

APPEAL

U.S. District Court
U.S. District Court for the Northern District of Georgia (Atlanta)

CIVIL DOCKET FOR CASE #: 85-CV-4377

Palmer, et al v. BRG of Georgia, Inc., et al
Assigned to: Judge Orinda D. Evans
Demand: \$0,000
Lead Docket: None
Dkt# in other court: None

Filed: 11/4/85
Jury demand: Plaintiff
Nature of Suit: 410
Jurisdiction: Federal Question

Cause: 15:26 Suit for injunctive relief re violation antitrust laws

JAY PALMER
plaintiff

John Charles Butters
[COR LD NTC]
Office of John Charles Butters
2 Peachtree Street
1515 First Atlanta Tower
Atlanta, GA 30383
404-688-0440

James F. Ponsoldt, nam
[COR LD NTC]
Office of James F. Ponsoldt
305 Great Oak Drive
Athens, GA 30605
404-688-0440

MICHAEL CHIDESTER
plaintiff

John Charles Butters
(See above)
[COR LD NTC]

James F. Ponsoldt, nam
(See above)
[COR LD NTC]

TERI L. POWERS
plaintiff

John Charles Butters
(See above)
[COR LD NTC]

James F. Ponsoldt, nam
(See above)
[COR LD NTC]

DAVID DUNBAR
plaintiff

John Charles Butters
(See above)
[COR LD NTC]

James F. Ponsoldt, nam
(See above)
[COR LD NTC]

WILLIAM FERGUSON

John Charles Butters

Docket as of December 22, 1987 7:29 am

ATTEST: A TRUE COPY
CERTIFIED THIS
December 22, 1987
Page 1 Luther D. Thomas, Clerk
By: B. Flanigan,
Deputy Clerk

Proceedings include all events.

1:85cv4377 Palmer, et al v. BRG of Georgia, Inc., et al

APPEAL

plaintiff

(See above)
[COR LD NTC]

James F. Ponsoldt, nam
(See above)
[COR LD NTC]

BENJAMIN FIRST
plaintiff

John Charles Butters
(See above)
[COR LD NTC]

James F. Ponsoldt, nam
(See above)
[COR LD NTC]

v.

BRG OF GEORGIA, INC., a
Georgia Corporation
dba
BAR/BRI
defendant

Kevin E. Grady
[COR LD NTC]
Alston & Bird
35 Broad Street, N.W.
1200 C&S National Bank Building
Atlanta, GA 30335
404-586-1500

BAR REVIEW GROUP, INC. , a
Georgia Corporation
defendant

Kevin E. Grady
(See above)
[COR LD NTC]

BRG PUBLICATIONS, INC. , a
Georgia Corporation
defendant

Kevin E. Grady
(See above)
[COR LD NTC]

HARCOURT BRACE JOVANOVIH
LEGAL & PROFESSIONAL
PUBLICATIONS, INC. , a
Delaware Corporation
dba
BAR/BRI (Nationally)
defendant

Lee Trammell Newton, Jr.
[COR LD NTC]
Hansell & Post
2 Peachtree Street, N.W.
3300 First Atlanta Tower
Atlanta, GA 30383-3101
404-581-8000

RONALD O. PELLETIER
defendant

Kevin E. Grady
(See above)
[COR LD NTC]

