back dated. In May of 2005 Plaintiff filed an action under the whistle blowing statue of the Sarbanes Oxley. In response to the U.S. Department of Labor's request for a statement of position, Defendant Bank of America wrote in October 2005 that Plaintiff was terminated after receiving one write up on

February 22, 2005 and another on February 24, 2005, knowing the statement to be false. In February 2006, Defendant Bank of America, in response to the Prince George's County Human Relations request, provided their statement of position regarding Plaintiff's termination. Again they would make a false statement with the assistance of their outside counsel McGuire Woods, LLP and attorney Elena Marcuss.

It was not until 2009, while preparing for trial that Plaintiff discovered documents that some of the false statements were made. In addition, Elena Marcuss would have Defendant Melody Vaughn, Lisha Holloway and Scott Meehan sign under penalties of perjury false statements.

Defendant's admit in their motion "Moreover, the Department of Labor and County Human Relations Commission serve an important public function of investigating employee complaints and regulating employers' behavior. Likewise, the nature of the system itself-that the Plaintiff filed a complaint, that the Bank was given the opportunity to respond, and that an investigation was undertaken-provides the procedural safeguards required for the privilege to attach. Thus, the two statements made in connection with quasi-judicial proceedings before the U.S. Department of Labor and the County Human Relations Commission are subject to an absolute privilege and cannot form the basis of a claim for defamation against any of the Defendants." No law protects giving false statements especially to Federal Investigators. In addition it is well settled law that not all statements made in the course of administrative proceedings receive qualified privilege if the Plaintiff can prove that the statements were made with malice.

Statutory privilege afforded employers in MD. Code Ann. Cts. & Jud. Proc. & 5-423. The court further held that, even where the claim not barred by the statute of limitations, the qualified privilege afforded to employers under Md. Code. Ann., Cts. & Jud. Proc. s. 5-423 would bar the claim. The privilege bars claims against employers for giving good faith references to prospective employers. An employer is "presumed to be acting in good faith unless it is shown by clear and convincing evidence that the employer: 1) acted with actual malice toward the employee or former employee; or 2) intentionally or recklessly disclosed false information about the employee or former employee." Frank v. Home Depot (Maryland U.S.D.C.) (2007)

In the instant case, the Defendants did not act in good faith and that it was with malice.

To establish a cause of action for defamation under Maryland law, a plaintiff must show: (1) the defendant made a defamatory statement regarding the plaintiff to a third person; (2) the statement was false; (3) the defendant was legally at fault in making the statement; and (4) the plaintiff suffered harm. Mazer v. Safeway, Inc., 398 F. Supp. 2d 412, 428 (D. Md. 2005). A "defamatory statement" is one that "tends to expose a person to public scorn, hatred, contempt or ridicule, thereby discouraging others in the community from having a good opinion of, or associating with, that person." Gohart v. Darvish, 767 A.2d 321, 327 (Md. 2001). Legal "fault" in this context refers to either negligence or actual malice. See Shapiro v. Massengill, 661 A.2d 202, 217 (Md. Ct. Spec. App. 1995).

Even where these elements are established, any statement made in a judicial or qualified quasi-judicial

proceeding is protected by an absolute privilege absent a showing of falsity and actual malice. Furthermore, in the context of the employer-employee relationship, statements made to prospective employers or upon request by industry regulatory authorities fall under a qualified privilege if the employer was acting in good faith. Md. Code Ann., Cts. & Jud. Proc. § 5-423(a). In that context, there is a legal presumption that the employer is acting in good faith absent a showing by "clear and convincing evidence" that the employer acted with actual malice or intentionally or recklessly disclosed false information about the employee. Id. § 5-423(b).

Maryland employers may generally disclose information about a former employee's job performance to an inquiring perspective employer. Cts. & Jud. Proc. & 5-423 (a); Happy 40, Inc. v. Miller, 63 Md. App. 24, 35, 491 A.2d 1210, 1216 (1985) ("[W]here the defamatory publication is …in response to an inquiry and not volunteered, the defendant is afforded greater latitude in what he may say about the plaintiff without incurring liability.") To overcome this conditional privilege, a plaintiff must prove by "clear and convincing evidence that the employer" either "acted with actual malice" or "intentionally or recklessly disclosed false information." MD Cts. & Jud. Proc. 5-423 (b).

