

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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HERZFELD & RUBIN, P.C.,

Index No. 154004/12

Plaintiff,

**STIPULATION AND
-AGREEMENT OF
SETTLEMENT**

-against-

JOEL LEYDEN,

Defendant.
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THIS STIPULATION AND AGREEMENT OF SETTLEMENT (“Agreement”) is made as of the 17th day of April, 2013 by and between the undersigned parties **Herzfeld & Rubin, P.C.** (“Plaintiff”) and **Joel Leyden** (“Leyden”)(“Defendant”). (Plaintiff and Defendant are hereinafter collectively referred to as, the “Parties”).

WITNESSETH

WHEREAS, on or about June 26, 2012, Plaintiff commenced the above-captioned action against Defendant (the “Action”);

WHEREAS, in the Action, Plaintiff seeks, among other things, to recover damages for the defamation of Plaintiff’s name; to recover damages for cybersquatting and the misappropriation of Plaintiff’s name to create domain names; to recover damages for defamation of Plaintiff by creating derogatory web postings on various other websites not owned by Defendant;

WHEREAS, Defendant caused the names of Joel Leyden, IsraelBeach, HerzfeldRubinVictim, David, and gave interviews to Jonathan Ariel, Lisa Klein, and Israel

News Agency and others, to make derogatory and defamatory postings on various internet websites with respect to Plaintiff.

WHEREAS Defendant, deceptively and without authority from Plaintiff has acquired the following domain names of Plaintiff and names simulating the name of Herzfeld & Rubin, P.C. including but not limited to, www.HerzfeldRubin.com, www.HerzfeldRubin.net, www.HerzfeldRubin.org www.HerzfeldRubin.co, www.HerzfeldRubinLaw.com, www.HerzfeldRubinLawOffice.com, www.HerzfeldRubinAttorneys.com (the “Domain Names”).

WHEREAS, the Parties have agreed, to settle and resolve Plaintiff’s claims, upon the terms and conditions of this Agreement as hereinbelow set forth;

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement as hereinafter set forth and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Defendant operates under the names Joel Leyden, IsraelBeach, HerzfeldRubinVictim, David, and others. All references to Defendant shall be deemed to include the above names.
2. Defendant has appropriated and asserted control over various internet domain names in the name of Herzfeld & Rubin, P.C. and simulations of the words Herzfeld and Rubin. Defendant concedes that the appropriation and registration of these domain names is unwarranted and improper.
3. Defendant agrees and does hereby transfer and will cause to be transferred to Plaintiff all of Defendant’s right, title, and interest in and to the domain names that Defendant purportedly acquired and controls which use any combination of the words “Herzfeld” and/or

“Rubin” or its initials “HR” , including but not limited, to: www.HerzfeldRubin.com,
www.HerzfeldRubin.net, www.HerzfeldRubin.org, www.HerzfeldRubin.co,
www.HerzfeldRubinLaw.com, www.HerzfeldRubinLawOffice.com,
www.HerzfeldRubinAttorneys.com and any domain name purportedly owned by defendant that includes the words Herzfeld and/or Rubin.

4. Defendant has posted and caused to be posted derogatory and defamatory statements on various internet websites with respect to Plaintiff, its employees and staff.

5. Defendant hereby agrees and will forthwith remove and delete from the internet any and all postings and publications created by Defendant about Plaintiff and/or it’s employees or staff, including but not limited to the following internet postings:

- a. All internet postings created by Defendant on www.ripoffreport.com, referring to the Plaintiff or its employees or staff, including but not limited to, Report # 878117, dated May 3, 2012 entitled “Herzfeld & Rubin Depleting Trust Through Litigation New York, New York” and “Update by author: Herzfeld & Rubin Attempt to Censor Fair Use/Free Speech”;
- b. All internet postings created by Defendant on twitter.com referring to the Plaintiff or its employees or its staff, including but not limited to the posting on May 12, 2012 stating the following: “Can you trust NYC law firm Herzfeld & Rubin? My father did. They grabbed 80k in fees-to prevent my kids from getting food \$ #crooks #jewish”;
- c. All internet postings created by Defendant on www.facebook.com, referring to the Plaintiff or its employees or staff.

