

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DOUGLAS G. LOGAN,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:10-CV-1315-TWP-TAB
)	
USA TRACK & FIELD, INC.,)	
)	
Defendant.)	

DEFENDANT’S MOTION TO STRIKE PARAGRAPHS 17 AND 24 OF PLAINTIFF’S COMPLAINT

Defendant, USA Track & Field, Inc. (“USATF”), by counsel, pursuant to Federal Rule of Civil Procedure 12(f), moves to strike Paragraphs 17 and 24 of Plaintiff’s Complaint, and in support states:

1. On October 20, 2010, Plaintiff filed his Complaint seeking damages for alleged breach of contract and an alleged violation of the Indiana Wage Claim Statute, I.C. § 22-2-9 et seq. (Docket No. 1)

2. Paragraphs 17 and 24 of Plaintiff’s Complaint allege:

(17) On or about September 13, 2010, USATF presented Logan with a release agreement offering him \$500,000 in exchange for a full and final release of all claims, including those related to his employment contract. Logan refused that offer.

* * *

(24) While USATF apparently claims that it had “Cause” to terminate Logan’s employment, USATF offered Logan a one-time, lump sum payment of \$500,000 in exchange for Logan’s execution of a release of claims.

(Docket No. 1, ¶¶ 17, 24)

3. Federal Rule of Civil Procedure 12(f) permits a court to “strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f).

4. Paragraphs 17 and 24 of Plaintiff’s Complaint contain settlement discussions which are inadmissible under Federal Rule of Evidence 408(a). Fed. R. Evid. 408(a).

5. Further, it is clear that Plaintiff has made such allegations in an attempt to support his claim that he was not terminated for cause and that USATF is liable. These are prohibited uses of such information under Federal Rule of Evidence 408. *See* Fed. R. Evid. 408(a).

6. Because such allegations are inadmissible, they are immaterial in this litigation, and are impertinent, scandalous and prejudicial to USATF because they unequivocally cast USATF’s alleged actions in a light that is prohibited by the Federal Rules of Evidence—that is, that an offer to resolve claims in dispute be taken as evidence that USATF is liable to Plaintiff for any reason. *See Braman v. Woodfield Gardens Associates*, 715 F. Supp. 226, 230 (N.D. Ill. 1989) (striking allegations of settlement negotiations, finding that allowing such statements to remain would “undermine the purpose of Rule 408: ‘to encourage settlements. The fear is that settlement negotiations will be inhibited if the parties know that their statements may later be used as admissions of liability.’” (quoting *Central Soya Co. v. Epstein Fisheries, Inc.*, 676 F.2d 939, 944 (7th Cir. 1982))).

7. Accordingly, paragraphs 17 and 24 of Plaintiff’s Complaint should be stricken.

8. USATF’s Brief in support is filed contemporaneously, and is incorporated herein.

WHEREFORE, Defendant USA Track & Field, Inc., by counsel, respectfully requests that the Court GRANT its Motion, strike paragraphs 17 and 24 from Plaintiff’s Complaint, and all other proper relief.

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, PC

By: s/ Todd J. Kaiser

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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2010, a copy of the foregoing *Motion to Strike Paragraphs 17 and 24 of Plaintiff's Complaint* was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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