Lowery v. Smithburg Emer. Med. Serv. 173 Md. App 662, 685, 920 A.2d 546, 559 (2007) ("[M]alice is not established if there is evidence to show that the publisher acted on a reasonable belief that the defamatory material was substantially correct and there was no evidence to impeach the [publisher's] good faith…") (citation and quotation marks omitted).

Defendant's told DOL in 2005 , in order to throw off investigation, the Plaintiff was written up on February 22 and again on February 24, 2005, making it appear Plaintiff was an irate employee and progressive discipline. Lying to Federal Investigators is a crime. Then they go on to state they had to terminate me the following morning.

The DOL dismissed the complaint citing the Defendant's showed by clear and convincing evidence Plaintiff would have been terminated anyway.

Defendant's knew the statement was false. In February 4th, 2008 and March 24th, 2008 in Federal Court Elena Marcuss provided affidavits to Melody Vaughn and Lisha Thorne Holloway and had them sign under penalty of perjury that now Plaintiff stormed out of the meeting when given two write ups the same evening. Defendant Elena Marcuss tried arguing that it was irrelevant that the false statement was made because it was in a different forum. The U.S. District Judge said it didn't matter.

Plaintiff suffered damages as a result by having to file a case in federal court and has since spent over $50,000.00 pursuing her cases due to the misconduct of defendants.

Plaintiff was defamed when Defendants Bank, McGuire Woods, LLP and Elena Marcuss wrote letter to PG County with false statement that Plaintiff thought her white manager would side with her because they were both white and the rest of the managers were black.

Torres v. Nickel--- "We cite Harris v. Jones 281 MD 560, 380, A.2d 611 (1977)

We recognized a tort of Intentional Infliction of Emotional Distress. In that case we set forth 4 elements essential to establish that cause of action

- the conduct must be intentional or reckless
- the conduct must be extreme and outrageous
- there must be a causal connection between the wrongful conduct and the emotional distress
- the emotional distress must be severe I.d at 566, 380 A. 2d, at 614

Hamilton v. Ford Motor Credit Company 66 Md. App 46, 61, 502 A. 2d 1057, 1065, cert denied, 306 Md 118, 507 A. 2d 631 (1986) "[i]n developing the tort of intentional infliction of emotional distress, whatever the relationship between the parties, recovery will be meted out sparingly, its balm reserved for those wounds that are truly severe and incapable of healing themselves."

B.N. v. K.K. 312 M.D. 135, 538A.2d. 1175 (1988) "while the emotional distress must be severe, it need not produce total emotional or physical disablement……..and severity must be measured in light of the outrageousness of the conduct and the other elements of the tort (Citations omitted.) Id at 148, 538 A.2d at 1181-1182 (quoting Reagan v. Rider, 70 Md. App. 503, 513, 521 A.2d, 1246, 1251 (1987)

Conduct in the instant case was intentional and/or reckless. Defendant Scott Meehan testified he informed Defendant Melody Vaughn to go back and issue corrective actions on February 24, 2005. Melody Vaughn testified that she went back to the office on February 24, 2005 and typed the write up dated February 22, 2005 and issued it on February 24, 2005.

Back dating write ups and is extreme and outrageous. Terminating Plaintiff the following morning after 4+ years of excellent customer service based on false write ups is extreme and outrageous. The conduct caused Plaintiff emotional and physical distress which was severe enough that Plaintiff had to seek medical attention immediately following termination and for years after.

Defendants site a case Hrehorovich v. Harbor Hosp. Ctr., Inc., 93 Md. App. 772, 799-800 (1992) (Appellees terminated the employement of someone with whose services they apparently were no longer satisfied. Such an action is an everyday occurrence in our world and rarely 'beyond all possible bounds of decency' and 'utterly intolerable in a civilized community'").

Plaintiff was a top personal banker who had received a commendation letter from CEO Ken Lewis just weeks prior to her abrupt termination. Plaintiff was reporting bank fraud and discrimination, no wonder Defendant would site a case "services they apparently were no longer satisfied". Plaintiff has proof that the fraud continued years after her termination and more than likely occurs today. Defendant's not only obstructed Plaintiff in seeking justice, they have aided and abetted the fraud on citizens nationwide. That is considered 'beyond all possible bounds of decency' and 'utterly intolerable in a civilized community'".

