

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
Tampa Division

Case Number: 8:09-cv-2120-T-23AEP CIV-MERRYDAY/PORCELLI

DEBORAH R. DOLEN, Et. Al.,

Plaintiff,

vs

JULIE RYALS, JOANNE KIDD, Et. Al.,

Defendant(s).

2010 OCT 19 AM 10:49  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

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**PLAINTIFF'S OPPOSED MOTION FOR LEAVE OF COURT TO FILE THIRD AMENDED COMPLAINT & LEAVE TO ADD DEFENDANTS BACK IN**

COMES NOW, Deborah R. Dolen, Pro Per, and does request this Honorable Court will allow her leave to file this opposed Third Amended Complaint in the action for any one of three good reasons and as grounds therefore would show;

1. Defendants Joanne Kidd, Mary Harvey and Jeff Kidd have never be formally dismissed from the complaint.
2. Defendants Joanne Kidd and Mary Harvey and Jeff Kidd are actively seeking before this court to stay in this action via counter claims that were never in response to a complaint, were late, as well judicially barred in Houston, yet still sought.<sup>1</sup> Treatment of that issue has to stay separate.
3. This court still has jurisdiction over Joanne Kidd, Jeff Kidd and Mary Harvey and Plaintiff request here to be allowed to add them all back into a Third Amended Complaint.

<sup>1</sup> Although Joanne Kidd's counter-claims previous to the 3<sup>rd</sup> amended complaint will most likely be set aside as res judicata, because of the Steen court, Plaintiff understands new actions may create proper right to counter-claims by Joanne Kidd and cause Plaintiff exposure to any actual "new" claims-Plaintiff has no choice but to run that risk.

4. Joanne Kidd has committed new actionable activity related to the “body” of this entire case-discussed below and will be better described in a third amended complaint if allowed.
5. There are also new parties associated with Julie Ryals and Joanne Kidd that were not known before the Second Amended Complaint was drafted, related to new and old acts against the Plaintiff.
6. Since the Second Amended Complaint Kent Rowald is attempting to conduct a trial in Houston that were only issues that were before this court-in Houston and using only all Defendants herein as his sole “witness list.” Attached “**Exhibit A,**” and will be subject of Motion to Consolidate, but his activity the subject of amendment re on-going conspiracy to harm and defame the Plaintiff and her trade names.
7. Specifically Kent Rowald sued Plaintiff as a third party in this action when he was not being sued-for the sole purpose of helping all Defendants harm Plaintiff and not for one legal cause at all.
8. Since the Second Amended complaint was filed, Defendant Joanne Kidd has created more very public, serious and outrageous actionable activities against the Plaintiff and her common law trade names, where the Plaintiff has no choice but to add in and pursue claims against Joanne Kidd, as it is paramount to the “body” of the entire case.
9. Defendant Joanne Kidd and Defendant Jeff Kidd have been using a computer from Joann’s mothers home and why Mary Harvey was ever sued in the first place. Apparently Home Owners insurance is paying for all Defendants and why they are eager to not settle and stay in this action.
10. Since the second Amended complaint it has become known Joanne Kidd gained control of a Twitter account using the Plaintiffs name, through agents of “Mom Pack” who is part of this action, known as “Julie Ryals” and such twitter account is being used to impersonate the Plaintiff and this account is known as **@MabelWhite** on twitter [www.twitter.com](http://www.twitter.com) which is cyber squatting on the Plaintiffs name.

