

Thus, Van Deelen’s fraud pleading failed to comply with Rule 9(b) for a number of reasons. He did not comply with the “who, what, when, where, and how” requirements of the rule, and he consistently lumped all defendants together, thus violating the group pleading doctrine. These overlapping failures to comply with the requirements of Rule 9(b) are enough to warrant dismissal in any case, but they are especially applicable here where the Plaintiff on the one hand pleads various acts of commission and omission in connection with the actions of a company and its employees, but on the other hand clouds the issue by pleading that the individual defendants were not acting in the course and scope of their employment with that company when they took the complained of actions.

IV. Claims Against Defendant Joshua Sussberg

Some might claim that it is unclear whether Appellant intended to appeal the dismissal of his claims against Joshua Sussberg. This Court does not find the status of the pleadings to be confusing. While Van Deelen includes Sussberg on the cover page of the Appellant’s Brief as one of the Appellees (Civ. A. 21-3369, Doc. No. 12 at 1) and uses the plural term “Appellees” throughout his briefing, in his statement of the case he mentions only Appellees Dickson, Spence, and Lamb. He also states:

On August 16, 2021, after learning of defendant Sussberg’s cancer diagnosis, plaintiff voluntarily dismissed all claims against defendant Sussberg. The bankruptcy court granted Sussberg’s dismissal. That left only one claim, the common law fraud state claim, against non-debtor defendants Dickson, Spence and Lamb.

(Id. at 14) (citations omitted).

The Court finds this statement to be confirmation that, despite including a mention of Sussberg on the cover page of his opening brief, Van Deelen has *not* attempted—and is not attempting—to appeal the fact that the bankruptcy court granted the motion to dismiss Joshua

Sussberg. This conclusion is also reinforced by the fact that Van Deelen replied only to the briefing filed by Defendants Dickson, Lamb, and Spence, and not to Sussberg's separate response. (*Id.*, Doc. No. 18). The dismissal order of the bankruptcy court stands.

Nevertheless, to the extent that anyone could utilize a strained interpretation to conclude that Van Deelen has appealed the dismissal of Sussberg, the Court hereby finds that appeal to be without merit. Van Deelen voluntarily filed the motion to dismiss all claims as to Sussberg. He not only moved the court to dismiss Sussberg, but he also filed a proposed order dismissing Sussberg. (Adv. 20-3309, Doc. No. 52). The bankruptcy court then granted a dismissal. (*Id.*, Doc. No. 81 at 10). There was no error in that ruling. In this appeal, Van Deelen does not claim any error in this respect, nor could he, as he urged the court below to grant a dismissal utilizing Fed. R. Civ. P. 41(a)(2) and that is just what the court did. (*Id.*, Doc. No. 75 at 3); (*Id.*, Doc. No. 81 at 10). The judgment dismissing all claims against Sussberg is affirmed.

V. The Motion to Seal

Appellant complains that the bankruptcy court erred in granting Appellee's Emergency Motion to Seal. Van Deelen responded in opposition; thus, the motion was filed and briefed before the court granted the motion. (Adv. 20-3309, Doc. Nos. 36, 44). A decision to seal (or restrict access to) a pleading is evaluated by an abuse of discretion standard. *S.E.C. v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir. 1993).

The Bankruptcy Code empowers a court to seal documents that contain confidential or inflammatory matters. 11 U.S.C. § 107(b). Van Deelen concedes this in his briefing. (Civ. A. 21-3369, Doc. No. 12 at 51). He does not contest that the material that Appellees sought to be sealed contains defamatory material. His main complaint is that he requested a hearing and did not receive one. Moreover, he points out the order granting the motion states the court "heard the statements