Futhermore, Plaintiff would direct this Court to prior filings where she has put Defendant's on notice that she will seek to start class action to get customer's money back. Defendant's have motive to silence Plaintiff. Plaintiff is threat.

"We test the court's judgment by a review of the applicable law. The tort of intentional infliction of emotional distress was recognized by the Court of Appeals for the first time in Harris v. Jones, 281 Md. 560, 380 A.2d 611 (1977). Citing with approval the case of Womack v. Eldridge, 215 Va. 338, 210 S.E.2d 145 (1974), the Court identified four elements which must coalesce to impose liability:

1. The conduct must be intentional or reckless;

2. The conduct must be extreme and outrageous;

3. There must be a causal connection between the wrongful conduct and the emotional distress;

4. The emotional distress must be severe.

The elements of the tort are set forth in substantially the same language in Restatement (Second) of Torts, ch. 2, sec. 46 (1965), which states:

> Sec. 46 Outrageous Conduct Causing Severe Emotional Distress
>
> (1) One who by extreme and outrageous conduct intentionally and recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.

**CONSPIRACY**

Defendant's acts of defamation and intentional infliction of emotional distress and civil conspiracy are a continuing violation.

Plaintiff reported alleged bank fraud to Scott Meehan November 2004. Meehan was to investigate. Plaintiff informed Mr. Meehan on approximately February 17, 2005 that she would need to go to North Carolina and report in person if harassment and fraud continued. On February 24, 2005, Melody Vaughn reached an agreement with Scott Meehan to issue a back dated write up to Plaintiff. Plaintiff was issued two write ups on the evening of February 24, 2005. The following morning Plaintiff was terminated. Plaintiff filed a whistle blowing case with the U.S. Department of Labor May 2005. Bank of America's in house counsel issued a letter with the Bank's position statement along with the two write ups knowing Plaintiff was not written up on February 22, 2005. Defendant Elena Marcuss did not correct the statement. Mr. Meehan left the bank in April 2005. In January 2008, Defendant Ms. Marcuss would submit affidavits to defeat summary judgment. According to Mr. Meehan's testimony, Ms. Marcuss provided him an affidavit to sign under penalties of perjury that Plaintiff had inappropriate behavior during her employment. Mr. Meehan testified the bank gave him 3 weeks paid vacation in order to come back to the bank in January 2008. February 1, 2008 he would sign the affidavit. Mr. Meehan testified the DOL was provided inaccurate information by the bank surrounding Plaintiff's termination, specifically that Plaintiff was not issued write up on February 22, 2005, but issued two on February 24, 2005. Mr. Meehan testified he thought Plaintiff was trying to go over his head when she informed him she would need to go to North Carolina to corporate. Ms. Marcuss would have Melody Vaughn sign under penalties of perjury that Plaintiff "stormed out of the meeting" when issued two write ups.

## SANCTIONS AND INJUNCTION RELIEF

**Sanctions Maryland Rule 1-341-sanction in bad faith and/or without substantial justification and pursuant to Rule 15-502 (b) enjoin Plaintiff from filing any further actions against Defendants for events relating to Plaintiff's 2005 termination and the subsequent related litigation.**

To support an assessment of costs under Maryland Rule 1-341, the court must make specific findings of 1) bad faith or conduct without substantial justification and 2) conduct that merits the assessment of costs.

Plaintiff's original attorney filed 3 separate cases against Bank of America. Two attorneys withdrew from Plaintiff's case because she refused to settle. The last attorney was terminated by the Judge leaving Plaintiff alone to represent herself at a four day trial. Plaintiff did not settle with the Bank despite their allegations. Plaintiff appealed the dismissal of her Sarbanes Oxley case, retaliation case that went to trial, and the case where by the bank is forcing her to settle against her will. Plaintiff petitioned the U.S. Supreme Court on the Sarbanes Oxley case and the FLSA case whereby they are forcing her to settle.

