

Honorable David G. Estudillo

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff

v.

JOE DELFGAUW, XANADU
MARKETING INC., STARTER HOME
INVESTING INC, &
JOHN DOE 1-10

Defendant(s).

CASE NO. **3:21-cv-05610-DGE**

RESPONSE TO DKT 458

NOTED FOR 2/27/2025

Introduction

On 11/1/2024, this Court entered Dkt. 416 terminating all of the Defendants' counterclaims in this lawsuit. 76 days later, on January 16, 2025, the same Defendants filed the same claims against Barton in Clark County Superior Court. See Exhibit C of Dkt. 416.

The Defendants have filed Dkt. 458 asking to strike Dkt. 456, and for sanctions. The essence of their motion is that Dkt. 456 wasn't noted as a motion to dismiss (and they didn't reach out to ask that it be renoted), and that this Court does not have jurisdiction over Clark County Superior Court. Both assertions miss the mark, and this Court should use its inherent

1 power to enforce its judgment in Dkt. 416. See Chambers v. Nasco, Inc., 501 U.S. 32, 63
2 (1991):

3 . . . **when express rules and statutes provided by Congress** do not
4 reach the entirety of a litigant's bad faith conduct, including conduct
5 occurring before litigation commenced, a district court may disregard the
6 requirements of otherwise applicable rules and statutes, and instead
7 exercise inherent power to impose sanctions. **The only limitation on
8 this sanctioning authority appears to be a finding at some point of
9 "bad faith,"** Emphasis added.

10 Mr. Delfgaw has previously supplied a great deal of bad faith, but on February 6, 2025,
11 he messaged Mr. Barton his specific plan to use the legal system to harass Mr. Barton:

12 “By the Boat [sic] means that you follow all the laws. If I tell you who to
13 deal with, that’s what you deal with. That’s by the book.

14 While we have a moment, I want to thank you for rejecting the
15 settlement, Donna’s insurance company was willing to pay the money
16 Because of her mess up. But you were rejecting it is exactly what I
17 wanted so thank you. **I also want to thank you for giving me another shot
18 at a countersuit. I will not let Donna or anyone mess this one up.** There’s
19 just too much evidence against you so again thank you.

20 **I want to apologize in advance all of the counter suits and lawsuits that
21 are coming your way.** You might as well get to Manal, you’re gonna get
22 to know **for the next 10 years. I’m contacting every single person that
23 you ever scammed and reopening those cases because of the proof I have
24 against you. And I needed to be able to counter sue you to do this.** I have
25 contacted his eagerly said they are very happy and both Seth at black list
26 alliance and Andrew Wade from Florida going to be in contact as well

27 The private investigator I hired has almost all of the information that I
28 need, again thank you for this, the first Fort lawsuits will be getting
29 served to you in the next 60 days”. Emphasis added.

30 See Mr. Delfgaw’s email to Mr. Barton in Exhibit F. The Defendants have
31 acknowledged that email address joe@cloudbasedcampaigns.com belongs to Mr. Delfgaw. See

32 ¶¶ 7-8 of Dkt. 332 page 3 (pointing to Exhibits C and D for Dkt. 332).

1 **Response to their Arguments**

2 **Dkt. 456 is not in violation of LCR 7(d)**

3 Dkt. 456 says motion to dismiss in the title but it is not a dispositive motion under LCR
4 7(d). The Defendants counterclaims at issue in Dkt. 456 already have been disposed of on
5 summary judgment in Dkt. 416. Dkt. 456 asked the Court to use its inherent power to enforce its
6 judgement in Dkt. 416 by ordering the Defendants to dismiss the identical lawsuit they filed
7 against Barton in Clark County Superior Court on January 16, 2025. See [Austin v. Hanover Ins.](#)
8 [Co.](#), 4:24 CV 824 CDP, 5 (E.D. Mo. Sep. 20, 2024), where a second lawsuit identical to the first
9 was dismissed with prejudice for that party’s “vexatious and frivolous conduct in bringing the
10 lawsuit in willful violation of a court order. [Order of Dismissal]”.

11 **Dkt. 456 does not ask Clark County Superior Court to do anything**

12 Dkt. 456 asked this Court for the following:

13 This state court counterclaim is frivolous, filed in bad faith, and is
14 intended to circumvent this Court’s order in Dkt. 416. *Barton asks the*
15 *Court to order that the Defendants dismiss with prejudice their*
16 *counterclaims in Exhibit C, and that this Court consider this when*
17 *deciding Barton’s motion in Dkt. 419. Empasis added.*

18 **A court is going to have to do something. This Court is best suited.**

19 Mr. Delfgaw said in his February 6, 2025, email to Mr. Barton (Exhibit F) that he
20 intends to use other courts to harass Mr. Barton over these dismissed claims:

21 I also want to thank you for giving me another shot at a countersuit. I
22 will not let Donna or anyone mess this one up.

23 And for an improper purpose:

24 I’m contacting every single person that you ever scammed and reopening
those cases because of the proof I have against you. And I needed to be
able to counter sue you to do this.

1 It will be much more judicially efficient for this Court to order the Defendants to dismiss
2 the counterclaims they brought in Clark County Superior Court, identical to the counterclaims
3 this Court dismissed in Dkt. 416, and further order that the Defendants never file the same
4 counterclaims in another other court, then new judges spend time dealing with Mr. Delfgauw’s
5 vexatious litigation brought in bad faith.

