

**U.S. District Court
District of South Carolina (Charleston)
CIVIL DOCKET FOR CASE #: 2:04-cv-01373-PMD**

Hempfling v. LM Communications, et al
Assigned to: Judge Patrick Michael Duffy
Demand: \$0
Case in other court: Fourth Circuit, 5-1987
Cause: 42:1981 Civil Rights

Date Filed: 05/03/2004
Date Terminated: 08/31/2005
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff**Lee Kent Hempfling**

represented by **Lee Kent Hempfling**
PO Box 6932
Apache Junction, AZ 85278
PRO SE

V.

Defendant

LM Communications Inc
a Kentucky corporation
TERMINATED: 08/31/2004

represented by **Greg Horton**
Buist Moore Smythe and McGee
PO Box 999
Charleston, SC 29402
843-722-3400
Fax: 843-723-7398
Email: ghorton@buistmoore.com
TERMINATED: 08/31/2004
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

LM Communications of South Carolina Inc
a Kentucky corporation

represented by **Greg Horton**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

LM Communications II of South Carolina Inc
a Kentucky corporation

represented by **Greg Horton**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/03/2004	<u>1</u>	COMPLAINT; FILING FEE \$ 150.00 RECEIPT # SCX200001097 (eric) (Entered: 05/04/2004)
05/03/2004	<u>2</u>	ANSWER to Local Rule 26 Interrogatories by plaintiff Lee Kent Hempfling; jury demand (eric) (Entered: 05/04/2004)
05/13/2004	<u>3</u>	ORDER allowing plaintiff/petitioner 20 days, plus 3 days for mailing to bring case into proper form and advising him of the change of address rule. Deadline set for 6/7/04 for Lee Kent Hempfling , amending [1-1] complaint within 20 days of this order which complies with the Federal Rules of Civil Procedure. (signed by Magistrate Judge George C. Kosko) eod (cmur) (Entered: 05/13/2004)
05/25/2004	<u>4</u>	AMENDED COMPLAINT by plaintiff Lee Kent Hempfling , (Answer due 6/4/04 for LM Communications II, for LM Communications, for LM Communications) Service due by 9/22/04 for LM Communications II, for LM

		Communications, for LM Communications amending [1-1] complaint; jury demand (cmur) (Entered: 05/25/2004)
06/03/2004	<u>5</u>	ORDERED that The Clerk of Court shll issue the summonses and forward the newly-issued summons and the copies of the complaint to the plaintiff for service of process. Plaintiff is directed to Rule 4(m) and the change of address rule. (signed by Magistrate Judge George C. Kosko) eod (cmur) (Entered: 06/03/2004)
06/03/2004	<u>6</u>	SUMMONS(ES) issued for defendant LM Communications, defendant LM Communications, defendant LM Communications II (cmur) (Entered: 06/04/2004)