At trial, Plaintiff was able to expose the bank and their attorney and the lies told to the federal agencies. After the trial, Defendant Elena Marcuss would file a motion to enforce the alleged oral settlement agreement knowing Plaintiff had incriminating evidence. The District Court Judge sat on the motion for nearly 8 months and would eventually enforce the alleged agreement without any evidence either in writing or oral on the record. Plaintiff appealed. Plaintiff then filed a rule 60(b) seeking to vacate the judgment. Plaintiff did not settle and the conspiracy

continues to silence the whistleblower. Thousands of customers are being defrauded and the Defendants attorneys are aiding and abetting the fraud.

Plaintiff has the absolute right to seek to vacate a judgment procured by fraud on the court. Plaintiff has not met the elements to make up the findings to warrant sanctions

- the action is not brought in bad faith quite the opposite brought with good intentions to stand up for rights and put an end to corporate corruption and greed.
- Plaintiff can substantiate why she brought the claims
- New Defendant's added

This claim is not meritless and is not seeking to harass the Defendants. Defendants have obstructed justice, lied to federal investigators, falsified documents, aid and abet fraud. Plaintiff has been seeking justice and has been doing the government's job in bringing those responsible to be held accountable.

Plaintiff did not prosecute this case for more than two years due to the fact she was waiting to see the outcome in the Federal court surrounding the case they are forcing her to settle. Plaintiff had been diligently working and litigating her cases. When the case was exhausted she immediately notified this court to reissue summons. This Court granted the request.

Defendant states "Finally, in early December-on the eve of the second show-cause hearing-Plaintiff finally served the summons." That is not an accurate statement.

**Defendant also seeks "and pursuant to Rule 15-502 (b) enjoin Plaintiff from filing any further actions against Defendants for events relating to Plaintiff's 2005 termination and the subsequent related litigation."**

This Court of Law is not to be used to silence Law abiding Citizens from exercising their lawful rights.

*We, the People of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good Constitution in this State for the sure foundation and more permanent security thereof, declare:*

**Art. 2.** The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.

**Art. 10.** That freedom of speech and debate, or proceedings in the Legislature, ought not to be impeached in any Court of Judicature.

**Art. 19.** That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land.

**Art. 40.** That the liberty of the press ought to be inviolably preserved; that every citizen of the State

ought to be allowed to speak, write and publish his sentiments on all subjects, being responsible for the abuse of that privilege.

Cites Riffin v. Circuit Court for Baltimore County, 190 Md. App. 11 (2010)

These consolidated cases raise the important question of whether due process requires notice and an opportunity to be heard before a court declares a person to be a "frivolous" or "vexatious" litigant, who must seek leave from the administrative judge before filing "any pleadings." "However, we agree with the unanimous holdings of federal and state authorities that due process requires notice to the alleged frivolous or vexatious litigant and an opportunity for him to be heard before the question of whether such an order issuance of a pre-filing order.

Riffin has made numerous attempts to disrupt valid state proceedings by filing civil rights complaints seeking injunctive relief against Baltimore County and by removing proceedings to this Court, forcing Riffin's use of federal state proceedings to a grinding halt. Litigation to stonewall efforts by local authorities to enforce state law is abusive and this Court declines to facilitate those efforts. Federal courts have the power and the obligation to protect further themselves from abusive filing of frivolous and repetitive claims." McMahon v. F.M. Bank–Winchester, 45 F.3d 426 (4th Cir.1994 Baltimore County, Maryland v. James Riffin, Civil Action No. RDB–07–2301 (D.Md. Oct. 4, 2007)

Clarke & Hill, 81 Md.App. 463, 474, 568 A.2d 856 (1990) ("conced[ing] that a trial court has inherent power to impose sanctions for continuing an action vexatiously, wantonly, or for oppressive reasons").

This case is totally inapposite of Plaintiff, Torina Collis'filings with the Courts. Plaintiff has legitimate causes of action and Defendant's seek to silence her by filing for Sanctions and an Injunction. Plaintiff fights for not only her rights but rights of people around the nation. Plaintiff has justifiable cause to file her causes of actions.

"In this regard, it may be helpful for the court to examine the following five factors identified by the Second Circuit in Safir v. U.S. Lines, Inc., 792 F.2d 19, 24 (2d Cir.1986):

> the litigant's (1) history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties."