6 **Conclusion**

7 Losing at summary judgment, then refileing the claim in state court *while still under the*
8 *jurisdiction of the federal court that issued the summary judgment* is rare enough that Barton
9 can’t find an identical case. But “Frivolous, vexatious, and repeated filings by pro se litigants
10 interfere with the orderly administration of justice by diverting scarce judicial resources from
11 cases having merit and filed by litigants willing to follow court orders.” [Stephenson v. United](#)
12 [States Dist. Court E. Dist. of Wis.](#), No. 24-CV-140-JPS, 7 (E.D. Wis. Feb. 1, 2024). This Court
13 is in the best position to prevent Mr. Delfgauw from repeatedly litigating his previously
14 adjudicated counterclaim.

15
16 s/ Nathen Barton

17 (signed)

February 10, 2025

(Dated)

18 Nathen Barton
19 (469) 347 2139
20 4618 NW 11th Cir
21 Camas WA 98607
22 FarmersBranch2014@gmail.com

Declaration of Nathen Barton

My name is Nathen Barton and I live at 4618 NW 11th Cir, Camas WA 98607. I am over the age of eighteen, and otherwise competent to be a witness in this matter. Except as expressly set forth herein, I make this declaration in my personal capacity and based on my personal knowledge.

1. Exhibit F is a true and correct of an email I received on February 6, 2025, from email address joe@cloudbasedcampaigns.com.
2. Exhibit F contains older emails between Mr. Delfgauw and myself, and those also are true and accurate copies of the older emails.
3. Opposing Counsel did not ask that Dkt. 456 be renoted.

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct.



Signed by Nathen Barton

February 10, 2025

Date

Signed in Camas Washington
Clark County

I. CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2025, I electronically filed the foregoing with the Clerk of the Court using the Court’s CM/ECF System, which will automatically generate a Notice of Electronic Filing to all parties in the case who are registered users of the CM/ECF System, which includes the Defendant. The said Notice of Electronic Filing specifically identifies recipients of electronic notice.

/s/ Nathen Barton

Nathen Barton

Re: Barton V Delfgauw 5 day Notice of Default Judgement for Education Assistance Inc

From Joe Delfgauw <joe@cloudbasedcampaigns.com>
To N B<bluewind33@protonmail.com>, legal@apello.net<legal@apello.net>
CC Joe<joe@xanadumarketing.com>, thebadnetwork@gmail.com, jdelfgauw@msn.com, bdelfgauw@gmail.com
Date Thursday, February 6th, 2025 at 3:07 PM

By the Boat means that you follow all the laws. If I tell you who to deal with, that's what you deal with. That's by the book.

While we have a moment, I want to thank you for rejecting the settlement, Donna's insurance company was willing to pay the money Because of her mess up. But you were rejecting it is exactly what I wanted so thank you. I also want to thank you for giving me another shot at a countersuit. I will not let Donna or anyone mess this one up. There's just too much evidence against you so again thank you.

I want to apologize in advance all of the counter suits and lawsuits that are coming your way. You might as well get to Manal, you're gonna get to know for the next 10 years. I'm contacting every single person that you ever scammed and reopening those cases because of the proof I have against you. And I needed to be able to counter sue you to do this. I have contacted his eagerly said they are very happy and both Seth at blacklist alliance and Andrew Wade from Florida going to be in contact as well

The private investigator I hired has almost all of the information that I need, again thank you for this, the first Fort lawsuits will be getting served to you in the next 60 days

On Thu, Feb 6, 2025 at 3:01 PM N B <bluewind33@protonmail.com> wrote:

Supposedly you want to go by the book. The book says anyone other than you speaking for you must appear for you in court. I am going to go by the book.

Nathen

Sent with [Proton Mail](#) secure email.

On Thursday, February 6th, 2025 at 2:58 PM, Joe Delfgauw <joe@cloudbasedcampaigns.com> wrote:

Please deal with Manal at legal@apello.net

Apparently needed permission or proof from me. That's OK to deal with her.

But she can direct all of that

On Thu, Feb 6, 2025 at 2:56 PM N B <bluewind33@protonmail.com> wrote:

Hello,

This is going out in the mail today.

Nathen

Sent with [Proton Mail](#) secure email.

On Friday, January 31st, 2025 at 9:58 AM, N B <bluewind33@protonmail.com> wrote:

Dear Mr. Delfgaw,

On December 23, 2024 I mailed you discovery requests via USPS first class mail to the address you were served the summons and complaint – [3405 SW 8th St., Cape Coral FL 33991](#) – with tracking number 9405511206219561645903, and I emailed them to your email addresses joe@xanadumarketing.com and joe@cloudbasedcampaigns.com on the same day.

Today is 1/31/2025, and I have not heard anything back from you regarding the discovery requests. I am requesting to meet with you to discuss the situation so we can work it out without having to bring the matter to court. You can email me at BlueWind33@protonmail.com, or you can call me at (469) 347-2139, and we can go from there. If I don't hear from you by 2/15/2025, I will start drafting and then file a motion to compel.

Thank you,

Nathen Barton

Sent with [Proton Mail](#) secure email.