- d. All internet posting created by Defendant on www.scambook.com, referring to the Plaintiff or its employees or staff, including but not limited to, postings created on March 21, 2012, April 26, 2012 and May 19, 2012;
- e. All internet postings created by Defendant on www.freerepublic.com referring to the Plaintiff or its employees or staff, including but not limited to posts created on May 6, 2012, May 8, 2012, May 19, 2012, July 10, 2012, August 20, 2012;
- f. All internet postings created by Defendant on www.israelnewsagency.com , referring to the Plaintiff or its employees or staff, including but not limited to: an article entitled “Herzfeld & Rubin Accused of Malpractice, Breach of Trust” dated May 5, 2012 and an article entitled “Herzfeld & Rubin, Judge Kristin Booth Glen Deny Heart Patient Food in New York” dated December 4, 2012.
- g. All internet postings created by Defendant on HerzfeldRubin.blogspot.com referring to Plaintiff or its employees or staff, including but not limited to posts dated May 8, 2012 titled “Herzfeld & Rubin Describes Victim’s Request For Heart Medicine, Prevention of Eviction ‘Frivolous’”, dated May 5, 2012 and titled “Herzfeld & Rubin Accused of Malpractice, Breach of Trust” and dated May 4, 2012 titled “Herzfeld & Rubin – Depleting Trust Through Litigation.”
- h. All internet postings created by Defendant on BrianLeyden.com referring to the Plaintiff or its employees or staff.
- i. All internet postings created by Defendant on Briansleyden.blogspot.com referring to the Plaintiff or its employees or staff.
- j. All internet postings created by Defendant on DianeLeyden.com referring to the Plaintiff or its employees or staff.

6. Defendant shall effect the transfer of registration of all domain names referred to in paragraph 3 and removal of postings referred to in paragraph 5 on or before May 12, 2013 (“the Performance Date”) and present written evidence of the foregoing to Plaintiffs within three days after the Performance Date.

7. In the event that evidence of performance is not presented as provided above, Defendant hereby appoints Plaintiff to act as its agent and attorney in fact to effect the actions required to be performed by Defendant under paragraphs 3 and 5.

8. In the event that Defendant does not provide evidence of performance to Plaintiff within three days of the Performance Date, Defendant consents to the entry of a judgment carrying out the terms of the Stipulation.

9. Upon the confirmation of the transfer of the domain names as listed in paragraph 3 hereof and the removal and deletion of the publications listed under paragraph 5 hereof, in accordance with the terms set forth herein, Plaintiff shall file a Stipulation of Discontinuance with the New York County Clerk.

10. The Defendant agrees not to acquire or control any domain name or publish or post any future materials regarding the Plaintiff, its employees or staff in the future on the internet or any other publication.

11. Defendant agrees to refrain from communications directly with Plaintiff when he has an attorney.

12. Defendant shall be deemed in violation or default of this stipulation immediately upon publication by Defendant (or an agent of the Defendant) of any derogatory or defamatory statements in any publication or postings on the internet (regardless of the ownership of the

domain under which the defamatory information is published) referring to the Plaintiff or its employees or staff.

13. Any a violation or default by Defendant of any provision of this Agreement which is not cured after ten (10) days of written notice shall constitute a material breach of this Stipulation of Settlement.

14. In addition to the foregoing remedies, Defendant shall execute simultaneously with the execution of this Agreement a Confession of Judgment in the amount of \$50,000 plus nine percent (9%) from date of entry. The Confession of Judgment will be held by Herzfeld & Rubin in escrow. Upon breach by Defendant of this Agreement which is not cured within ten (10) days of written notice, Herzfeld & Rubin may enter judgment pursuant to the Confession of Judgment.

15. Defendant appoints his special attorney Michael Lippman to receive any written notice provided for herein, including service of process in any legal action which may be taken by Plaintiff in enforcement of this Agreement.

16. This Agreement shall be governed by the laws of the state of New York without regard to conflicts of law issues.

17. The provisions of this Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successor and assigns.

18. This Agreement may be executed in one or more counterparts, each of which, when so executed, shall be deemed to be an original; such counterparts, when executed together, shall constitute one and the same agreement and shall be deemed to be an original. Further, facsimile or electronic copies of such signed counterparts shall constitute originals for the purposes of this Agreement and may be used in lieu of the originals for any purpose.

19. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and may not be modified except by a writing signed by both Plaintiff of Defendant.


20. Defendant has executed this Agreement upon the advice of special counsel Michael Lippman.

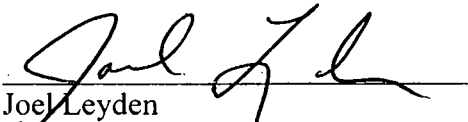
IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound have caused this Stipulation and Agreement to be executed and entered as of the day and year first written above.

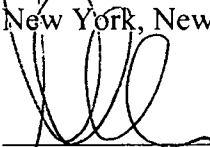
Dated: New York, New York
April 17, 2013


HERZFELD & RUBIN, P.C.

JOEL LEYDEN

By: 
Brian T. Carr
125 Broad Street
New York, New York 10004
(2120 471-8500)


Joel Leyden
Defendant-Counterclaimant *Pro-Se*
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New York, New York 10017


Michael Lippman
Special Counsel to Joel Leyden
135 Southside Avenue
Hasting-On-Hudson, N.Y. 10706

So Ordered

Eileen A. Rakower
Justice of the Supreme Court

HON. EILEEN A. RAKOWER