§ 4-313. Failure of plaintiff to fulfill obligations

(a) In general. -- A court may not grant injunctive relief in a labor dispute:

(1) if the plaintiff has failed to comply with each obligation imposed by law that is involved in the labor dispute; or

(2) except as provided in subsection (b) of this section, if the plaintiff has failed to make every reasonable effort to settle the labor dispute:

(i) by negotiation; or

(ii) with the help of available dispute resolution mechanisms, governmental mediation, or voluntary arbitration.

(b) Exception. -- If irreparable injury is threatened, a court may grant injunctive relief before another tribunal acts to settle the labor dispute.

**CONCLUSION**

Plaintiff, Torina A. Collis, has stated sufficient facts to sustain a claim for which relief can be granted. When the facts, and their inferences, are taken as true and viewed in the light most favorable to the pleader, Plaintiff has stated claims and are entitled to relief. Plaintiff provided sufficient notice to the Defendants of what the claims were such that the Defendant hired an attorney to assist in defending them. In addition, the attorney has hired additional firm to co-counsel. Therefore it is clear Plaintiff has provided sufficient notice to the Defendants.

Therefore, Defendant's Motion to Dismiss should be denied.

1. In the instant case, Plaintiff has filed the following causes of action: Defamation, Intentional Infliction of Emotional Distress and Conspiracy.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3rd day of February, 2013, a copy of the foregoing was delivered via fax to the following:

Jaime Walker Luse
TYDINGS & ROSENBERG, LLP
100 East Pratt Street
26th Floor
Baltimore, MD 21202
Fax 410-727-5460

Attorney for Defendants
Elena Marcuss and McGuire Woods, LLP

Joshua J. Gayfield
MILES & STOCKBRIDGE P.C.
10 Light Street
Baltimore, Md 21202
Fax 410-727-6464

IN THE CIRCUIT COURT OF MARYLAND
PRINCE GEORGE'S COUNTY

| | | |
|---|---|---|
| TORINA A. COLLIS, | ) | |
| Plaintiff | ) | Civil Action No. CAL 10-34393 |
| V. | ) | JURY TRIAL DEMANDED |
| BANK OF AMERICA N.A,ET. AL | ) | |
| Defendants | ) | |

**MOTION FOR LEAVE TO SUPPLEMENT PLAINTIFF'S MOTION IN OPPOSITION TO DEFENDANT'S BANK OF AMERICA, N.A., MELODY VAUGHN, LISHA THORNE HOLLOWAY, SCOTT MEEHAN MOTION TO DISMISS AND FOR SANCTIONS**

Plaintiff , Torina A. Collis, respectfully submits this Supplement to her Motion in Opposition to Defendant's Motion to Dismiss and For Sanctions.

Plaintiff is proceeding pro se and had a couple of motions to reply to. Plaintiff omitted certain law and/or arguments in her opposition and is seeking leave to supplement her motion.

***Conspiracy***

In *Goerke*, 67 Wis. 2d at 105, the supreme court set forth the general statement adhered to in Wisconsin regarding the liability of attorneys to third parties:

While an attorney is not liable to a third person for acts performed in good faith, and mere negligence on the part of an attorney is insufficient to give a right of action to a third party injured thereby, *an attorney is personally liable to a third party who sustains injury in consequence of his wrongful act or improper exercise of authority where the attorney has been guilty of fraud or collusion, or of a malicious or tortious act*. (Emphasis added; citation omitted.)

*Attorney Ability to Conspire With a Client*

¶20. Next, Niebler argues that the trial court properly dismissed Lane's civil conspiracy claim because it legally was impossible for Niebler and the Scarberrys, as attorney and client, to conspire together. We disagree.

¶21. Civil conspiracy requires: "(1) The formation and operation of the conspiracy; (2) the wrongful act or acts done pursuant thereto; and (3) the damage resulting from such act or acts." *Bruner v. Heritage Cos.*, 225 Wis. 2d 728, 736, 593 N.W.2d 814 (Ct. App. 1999) (citation omitted). To form a conspiracy there must be an agreement to violate or disregard the law, and the persons involved must knowingly be members of the conspiracy. *Id*. (citing Wis JI-Civil 2800).