11. Plaintiff will show at minimum Joanne Kidd secured it through an agent in the state of Arkansas, who is also a “MomPack” member and will also be added to this complaint and served. **Exhibit “B”**
12. “MomPack” has been served in this complaint and answered-AKA Julie Ryals so this court has jurisdiction over “MomPack.”
13. Joanne Kidd is also a Member of “MomPack” and Mompack.com (Julie Ryals) owns [www.bustedscammers.com](http://www.bustedscammers.com) which Julie Owing MomPack has been admitted in answers to this action.
14. Joanne Kidd’s former actionable causes were not over state lines, per se, but the new activity sure is which gives Plaintiff diversity needed to pursue Joanne Kidd, and any other “MomPack” out of state members, and incorporates them into this action and on-going conspiracy to harm Plaintiff and her trade names which is Federal..
15. Joanne Kidd has also recently had business associates of Deborah Dolen (Plaintiff) mailed unsolicited e-mails to “Google Deborah Dolen” and that “she is a fraud” and “not to do business with her.” The person who sent it was and agent of Joanne Kidd and Julie Ryals, a member and agent of [www.MomPack.com](http://www.MomPack.com) known as “Avie Fritz” Arkansas. **Exhibit “C.”**
16. Defendants are knowingly engaging in conduct that interferes with Plaintiff’s business relationships. Defendants and their counsel feel this is a “game” their insurance is paying for and they can trash me until trial without any worry or paying anything.
17. There has never been an order of deficiency in this action and there never has been orders to cure deficiencies in this action.
18. Plaintiff is within the statute of limitations for all claims, even ones she thought had passed on Joanne Kidd have not.
19. **New Actionable Activity regarding Libel:** Defendants Joanne Kidd is now calling Defendant both her trade names an “arsonist” and “insurance fraud person” beyond the last horrid remarks in my attempt to get a protective order, calling Plaintiff a “Lottery Fraud” and “Elder Abuser” on the public internet, all comments are untrue facts and not merely opinions-which Defendant’s purports

are only feelings re being sued in this lawsuit, but Plaintiff firmly contents are related to the on-going conduct Defendants live to engage in - designed to dilute the common law marks of the Plaintiff and stalking of Plaintiff personally, directly impacting Plaintiff and her on-line business-which has been the "body of the case." [See JoanneKidd.com] or better yet just Google Deborah Dolen and she is right under my name with Defendants new and improved trash.

20. **Plaintiff may have to add more counts.** Plaintiff does need to incorporate the new malicious acts in the facts of the complaint to show what levels the Defendants will resort to be malicious and continue to ruin her name and author name in the ongoing conspiracy count that has always been the crux of the complaint.
21. Plaintiff understands this is where she may incur exposure to counter claims of Joanne Kidd and perhaps Ryals, but has zero choice since it is the body of this case.
22. Plaintiff is prepared to suffer that consequence as she can prove her case at trial and that is all that should matter in this decision.
23. No party has conducted discovery yet.<sup>2</sup>
24. Granting this request will not be prejudicial to the Defendants as they took the risk of new and improved libel against Plaintiff as well as in October of 2010 attempting to try facts of this case over in Houston.
25. Kent Rowald, a former third party complainant here, is trying to posture the facts in this case to be heard in his Houston case with sole intent to harm the Plaintiff and not for any legal cause of action at all. Trial there begins October 21, 2010. All Defendants in this action are presently scheduled by Kent Rowald to be his only witnesses in that action.
26. Kent Rowald is a member of MomPack and has clearly perfected many actionable activities out side the scope of his being counsel for Defendants.
27. Beyond MomPack, DIYShoppes.com and The DesignShoppe.com - Kent Rowald IS the primary business and for profit enterprise making money off the activities

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<sup>2</sup> Plaintiff did send 10 Interrogatories to Defendant Ryals via e-mail through her counsel, but they were not printed or supplied with a disk. There is no showing Defendant Ryals intended to even answer them since they were improperly served.

of the Defendants and trade libel on the Plaintiffs common law marks for two years now and why this case has not settled. Kent Rowald is splattered everywhere possible now on MomPack.com and BustedScammers.com to solicit business and comfort MomPack to libel away at me (but pay him) which used my trade names as a draw to their sites.

28. Plaintiff has tried to restrain from adding Defendants counsel in this suit because it is largely unheard of and frowned upon. This is a very unusual case where Kent Rowald ventured several times out of the scope of his capacity as counsel to harm the Plaintiff or profit off the tortuous acts of harming the plaintiff-to such a point he has encouraged Defendants to do so.

29. Prior to Defendants retaining Kent Rowald all libelous mater and web sites were taken down and only brought back up when Kent Rowald stepped in.

30. Plaintiff has over a million subscribers and people who search for her trade name(s) are being drawn to Defendants sites where Kent Rowald is a member and picks up business.

