

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Roy Den Hollander

Plaintiff on behalf of himself and
all others similarly situated,

v.

Copacabana Nightclub, China Club, Guest House,
A.E.R. Nightclub, Lotus, Sol, and Jane Doe
Promoters,

Defendants.
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Docket No. 07 CV 5873 (MGC)
REPLY DECLARATION
OF ROBERT S. GROSSMAN IN
FURTHER SUPPORT OF MOTION
TO DISMISS PURSUANT TO
FED.R.CIV.P. 12(b)(6)

I, Robert S. Grossman, an attorney admitted to practice in the State of New York and the U.S. Southern District Court of New York, affirm under the penalty of perjury pursuant to 28 U.S.C. § 1746 the following:

1. I am of counsel to the firm of Adam B. Kaufman & Associates, P.L.L.C., counsel for the Defendant, Sol, in the above entitled action. I submit this Reply Affirmation in further support of Defendant Sol’s Motion to Dismiss the Complaint for failure of the pleading to state a claim upon which relief can be granted pursuant to Federal Rule 12(b)(6) and joining with Defendant AER Lounge, LLC (“AER”) in its motion to dismiss the Complaint, for an award to Defendant Sol of reasonable legal fees for having to defend itself in this baseless action, and for having to make the instant motion; for an award to Defendant Sol for the costs and disbursements of this application; and for such other and further relief as this Court deems just and proper.
2. Plaintiff served and filed an amended complaint on November 26, 2007 as court document number 46 which I respectfully submit makes the instant motions moot. The Amended Complaint is substantially longer, and more detailed than the complaint, and is accompanied by 4 multi page exhibits.

3. I respectfully submit that the Court should establish a new motion schedule to allow the Defendants an opportunity to seek to dismiss the amended complaint.
4. With regard to the filing of the motions, Plaintiff was on notice of the motions and the basis for the Defendants' request to dismiss the Complaint. The motion filed by Defendant AER Lounge (hereinafter "AER") in substance sets forth the arguments made by each of the other Defendants who filed motions. There certainly was no prejudice to the Plaintiff in receiving any of the subsequent motions as he complains. As well, Plaintiff was offered an extension of time to file his opposition, which he declined, instead preferring to continue waging war in this Court over every issue, including technical issues. In addition, should this Court consider the Plaintiff's argument, the undersigned submitted a Memorandum of Law in support of the Motion by Defendant AER, and joins that Defendant in its motion, which was filed in advance of the deadline argued by the Plaintiff. There is no prohibition or limitation in this Court's rules regarding joining in the motion of another Defendant or such a filing.
5. For the forgoing reasons, it is respectfully submitted that the Complaint be dismissed with prejudice, costs and legal fees.
6. This declaration has been submitted in good faith.

Dated: Garden City, New York
November 26, 2007

By: s/ Robert S. Grossman (RG 8043)