¶22. Niebler relies on our holding in *Ford Motor* to support his argument that it was impossible for him to conspire with the Scarberrys. In *Ford Motor*, we considered whether a corporation and its subsidiary are capable of conspiring. *Ford Motor*, 137 Wis.2d at 426. We held that, as a matter of law, a corporation

and its wholly owned subsidiary are incapable of engaging in a conspiracy. *Id*. at 430.

¶23. Niebler contends that, like Ford Motor and its subsidiary, he and the Scarberrys are a single unit, with a "complete unity of interests and purpose." We disagree. Unlike Ford Motor and its subsidiary, Niebler is a legal entity distinct and separate from Sharp and the Scarberrys. And that status is not altered by the fact that Niebler was the attorney for the Sharp defendants. As such, Niebler and the Scarberrys were capable of engaging in a conspiracy.

*Conclusion*

¶33. We conclude that Niebler may be held liable to Lane, a third party, nonclient, for fraudulent acts committed within an attorney-client relationship. We also conclude that an attorney and the client are capable of engaging in a conspiracy. Finally, we conclude that *Badger Cab* does not preclude Lane from pursuing his claims against Sharp, the Scarberrys and Niebler in this single action. We therefore reverse the trial court's order dismissing without prejudice Lane's claims against Niebler. We remand to the trial court for further proceedings.

**Defamation Privilege**

Dan B. Dobbs, The Law of Torts 413-414 (2000) we explained that the difference absolute privilege & qualified privilege is that "the former provides immunity regardless of the purpose or motive the latter is conditional upon the absence of the malice and is forfeited if it is abused." Di Blasio v. Kolonder, 233 Md. 512, 522, 197 A 2d 245; 250 (1964) citing Carr. V. Watkins, 227 Md. 578, 177 A2d 841 (1962)

Marchesi v. Franshino, 283 Md 131, 387 A.2d 1129 (1987), we explained: The common law conditional

privileges rest upon the notion that a defendant may escape liability for an otherwise actionable defamatory statement, if publiciation of the utterance advances social policies of greater importance than the vindication of a plaintiff's reputational interest……specifically, the common law recognized that a person ought to be shielded against civil liability for defamation where, in good faith, he publishes a statement in furtherance of his own legitimate interests, or those shared in common with the recipient or third parties, or where his declaration would be interest to the public in general. Marchesi, 283 Md at 135-36, 387 A. 2d at 1131 (internal citations omitted)

Similarly, in Maryland, it is well settled "that statements made by counsel and by parties in the course of 'judicial proceedings' are privileged so long as such statements are material and pertinent to the questions involved, irrespective of the motive with which they are made." *Kerpelman v. Bricker*, 329 A.2d 423, 23 Md. App. 628 (1974), *citing DiBlasio v. Koldner*, 233 Md. 512, 197 A.2d 245 (1964); and *Maulsby v. Reifsnider*, 69 Md. 143, 14 A. 505 (1888). However, "for the privilege to apply, the statement must be made to further a purpose falling within the public interest underlying the privilege, i.e. the unfettered disclosure of information needed for a judicial or quasi-judicial decision-making process.

The requirement that there be adequate procedural safeguards to protect the interests of the individual who may be defamed comes into play largely as part of the determination of whether the allegedly defamatory statement was made in a judicial or quasi-judicial proceeding." Where there is neither a furtherance of the purpose of the privilege nor adequate procedural safeguards to protect the interests of the person alleging defamation, the absolute privilege does not apply. *Woodruff v. Trepel*, 125 Md. 381, 725 A.2d 612 (1999).

**SANCTIONS**

Sanctions should not be granted when the party seeking it has not acted in good faith "The maxim in equity is, "He who comes to equity must come with clean hands."

Rule 1-341. Bad faith -- Unjustified proceeding

In any civil action, if the court finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification the court may require the offending party or the attorney advising the conduct or both of them to pay to the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorney's fees, incurred by the adverse party in opposing it.

A proceeding is not substantially justified if it lacks any basis in law or fact. Johnson v. Baker, 84 Md.App. 521, 529, 581 A.2d 48 (1990).