06/24/2004	<u>7</u>	AFFIDAVIT OF SERVICE of summons and complaint executed as to defendant LM Communications 6/10/04 Assignment Interrogatories due on 7/12/04 for LM Communications ; Answer due on 6/30/04 for LM Communications executed by personal service (cmur) (Entered: 06/25/2004)
06/24/2004	<u>8</u>	AFFIDAVIT OF SERVICE of summons and complaint executed as to defendant LM Communications II 6/16/04 Assignment Interrogatories due on 7/16/04 for LM Communications II ; Answer due on 7/6/04 for LM Communications II executed by personal service (cmur) (Entered: 06/25/2004)
06/24/2004	<u>9</u>	AFFIDAVIT OF SERVICE of summons and complaint executed as to defendant LM Communications 6/11/04 Assignment Interrogatories due on 7/12/04 for LM Communications ; Answer due on 7/1/04 for LM Communications executed by personal service (cmur) (Entered: 06/25/2004)
06/30/2004	<u>10</u>	ANSWER to Complaint by defendant LM Communications, defendant LM Communications II (Attorney Greg Horton), Assignment Interrogatories due on 7/12/04 for LM Communications II, for LM Communications ; (cmur) (Entered: 07/01/2004)
06/30/2004	<u>11</u>	ANSWER to Local Rule 26 Interrogatories by defendant LM Communications, defendant LM Communications II; jury demand (cmur) (Entered: 07/01/2004)
06/30/2004	<u>12</u>	ANSWER to Local Rule 26 Interrogatories by defendant LM Communications; jury demand (cmur) Modified on 07/01/2004 (Entered: 07/01/2004)
06/30/2004	<u>13</u>	MOTION by defendant LM Communications to dismiss complaint (cmur) (Entered: 07/01/2004)
06/30/2004	<u>14</u>	MEMORANDUM by defendant LM Communications in support of [13-1] motion to dismiss complaint (cmur) (Entered: 07/01/2004)
07/13/2004	<u>15</u>	MOTION by plaintiff Lee Kent Hempfling to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants. (cmur) (Entered: 07/13/2004)
07/13/2004	<u>16</u>	MEMORANDUM by plaintiff Lee Kent Hempfling in support of [15-1] motion to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants. (cmur) (Entered: 07/13/2004)
07/23/2004	<u>17</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 34 days. Deadline for response to [13-1] motion to dismiss complaint set for 8/26/04 for Lee Kent Hempfling Signed by Magistrate Judge George C. Kosko eod (cmur) (Entered: 07/23/2004)
07/23/2004	<u>18</u>	NOTICE of Hearing before Magistrate Judge George C. Kosko set Motion Hearing to 10:00 8/31/04 for [15-1] motion to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants., to 10:00 8/31/04 for [13-1] motion to dismiss complaint (cmur) (Entered: 07/23/2004)
07/29/2004	<u>19</u>	MEMORANDUM by defendant LM Communications, defendant LM Communications II in opposition to [15-1] motion to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants. (cmur) (Entered: 07/30/2004)