| DATE | NR. | JURY DEMAND | PROCEEDINGS | VOLUME 1 BEGINS | C85-4377A |
|--------|-----|--|-------------|-----------------|-----------|
| 1985 | | | | | |
| Nov 4 | dt | COMPLAINT, w/jury demand. | | | |
| 5 | | SUMMONS issued & handed to atty. w/cons.form, PTI (also attach to serv. copies) | | | |
| 15 | | SUMMONS reissued as to dft. R. Pelletier & handed to atty. | | | |
| | | SUMMONS reissued as to dft Bar Review & BRG Publications, Inc. | | | |
| | | RETURN OF SERVICE on dft Harcourt, Brace, Jovanovich exec. 11/5/85. | | | |
| | | RETURN OF SERVICE on dft R. Pelletier exec. 11/6/85. | | | |
| 19 | | RETURN OF SERVICE on dft BRG of Georgia exec. 11/5/85. | | | |
| | | RETURN OF SERVICE on Sec. of State for Bar review Group Inc. exec. 11/19/85. | | | |
| 22 | ⑤ | ANSWER of dft. Jovanovich. c/dkt to ct dep. Assign. notice mailed. | | | |
| | | CERTIFICATE OF SERVICE by dft. Harcourt Brace etc re: resp to pltf's req. for prod. | | | |
| | | CERTIFICATE OF SERVICE by dft. Harcourt Brace etc re: resp to pltf. 1st interr. | | | |
| | | CERTIFICATE OF SERVICE by dft Harcourt Brace etc re: 1st req. for prod on pltf. | | | |
| 25 | ③ | ANSWER of dfts BRG of Georgia, Bar Review Group, BRG Publication & R. Pelletier. c/dkt to ct dep. Assign. notice mailed. | | | |
| 27 | | CERTIFICATE OF SERVICE by dfts 7,8,9,11 re: resp. to pltf's 1st req. for prod. | | | |
| Dec. 4 | ④ | CERTIFICATE OF INTERESTED PERSONS. To ODE. (ret'd 12/19/85) | | | |
| 9 | | CERTIFICATE OF SERVICE by dfts 7,8,9 & 11 re: interr to pltf's. | | | |
| 13 | ⑤ | CERTIFICATE OF SERVICE by dfts #7,8,9 & 11 re: 1st req. for prod. of docu on pltf's. | | | |
| 24 | ⑥ | PRELIMINARY STATEMENT and cert of settlement conf. Origs to ct dep. (appr. 1/2/86) | | | |
| 1986 | | | | | |
| Jan 23 | ⑦ | CONSENT ORDER that pltf shall file motion for class certification on or before 2/17/86 & dfts to resp. by 2/24/86, but parties may extend their deadline by 10 days. Hrg. on issue of class certification shall be held at time to be set later if court determines hrg. is needed: disc. to be completed w/in 4 months except for expert testimony. cc&eod 1/29/86. | | | |
| 27 | | CERTIFICATE OF SERVICE by dft. Harcourt Brace Jovanovich re:resp to 2nd req. for prod | | | |
| | | CERTIFICATE OF SERVICE by dft Harcourt Brace Jovanovich re: resp to 1st interr of pltf | | | |
| 28 | | CERTIFICATE OF SERVICE by dfts 7,8,9,11 re: resp to pltf's 2nd req. for prod. | | | |
| | | CERTIFICATE OF SERVICE by dfts 7,8,9,11 re: resp to pltf's 1st interr. | | | |
| Feb 7 | ⑧ | MOTION for certification as a Class action w/brief by pltf. | | | |
| 13 | | CERTIFICATE OF SERVICE by dft H.B. Jovanovich re: 2nd interr to pltf. | | | |
| 19 | ⑨ | ORDER giving dfts 10 days after parties receive the last of the transcripts of the depositions in which to respond to pltf's motion for class certification. cc&eod 2/21/86. | | | |
| 27 | ⑩ | MEMORANDUM in opposition to pltf's motion for class certification by dfts. | | VOLUME 1 ENDS | |
| Mar 14 | ⑪ | REPLY brief in support of pltf's motion for class certification by pltf. | | | |
| 18 | | SUBMITTED ON PLTF'S MOTION FOR CLASS CERTIFICATION. | | VOLUME 2 BEGINS | |
| 25 | ⑫ | MOTION for leave to file supplemental memo. in opposition to pltf's motion for class certification w/ prop. suppl. memo. To ODE. | | | |
| 25 | | DEPOSITION of M. Chidester, D. Dunbar, W. Ferguson, T. Powers & B.M. First in support of memorandum & suppl. memo in oppos. to pltf's motion for class certification by dft Jovanovich. To ODE. | | | |
| 27 | | DEPOSITION of Jay Palmer in oppos. to pltf's motion for class certification by dft. ODE | | EXHIBITS | |
| Apr 2 | ⑬ | BRIEF in opposition to dft's motion for leave to file suppl. memo in opposition to pltf's motion for class certification by pltf's. | | | |
| 7 | | SUBMITTED ON DFT'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL MEMO. IN OPPOSITION TO PLTF'S MOTION FOR CLASS CERTIFICATION. | | | |
| *4 | | JOINT MOTION for ext. of time to file motions for s.j. w/memo & prop. order. To ODE. | | | |
| 16 | ⑭ | ORDER GRANTING ext. of time thru 4/30/86 for parties to file motions for s.j. cc&eod 4/18/86. | | | |
| 21 | ⑮ | MOTION for partial s.j., w/brief & statement of facts by pltf's. | | | |
| May 2 | ⑯ | MOTION for s.j., w/brief & statement of facts w/deposition of R. Pelletier & R. Conviser in support of same by dfts. (see cover letter in re lateness) | | EXHIBIT | |
| 14 | ⑰ | MEMORANDUM in opposition to pltf's motion for partial s.j. by dfts. | | | |
| | ⑱ | RESPONSE to pltf's statement of material facts by dft w/dft's statement of facts. | | | |
| 15 | | SUBMITTED ON PLTF'S MOTION FOR PARTIAL SUMM. JUDG. | | | |
| 20 | ⑲ | OPPOSITION to dft's motion for summary judgment. | | | |
| 22 | | SUBMITTED ON DFTS' MOTION FOR SUMM. JUDG. | | | |
| | | - over - | | VOLUME 2 CONT. | |

DATE

NR.