Awarding attorney's fees under this rule is an extraordinary remedy, and it should be used sparingly. Inlet Associates, 324 Md. at 277, n.4 (Bell, J. dissenting); Talley v. Talley, 317 Md. 428, 438, 564 A.2d 777 (1989) (rule is extraordinary remedy and should reach only intentional misconduct); Black v. Fox Hills N. Community Ass'n, Inc., 90 Md. App. 75, 84, 599 A.2d 1228, cert. denied, 326 Md. 177, 604 A.2d 444 (1992) (rule should be invoked only for clear, serious abuses of judicial processes). "Rule 1-341 sanctions are judicially guided missiles pointed at those who proceed in the courts without any colorable right to do so." Legal Aid Bureau, Inc. v. Bishop's Garth, 75 Md. App. 214, 224, 540 A.2d 1175, cert. denied, 313 Md. 611 (1988). See also Dixon v. DeLance, 84 Md. App.

441, 451, 579 A.2d 1213 (1990), cert. denied, 321 Md. 501 (1991); Kelley v. Dowell, 81 Md. App. 338, 341, 567 A.2d 521, cert. denied, 319 Md. 303 (1990); Needle v. White, Mindel, Clarke and Hill, 81 Md. App. 463, 470, 568 A.2d 856, cert. denied, 319 Md. 582, 573 A.2d 1338 (1990); Legal Aid Bureau, Inc. v. Farmer, 74 Md. App. 707, 722, 539 A.2d 1173 (1988).

According to the Court of Appeals, substantial justification is "a reasonable basis for believing that a case will generate a factual issue for the fact-finder at trial[,]" or a position that is "'fairly debatable' and 'within the realm of legitimate advocacy.'" Inlet Associates, 324 Md. at 268 (citing Newman v. Reilly, 314 Md. 364, 550 A.2d 959 (1988); and Needle, 81 Md. App. at 476). The Court also looked to the comment in the Maryland Lawyers' Rules of Professional Conduct, Rule 3.1, where an action would be without substantial justification if "'the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for extension, modification or reversal of existing law.'" Id. at 268.

Rule 1-341 is not intended to simply shift litigation expenses based on relative fault. Its purpose is to deter unnecessary and abusive litigation.

The imposition of sanctions requires explicit factual findings supported by the record, as well as the careful exercise of judicial discretion. The deterrent purpose of Rule 1-341 should be reemphasized because, in too many cases, the pleadings that evidence the most bad faith and the least justification are motions requesting costs and attorney's fees. [Emphasis added.] Zdravkovich v. Bell Atlantic-Tricon Leasing Corp., 323 Md. 200, 212, 592 A.2d 498 (1991).

**INJUNCTION**

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

**DISCOVERY RULE**

Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 5-203 (2012)

§ 5-203. Ignorance of cause of action induced by fraud

If the knowledge of a cause of action is kept from a party by the fraud of an adverse party, the cause of action shall be deemed to accrue at the time when the party discovered, or by the exercise of ordinary diligence should have discovered the fraud.

The "discovery rule" has traditionally been applied in civil actions. *Owens-Illinois v. Armstrong*, 326 Md. 107, 121 n. 3, 604 A.2d 47, 54 n.3, cert. denied 506 U.S. 871, 112 S. Ct. 204, 121 L. Ed. 2d 145 (1992). Under Maryland's discovery rule, the three-year statute of limitations period begins to toll when the Plaintiff discovers, or should have discovered, the alleged injury. *Ver Brycke v. Ver Brycke*, 2004 Md. Lexis 44. The discovery rule has regularly been applied in tort cases, but its role in breach of contract cases has been unclear. I

February 4, 2013

Respectfully Submitted,
Torina A. Collis
13240 Star Gazer Place
Waldorf, Md 20601
240-508-5492
Pro Se

## CERTIFICATE OF SERVICE

I, Torina A. Collis, hereby certify that on February 4, 2013 I caused a copy of the above motion to be delivered first class postage prepaid to :

Miles & Stockbridge P.C.
Joshua Gayfield
10 Light Street
Baltimore, Md 21202

Tydings & Rosenberg LLP
100 East Pratt Street
26th Floor
Baltimore, Md 21202
Jaime W. Luse