08/06/2004	<u>20</u>	AFFIDAVIT of Lee Kent Hempfling w/attachments (erav) (Entered: 08/09/2004)
08/25/2004	<u>21</u>	MOTION by defendant LM Communications, defendant LM Communications II for sanctions pursuant to Rule 11. (cmur) (Entered: 08/26/2004)
08/31/2004	<u>22</u>	MOTION HEARING [21-1] motion for sanctions pursuant to Rule 11., [15-1] motion to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants. held, [13-1] motion to dismiss complaint held ORAL ORDER [21-1] motion for sanctions pursuant to Rule 11. taken under advisement, [15-1] motion to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants. taken under advisement, granting without opposition [13-1] motion to dismiss complaint as to LM Communication (before Magistrate Judge George C. Kosko) Court Reporter: Gilbert O'Brien,ESR. (obri) (Entered: 08/31/2004)
09/01/2004	<u>23</u>	SCHEDULING ORDER setting Joining of parties,amending of pleadings on 9/10/04 ; Plaintiff's ID of Experts set for 9/20/04 ; Defendant's ID of Experts set for 9/20/04 ; Records Custodian Affidavit filed by 10/19/04 ; Discovery cutoff 11/30/04 ; Motion In Limine filed by 3/11/05 ; Deadline for filing of all motions 1/3/05 ; 26(a)3 Pretrial Disclosures filed by 3/18/05 ; Pretrial Brief filed by 3/26/05 ; Jury Selection deadline set for 4/1/05 ; Mediation deadline for 12/30/04; Proposed Findings of Fact and Conclusions of Law filed no later than 9/20.04 (signed by Magistrate Judge George C. Kosko) EOD 9/1/04 (obri) (Entered: 09/01/2004)
09/10/2004	<u>24</u>	MEMORANDUM by plaintiff Lee Kent Hempfling in support of [15-1] motion to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants. (cmur) (Entered: 09/13/2004)
09/10/2004	<u>24</u>	MEMORANDUM by plaintiff Lee Kent Hempfling in opposition to [21-1] motion for sanctions pursuant to Rule 11. (cmur) (Entered: 09/13/2004)
09/17/2004	25	TRANSCRIPT OF Excerpts from Motion Hearing filed for dates of 8/31/04 before Magistrate Judge George C. Kosko held in Charleston, SC Court Reporter: O'Brien/Potocki (obri) (Entered: 09/17/2004)
09/20/2004	<u>26</u>	REPLY by plaintiff Lee Kent Hempfling to proposed order by defendant's counsel (cmur) (Entered: 09/20/2004)
09/23/2004	<u>27</u>	REPLY by defendant LM Communications, defendant LM Communications II to [26-1] reply (cmur) (Entered: 09/23/2004)
09/23/2004	<u>28</u>	ORDER denying [15-1] motion to Disqualify counsel and firm Buist Moore Smythe and McGee from representation of defendants. (signed by Magistrate Judge George C. Kosko) eod (cmur) (Entered: 09/23/2004)
09/28/2004	<u>29</u>	NOTICE of Hearing before Magistrate Judge George C. Kosko set Motion Hearing to 10:00 10/5/04 for [21-1] motion for sanctions pursuant to Rule 11. (cmur) (Entered: 09/28/2004)
09/29/2004	<u>30</u>	NOTICE of Hearing before Magistrate Judge George C. Kosko reset Motion Hearing to 10:00 10/12/04 for [21-1] motion for sanctions pursuant to Rule 11. (cmur) (Entered: 09/29/2004)
10/12/2004	<u>31</u>	MOTION HEARING [21-1] motion for sanctions pursuant to Rule 11. held ORAL ORDER denying [21-1] motion for sanctions pursuant to Rule 11. for reasons stated on the record; Discovery extended 60 days till 12/11/04; Mr Cleveland to schedule depositions at a later date (before Magistrate Judge George C. Kosko) Court Reporter: Gilbert O'Brien,ESR. (obri) (Entered: 10/12/2004)
10/13/2004	<u>32</u>	AMENDED CONFERENCE AND SCHEDULING ORDER setting Discovery cutoff 12/10/04 ; Motion In Limine filed by 3/21/05 ; Deadline for filing of all motions 1/13/05 ; Mediation deadline for 1/10/05 26(a)3 Pretrial Disclosures filed by 3/28/02 ; Pretrial Brief filed by 4/5/05 ; Jury Selection deadline set for 5/1/05 ; (signed by Magistrate Judge George C. Kosko) eod 10/14/04 (cmur) (Entered: 10/14/2004)

