

Atty Sanctioned 2nd Time Over Bogus Sexual Harassment Suit

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Law360 (August 13, 2018, 7:24 PM EDT) -- An attorney already facing sanctions for leveling false claims of sexual harassment in a client's suit was ordered on Monday to pay another \$20,000 in the same case after an Illinois federal judge said the attorney continued to litigate against someone he knew was not involved.

U.S. District Judge Gary Feinerman ordered Lewis Graeme Spicer and his firm, Levine & Blit PLLC, to cover the legal fees a consultant at an Ohio business incurred when he was named in a sexual harassment suit, saying Spicer continued to pursue the consultant even after evidence revealed he had nothing to do with Spicer's client.

Judge Feinerman took more than three years to issue his opinion on consultant Patrick Maguire's motion for sanctions, saying he hoped that Spicer and Maguire could come to some agreement that wouldn't require the judge's involvement. But no agreement was reached, he said.

In an opinion laced with harsh rebukes for the employment attorney, Judge Feinerman said Spicer's misconduct is "the rule rather than the exception."

"Spicer knew that [his client] had no case against Maguire, but he nonetheless required Maguire to spend the time, effort and money moving for summary judgment; moreover, he required the court to expend its time and effort resolving Maguire's motion when that time and effort could have been devoted instead to some of the 300 or so other cases on its docket, cases with parties and lawyers who actually believe in the positions they were advancing," Judge Feinerman said. "That is beyond inexcusable."

Spicer did not immediately respond to requests for comment on Monday.

Spicer represented Julia Egan, who sued Maguire, small business consulting company HCMM Inc. and company co-owner David Pineda in 2012 over claims that they violated the Fair Labor Standards Act, Title VII, the Illinois Human Rights Act and the Equal Pay Act. In part, Egan claimed she had been subjected to verbal and physical sexual harassment while at the firm, according to court records.

Pineda was dismissed from the suit for lack of personal jurisdiction in 2014, court records show. Judge Feinerman granted Maguire and HCMM summary judgment in 2015.

But over the course of the litigation, it came out that Egan had never intended to accuse her former employers of sexual harassment. In a deposition, Egan said she hadn't written the complaint and hadn't agreed to those claims, according to a filing.

In 2015, Judge Feinerman granted Pineda's motion for sanctions against Spicer related to the false claims of sexual harassment, rejecting Spicer's claim that it was just a proofreading error and ordering the attorney to pay Pineda \$5,000. It was the first sanctions order the judge had ever imposed, according to his opinion.

Spicer appealed, but the Seventh Circuit agreed with Judge Feinerman. In the majority opinion, then-Circuit Judge Richard Posner called Spicer's excuses "pathetic."

"How could it have been a 'simple' error, let alone a proofreading error? Proofreading means carefully reading a text to find and correct typographical, grammatical, stylistic and spelling errors," Judge Posner said. "The paragraph was clearly written; a perfect proofread would not have discovered that the paragraph was asserting a falsehood."

In the meantime, Maguire had also filed a motion for sanctions, saying he had nothing to do with Egan's employment and should not have been named in the suit.

As the parties fought over summary judgment, Spicer admitted that Maguire did not qualify as Egan's employer under the FLSA, according to Monday's ruling. In granting summary judgment, Judge Feinerman said the case had established that Maguire had founded HCMM's predecessor and sold it before Egan was ever hired. When she worked there, Maguire was a consultant for HCMM but only to maintain his health benefits, the judge said.

Maguire's attorneys sent letters to Spicer explaining that, but he didn't withdraw the claims, saying one of Egan's co-workers had said Maguire was still in a management role at the company. But in a 2014 deposition, that co-worker said she had no idea what Maguire was doing with HCMM, according to the judge.

Still, Spicer did not withdraw his claims against Maguire. Maguire had to move for summary judgment to escape the case.

At the hearing on Maguire's sanctions motion, Spicer "all but admitted" he was keeping Maguire in the case only to extract a settlement from him, the judge said.

Judge Feinerman awarded Maguire \$20,049 to cover his legal expenses accrued after Egan's co-worker's deposition. The money is due by Sept. 4, according to the ruling.

Spicer and his firm should consider themselves fortunate that they weren't ordered to pay the court a penalty or faced with additional, nonmonetary punishments, the judge said.

In a statement on Monday, Maguire said he is very happy with Judge Feinerman's ruling, which he views as a victory for both himself and his new business.

"I felt that as the leader of a management consulting firm, I had no choice but to take a stand against this baseless suit," Maguire said.

Maguire is represented by David Allen of Ruberry Stalmack & Garvey LLC.

Spicer is representing himself.

The case is Egan et al. v. Huntington Copper et al., case number 1:12-cv-09034, in the U.S. District Court for the Northern District of Illinois.