WHEREFORE, Plaintiff prays this honorable court will allow Plaintiff to Amend her complaint a 3<sup>rd</sup> time and allow her 30 days to do so given the complexity of the case and they fact she is pro se. Plaintiff also prays this court can stop Kent Rowald Sua Sponte from trying any facts in this case in Houston on or after October 21, 2010.

#### MEMORANDUM OF LAW

**Federal Rule of Civil Procedure 15** states that a party may amend a pleading once as a matter of course at any time before a responsive pleading is served. Federal Rule of Civil Procedure 15(a) provides that a party may amend its pleadings by leave of court or by written consent of the adverse party. “[L]eave shall be freely given when justice so requires.” In *Foman v. Davis*, 371 U.S. 178 (1962), the court noted that Rule 15(a) declares that leave to amend shall be “freely given” when justice so requires and that “this mandate is to be heeded.” *Id.* at 230. The court noted that a plaintiff ought to be afforded the opportunity to amend a complaint so long as there is no apparent undue delay, bad faith or dilatory motive on the part of the movant, or repeated failure to cure

deficiencies by amendments previously allowed. The amendment will not cause any undue prejudice. Although the District Court has discretion to grant an amendment, “outright refusal to grant the leave without any justifying reason appearing for the denial is not an exercise of discretion.” *Id.*

In *Bryant v. Dupree*, 252 F.3d 1161 (11<sup>th</sup> Cir. 2001), the court noted that a District Court’s discretion to dismiss a complaint without leave to amend is “‘severely restrict[ed]’ by Fed. Rule Civ. P. 15(a), which directs that leave to amend ‘shall be freely given when justice so requires.’” *Id.* At 1163 (*quoting Thomas v. Town of Davie*, 847 F.2d 771, 773 (11<sup>th</sup> Cir. 1988) (citation omitted)). The Eleventh Circuit noted that amending the case previously is no reason for refusing to allow a plaintiff to amend a complaint.

“[U]nless a substantial reason exists to deny leave to amend, the discretion of the district court is not broad enough to permit denial.” *Shipner v. Eastern Airlines, Inc.*, 868 F.2d 401, 406 (11<sup>th</sup> Cir. 1999). The Eleventh Circuit noted the following with respect to Rule 15(a): The decision whether to grant leave to amend is committed to the sound discretion of the trial court. *Best Canvas Products & Supplies, Inc. v. Ploof Truck Lines, Inc.*, 713 F.2d 618 (11<sup>th</sup> Cir. 1993). However, “[d]iscretion’ may be a misleading term, for rule 15(a) severely restricts the judge’s freedom, directing that leave to amend ‘shall be freely given when justice so requires.’” *Dussouy v. Gulf Coast Investment Corp.*, 660 F.2d 594, 597 (5<sup>th</sup> Cir. 1991). This policy of Rule 15(a) in liberally permitting amendments to facilitate determination of claims on the merits circumscribes the exercise of the trial court’s discretion; thus, “[u]nless there is a substantial reason to deny leave to amend, the discretion of the district court is not broad enough to permit denial.” *Id.* at 598.

*Espey v. Wainwright*, 734 F.2d 748, 750 (11<sup>th</sup> Cir. 1994).

“District Courts have only limited discretion to deny a party leave to amend the pleading. Thus, the court is constrained to allow a plaintiff leave to amend unless there are substantial contravailing reasons.” *Grayson v. Kmart Corp.*, 79 F.3d 1096, 1110 (11<sup>th</sup> Cir. 1996) (*citing Espey*, 734 F.2d at 748 and *Dussouy*, 660 F.2d at 594). In determining

whether to grant leave to amend, the court may consider undue delay, bad faith or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party, and the futility of the amendment. *Id.* In the case *sub judice*, there are no reasons to deny Plaintiff's Motion for Leave to Amend the Complaint. No discovery of any merit has begun in this case, and to the contrary Defendants basically refuse to file a Disclosure of Interested Parties and under local rules are not allowed to file any pleadings unless this document has been recorded.