11/03/2004	<u>33</u>	MOTION by plaintiff Lee Kent Hempfling for summary judgment (cmur) (Entered: 11/03/2004)
11/03/2004	<u>34</u>	MEMORANDUM by plaintiff Lee Kent Hempfling in support of [33-1] motion for summary judgment (cmur) (Entered: 11/03/2004)
11/12/2004	<u>35</u>	MOTION by defendant LM Communications, defendant LM Communications II to extend time to file response to plaintiff's motion for summary judgment (cmur) (Entered: 11/15/2004)
11/12/2004	<u>36</u>	MEMORANDUM by defendant LM Communications, defendant LM Communications II in support of [35-1] motion to extend time to file response to plaintiff's motion for summary judgment (cmur) (Entered: 11/15/2004)
11/16/2004	<u>37</u>	ORDER granting [35-1] motion to extend time to file response to plaintiff's motion for summary judgment Response to motion reset to 1/6/05 for [33-1] motion for summary judgment (signed by Magistrate Judge George C. Kosko) eod (cmur) (Entered: 11/16/2004)
11/17/2004	<u>38</u>	OPPOSITION by plaintiff Lee Kent Hempfling to [35-1] motion to extend time to file response to motion for summary judgment (cmur) (Entered: 11/17/2004)
11/23/2004	<u>39</u>	MEMORANDUM by plaintiff Lee Kent Hempfling in support of [38-1] opposition memorandum (cmur) (Entered: 11/23/2004)
12/03/2004		Minute entry:Telephone Status Conference held (off record) at 11:05AM on 12/3/04 with pro se Plaintiff Hempfling and Defendants' Attorney Horton. All discovery will proceed unless Magistrate Judge Kosko is overruled. Magistrate Judge Kosko orders that Hempfling's deposition shall be taken on Wednesday, December 8, 2004 as previously noticed, and that hereinafter, all communication between the parties shall occur via United States Mail and E-Mail. Plaintiff Hempfling's E-Mail address is: enticy@cox.net (obri) Modified on 12/06/2004 (Entered: 12/03/2004)
12/03/2004	<u>40</u>	MOTION by plaintiff Lee Kent Hempfling for appeal to District judge in regards to order #37 (cmur) (Entered: 12/06/2004)
12/03/2004	<u>41</u>	MOTION by plaintiff Lee Kent Hempfling to stay (cmur) (Entered: 12/06/2004)
12/08/2004	<u>42</u>	ORDER denying [40-1] motion for appeal to District judge in regards to order #37 (signed by Judge Patrick Michael Duffy) eod 12/9/04 (cmur) (Entered: 12/09/2004)
12/14/2004	<u>43</u>	NOTICE OF INTERLOCUTORY APPEAL with attachments of [42-1] order, [37-2] order by plaintiff Lee Kent Hempfling; Fee Status: paid (jwol) (Entered: 12/14/2004)
12/14/2004		Notice of appeal and certified copy of docket to USCA; USDC; attorney: appellant [43-1] interlocutory appeal by Lee Kent Hempfling (jwol) (Entered: 12/14/2004)
12/14/2004		Oral order: denying [41-1] motion to stay Per: Judge Kosko and affirmed by Judge Duffy (by Magistrate Judge George C. Kosko) (obri) (Entered: 12/14/2004)
12/28/2004		NOTICE of Docketing ROA from USCA Re: [43-1] interlocutory appeal by Lee Kent Hempfling USCA NUMBER: 04-2547/Sharon Wiley (eric) (Entered: 12/29/2004)
12/30/2004		Certified and transmitted record on appeal to U.S. Court of Appeals: interlocutory appeal (eric) (Entered: 12/30/2004)
01/06/2005	<u>44</u>	MOTION with memorandum in support by defendant LM Communications II, defendant LM Communications to extend time to file response to plaintiff's motion for summary judgment until 1/31/05 (cmur) (Entered: 01/10/2005)
01/11/2005	<u>45</u>	ORDER granting [44-1] motion to extend time to file response to plaintiff's motion for summary judgment until 1/31/05 Response to motion reset to 1/31/05 for [33-1] motion for summary judgment (signed by Magistrate Judge George C. Kosko) eod (cmur) (Entered: 01/11/2005)

