

Court of Chancery of Delaware

June C. McNATT

v.

George RICHARDS and Freedom Church of Revelation

CIVIL ACTION No. 6987. | Submitted: March 4, 1983. | Decided: March 28, 1983.

On Plaintiff's Motion to Strike the Answer and Counterclaim of Defendant: granted.

Attorneys and Law Firms

Melvyn A. Woloshin, Woloshin & Tenenbaum, Wilmington.

Rev. John Nichols, Trustee Freedom Church of Revelation, Claymont.

Opinion

HARTNET, Vice-Chancellor.

The plaintiff, June C. McNatt, has moved pursuant to Chancery Court Rule 12(f) to strike defendant-Freedom Church of Revelation's answer and counterclaim in toto on various grounds including irrelevancy, immateriality, insufficiency of defenses and redundancy. The particularized objections to each paragraph of defendant's answer and counterclaim are fully set forth in plaintiff's motion to strike which was filed in this Court on March 4, 1983. Additionally, plaintiff has moved pursuant to Chancery Court Rule 12(c) for a judgment on the pleadings. Defendant responded to plaintiff's motions by filing a document which defendant terms as 'Defendant's Motion to Strike Plaintiff's Motion to Strike'.

Without enumerating the particulars and lengthy detailed objections found in plaintiff's motion to strike, suffice it to say that I agree that defendant's answer falls far short of what is required under the Rules of this Court. Defendant Freedom Church of Revelation's answer is a rambling tirade which asserts various preposterous allegations and claims.

Chancery Court Rule 12(f) states:

'Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these Rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the Court's own initiative at any time, the Court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.'

Furthermore, Chancery Court Rule 8(e) states:

'Pleading to Be Concise and Direct; Consistency.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth 2 or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When 2 or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency. All statements shall be made subject to the obligations set forth in Rule 11.'

I also note that defendant's offer to waive its counterclaim on the condition that plaintiff accept a challenge of trial by combat to death is not a form of relief this Court, or any court in this country, would or could authorize. Dueling is a crime and defendant is therefore cautioned against such further requests for unlawful relief.

In conclusion, plaintiff's motion to strike is granted in full. Defendant-Freedom Church of Revelation is given leave to file a proper responsive pleading within 10 days of the date of this letter.

Defendant-Freedom Church of Revelation is not represented by an attorney. Individual litigants may represent themselves, however if they choose to do so they must comply with the Procedures and Rules of this Court.

I enclose for defendants' information a statement I often send to parties who are not represented by an attorney.

In light of my giving to defendant the opportunity to submit a proper responsive pleading, I hold plaintiff's motion for judgment on the pleadings in abeyance.

IT IS SO ORDERED.