Although the parties are scheduled to meet in person for a Case Management Meeting on or by May 28<sup>th</sup>, 2010 that meeting will simply reveal the Defendants assertion they are not the proper parties although they refuse to say who is. It is the Plaintiffs position they are the proper parties, but their Disclosure, whenever they actually file it, may prove otherwise. The parties have not engaged in any Discovery of merit and therefore amending the Complaint will not require the Defendants to re-file an Answer, will not affect the Case Management Report or the Scheduling Order, and will not affect Discovery as no Discovery has occurred.

Plaintiff has diligently prosecuted this case and there have been no failures to cure any alleged deficiencies. In short, there is no reason to deny Plaintiff's Request for Leave to Amend Plaintiffs Complaint.

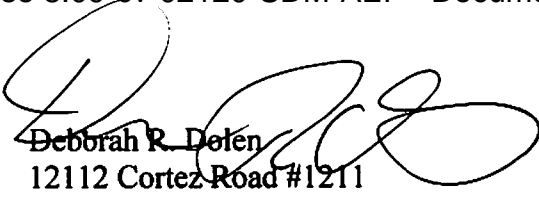
#### **CERTIFICATE OF GOOD FAITH**

In accordance with Local Rule, the undersigned Plaintiff has conferred with opposing counsel via e-mail in a good faith effort to request stipulation for this and has received a response on via e-mail that they would oppose the Motion for a Third Amended Complaint.

**Respectfully submitted,**

**Deborah R. Dolen**


A handwritten signature in black ink, appearing to read 'D. Dolen', written over a horizontal line.



Deborah R. Dolen  
12112 Cortez Road #1211  
Cortez, FL 34215  
[deborahdolen@justice.com](mailto:deborahdolen@justice.com)  
941-447-7985

**Certificate of Service:** I HEREBY CERTIFY that on this 18th day of October, 2010 a true and correct copy of the foregoing Amended Opposed **Motion to for Leave to Amend Complaint** was served via United States Postal Service priority mail upon counsel for the Defendants *Pro Hac Vice* and also via electronic mail to Counsel *Pro Hac Vice* customary e-mail address.

**Deborah R. Dolen**





# **Exhibit A**



testify regarding Ms. Dolen's published comments, the falsity of the allegations published by Ms. Dolen and the threats made by Ms. Dolen associated with this litigation and the related Florida litigation. Depending upon what testimony that Ms. Dolen may offer in her defense, if any, these witnesses may also offer rebuttal testimony regarding such allegations. In the event that Ms. Dolen seeks to raise the history of a related case that was transferred to Florida, these witnesses are anticipated to testify to complete the record regarding that case as well. These witnesses may further offer rebuttal testimony which will be dependent upon what Ms. Dolen offers as a defense, if anything.

Deborah R. Dolen

Ms. Dolen is anticipated to testify regarding the alleged basis for her allegations published on various websites relating to Plaintiff. It is not known what other testimony Ms. Dolen may proffer.

Dated: October 14, 2010

Respectfully submitted,

/s/Kent A. Rowald/s/

Kent Rowald

State Bar No. 17329300

S.D. No. 11365

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**ATTORNEYS FOR THIRD PARTY  
PLAINTIFF, KENT A. ROWALD**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **KENT ROWALD'S TRIAL WITNESS LIST** has been served on Deborah R. Dolan via facsimile, and/or prepaid first class mail, and/or electronic mail and/or in accordance with the Electronic Court filing system guidelines on October 14, 2010.

/s/Kent A. Rowald/s/

Kent A. Rowald





**KENT A. ROWALD**  
**EXHIBIT LIST DATED October 14, 2010**

**ATTORNEY(S):**  
**Kent A. Rowald**

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## **Exhibit B**

Google

mabel white twitter

Search

About 109,000 results (0.24 seconds)

Advanced search

Everything

Videos

More

Show search tools



**Mabel White (MabelWhiteDIY) on Twitter**

How to make your own natural products gurus Mabel White DIY Craft. ☆☆☆ @Deborah Dolen - Editor @MabelWhiteDIY - Publisher @RingoDawg - Chief.  
twitter.com/mabelwhitediy - Cached - Similar