01/31/2005	<u>46</u>	MEMORANDUM by defendant LM Communications II, defendant LM Communications in opposition to [33-1] motion for summary judgment (cmur) (Entered: 02/02/2005)
02/04/2005	<u>47</u>	MOTION by defendant LM Communications II, defendant LM Communications for summary judgment (cmur) (Entered: 02/07/2005)
02/08/2005	<u>48</u>	REPLY by plaintiff Lee Kent Hempfling to [46-1] opposition memorandum (cmur) (Entered: 02/08/2005)
02/08/2005	<u>49</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 34 days. Deadline for response to [47-1] motion for summary judgment set for 3/14/05 for Lee Kent Hempfling Signed by Magistrate Judge George C. Kosko eod (cmur) (Entered: 02/08/2005)
02/18/2005	<u>50</u>	OPPOSITION by plaintiff Lee Kent Hempfling to [47-1] motion for summary judgment (cmur) (Entered: 02/18/2005)
06/13/2005	<u>51</u>	USCA JUDGMENT as to <u>43</u> Notice of Interlocutory Appeal filed by Lee Kent Hempfling dismissing the appeal. (jwol,) (Entered: 06/13/2005)
06/30/2005	<u>52</u>	NOTICE of Hearing: Bar Meeting set for 7/18/2005 10:00 AM in Charleston Courtroom #1, U.S. Court House, 81 Meeting St, Charleston before Honorable Patrick Michael Duffy. Jury Selection set for 8/9/2005 10:00 AM in Charleston Courtroom #1, U.S. Court House, 81 Meeting St, Charleston before Honorable Patrick Michael Duffy (cper,) (Entered: 06/30/2005)
07/18/2005	53	Minute Entry for proceedings held before Judge Patrick Michael Duffy : Bar Meeting held on 7/18/2005; parties excused from bar meeting by the Court, RRforthcoming for Court's consideration. (Court Reporter Debbie Potocki.) (cmck,) (Entered: 07/19/2005)
07/21/2005	<u>54</u>	AFFIDAVIT of GREG HORTON re <u>47</u> Motion for Summary Judgment by LM Communications of South Carolina Inc, LM Communications II of South Carolina Inc. (Attachments: # <u>1</u> Exhibit Defendant's Motion for Summary Judgment FILED: 2/4/05)(Horton, Greg) (Entered: 07/21/2005)
07/21/2005	<u>55</u>	AFFIDAVIT of JAMES E. WEATHERHOLTZ re <u>47</u> Motion for Summary Judgment by LM Communications of South Carolina Inc, LM Communications II of South Carolina Inc. (Attachments: # <u>1</u> Exhibit Defendant's Motion for Summary Judgment FILED: 2/4/05)(Horton, Greg) (Entered: 07/21/2005)
07/22/2005	56	NOTICE of Hearing: Case Continued to the next Term of Court. Jury Selection set for 10/25/2005 10:00 AM in Charleston Courtroom #1, U.S. Court House, 81 Meeting St, Charleston before Honorable Patrick Michael Duffy (cper,) (Entered: 07/22/2005)
07/26/2005	<u>57</u>	REPORT AND RECOMMENDATIONS that <u>33</u> Motion for Summary Judgment filed by Lee Kent Hempfling, be denied, <u>47</u> Motion for Summary Judgment filed by LM Communications of South Carolina Inc, LM Communications II of South Carolina Inc, be granted and that defendant LMC be dismissed from the case. Objections to RRdue by 8/12/2005. Signed by Judge George C Kosko on 7/26/2005. (cmur,) (Entered: 07/26/2005)
08/12/2005	<u>58</u>	OBJECTION to <u>57</u> Report and Recommendations by Lee Kent Hempfling. (Attachments: # <u>1</u> part 2 of objections)(cmur,) (Entered: 08/12/2005)
08/25/2005	<u>59</u>	MEMORANDUM IN SUPPORT OF JUDGMENT <i>Defendants' Response to Plaintiff's Objections to Magistrate Judge's Report and Recommendation</i> by LM Communications of South Carolina Inc, LM Communications II of South Carolina Inc. (Horton, Greg) (Entered: 08/25/2005)
08/30/2005	<u>60</u>	ORDER denying Plaintiff's Motion for Summary Judgment, granting Defendants' Motion for Summary Judgment. Signed by Judge Patrick Michael Duffy on 8/30/2005. (Entered: 08/30/2005)
08/31/2005	<u>61</u>	SUMMARY JUDGMENT in favor of defendant against plaintiff (eric,) (Entered: 08/31/2005)

09/02/2005	<u>62</u>	NOTICE OF APPEAL re <u>60</u> Order on Motion for Summary Judgment, Filing Fee and Docket Fee paid \$ 255, receipt number 3258. (jwol,) (Entered: 09/02/2005)
09/06/2005	<u>63</u>	Transmittal Sheet for Notice of Appeal to USCA re <u>62</u> Notice of Appeal The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. (jwol,) (Entered: 09/06/2005)
09/22/2005		Certified and Transmitted Record on Appeal to US Court of Appeals re <u>62</u> Notice of Appeal (jwol,) (Entered: 09/22/2005)
03/27/2006	66	USCA OPINION for <u>62</u> Notice of Appeal filed by Lee Kent Hempfling, affirming the reasons stated by the District Court. (mnew,) (Entered: 03/27/2006)
09/13/2006	<u>67</u>	USCA MANDATE and JUDGMENT as to <u>62</u> Notice of Appeal filed by Lee Kent Hempfling,affirming the judgment of the District Court (mnew,) (Entered: 09/14/2006)