**mabel white (mabelwhite) on Twitter**

Get short, timely messages from mabel white. Twitter is a rich source of ...  
twitter.com/mabelwhite - Cached

**Twitter / Mabel White: @MabelWhite is not me but ...**

MabelWhite is not me but obviously trying to impersonate me and be up in the ...  
twitter.com/MabelWhiteDIY/statuses/26775715396 - Cached

**Twitter / Mabel White: I will be attending Hands ...**

I will be attending Hands Across the Sand | Anna Maria Island | Sand Bar Rest ...  
twitter.com/MabelWhiteDIY/status/17089483161 - Cached

Show more results from twitter.com

**Deborah Dolen | Flying Ringo Home | Mabel White DIY**

... by Deborah R. Dolen in Sarasota, FL, Editor in Chief for the Mabel White DIY Corporation.  
www. ... Ringo Dawg's notes about Twitter February 7th, 2010 ...  
www.deborahdolen.com/Ringo.htm - Cached - Similar

**How To Make Soap Basics Melt And Pour Soap Demo Mabel White Home ...**

Mabel White Home Living produced by author Deborah Dolen. www.mabelwhite.com Join me on Facebook Facebook http MySpace www.myspace.com Twitter twitter.com ...  
wn.com/How\_to\_Make\_Soap\_Basics\_Melt\_and\_Pour\_Soap\_DEMO\_Mabel\_White\_Home\_Living\_produced\_by\_Deborah\_Dolen - Cached

**Making Your Own Lip Balm, Lotion, Bath Bombs, Creme Demo Mabel ...**

Directed and produced by Deborah Dolen for Mabel White Home Living. www ...  
wn.com/Making\_Your\_Own\_Lip\_Balm\_Lotion\_Bath\_Bombs\_Creme\_DEMO\_Mabel\_White\_Home\_Living - Cached

Show more results from wn.com

**10 Years of Mabel White DIY | Best Newsletters, Formulas and ...**

The Best of Mabel White DIY | Also visit us on Facebook, BlogSpot or Twitter for more free recipes and formulas! Editor Deborah R. Dolen.  
www.mabelwhite.net/ - Cached

**YouTube - Making Candles 101 Soy, Sand, Pillar and more! DEMO ...**

Feb 28, 2008 ... Join me on Twitter @DeborahDolen @MabelWhiteDIY DEMO Mabel White Home Living shows you everything you need to know about making Soy ...  
www.youtube.com/watch?v=K9Mc80kRYj8 - Cached - Similar

**Special Report | To Kill a Bed Bugger - Mabel White DIY Center**

Special Report MWHL. Twitter Mabel White DIY · Twitter Ringo DAWG · Flickr Mabel White DIY · YouTube MWHL DIY · Cleaning Green · Supply Company ...  
www.mabelwhite.com/To\_Kill\_a\_Bed\_Bugger.htm - Cached

**Videos for mabel white twitter**



Floral Design 102 in Containers DEMO Mabel ...  
4 min - Feb 29, 2008  
Uploaded by asseenontv4u  
youtube.com



Making Your Own Lip Balm, Lotion, Bath Bombs ...  
4 min - Jul 8, 2007  
Uploaded by asseenontv4u  
youtube.com

1 2 3 4 5 6 7 8 9 10 Next

mabel white twitter

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**EXHIBIT C**

**E-Mail sent to a Business Associate of Plaintiff and who will do a formal declaration upon Third Amended Complaint.**

--- On Fri, 9/17/10, chris\_sen@hushmail.com <chris\_sen@hushmail.com> wrote:

From: chris\_sen@hushmail.com <chris\_sen@hushmail.com>  
Subject: Deborah Dolen on your blog  
To: thewaterfilterlady@yahoo.com  
Date: Friday, September 17, 2010, 3:05 AM

Did you happen to check out Deborah Dolen prior to adding her to your blog? Something looked a little fishy about her "vitamin water" post on your blog like I've seen it before or something so I ran to google up her name. I about choked at what I found. I love your blog because it's always so clean and refreshing to read. What you will find by a google search of Deborah Dolen who also goes by a multitude of names like Mabel White for one is quite disturbing.  
Good luck!  
Chris