VOLUME 2 CONT.

PROCEEDINGS

CLOSED

| | | |
|---------|------|---|
| May 21 | (18) | CONSENT ORDER ext time thru 6/9/86 for pltf. to respond to dft's opposition to pltf's motion for s.j. & ext. time thru 6/13/86 for def. to file resp. to pltf's brief in opposition to dft's summ. judg. cc&eod 5/27/86. |
| 28 | (19) | LETTER from Atty. Butters enclosing replacement pages for pltf's brief in opposition to dft's motion for s.j. To ODE. |
| June 3 | (20) | ORDER that pltf's motion for class certification & dft's motion for leave to file suppl. brief in opposition to pltf's motion are DEFERRED pending further order of the court. cc&eod 6/9/86. |
| 10 | (21) | REPLY brief in support of pltf's motion for partial s.j. by pltf. |
| 18 | (22) | RESPONSE to dft's statement of material & undisputed facts by plts. |
| 24 | (23) | REPLY brief in support of dft's motion for s.j. by dfts. Harcourt Brace Jovanovich RESUBMITTED ON PLTF'S MOTION FOR PARTIAL SUMM. JUDGM AND ON DFT'S MOTION FOR SUMM. JUDG. |
| Aug 22 | (24) | MOTION for sanctions against R. Pelletier w/brief by pltf. to ODE |
| Sept 2 | (25) | REPLY to pltf's motion for sanctions by dft. |
| | (26) | RESPONSE to pltf's motion for sanctions by dft Harcourt Brace Jovanovich. |
| 5 | | SUBMITTED ON PLTF'S MOTION FOR SANCTIONS AGAINST PELLETIER. |
| 11 | (27) | REPLY to dfts reply to pltf's motion for sanctions. To ODE. |
| Oct 23 | (28) | PETITION FOR leave of absence by pltf. w/ORDER granting leave for 10/22 thru 11/3/86. cc&eod 10/27/86. |
| Nov 12 | | HEARING IN CHAMBERS: Cause came on for hrg. on motions for s.j. After arguments, the court took the motions under consideration. |
| 1987 | | |
| Jan 9 | (29) | ORDER that dft's motion for s.j. is GRANTED as to counts 2 thru 9. Pltf's motion for partial s.j. is DENIED. The court DEFERS ruling on dft's motion for s.j. insofar as it pertains to count one. Clerk DIRECTED to resubmit motion w/in 30 days from date of this order. Should pltf's. elect to file further materials, the court will set a time for dfts to respond. cc&eod 1/13/87. |
| 9 | (28) | ORDER DENYING pltf's motion for sanctions. cc&eod 1/13/87. |
| | (29) | ORDER DENYING pltf's motion for class certification. cc&eod 1/13/87. |
| 20 | (29) | MOTION for ext. of time to file for reconsideration w/brief & proposed order. ODE |
| 29 | (30) | ORDER GRANTING pltf's motion for ext. of time to file for reconsideration thru 2/9/87. cc&eod 2/4/87. |
| Feb 9 | (31) | MOTION for reconsideration w/brief & additional evidence in regards to court order of 1/9/87 by pltf. |
| 11 | (32) | MOTION of dfts for an order setting date for responses to pltf's motion to 3/12/87. |
| 19 | (33) | ORDER that dfts have till 3/12/87 to file briefs in response to pltf's brief & additional evidence submitted in resp to courts 1/9/87 or & pltf's motion for reconsideration. cc&eod 2/20/87. |
| r 12 | (34) | RESPONSE to pltf's motion for reconsideration & pltf's brief & additional evidence submitted in resp. to court's order of 1/9/87 by dfts. |
| 18 | | SUBMITTED ON PLTF'S MOTION FOR RECONSIDERATION. |
| 19 | (35) | RESPONSE by pltf. to dfts opposition to pltf's motion for recon. To ODE. |
| | (36) | MOTION to strike motion for additional disc. by pltf w/brief. To ODE. |
| 27 | (37) | MEMORANDUM in RESPONSE TO PLTF'S MOTION TO STRIKE & for additional disc. |
| 31 | (38) | REPLY to memorandum of dfts in response to motion to strike & for additional disc by pltf. |
| April 2 | | SUBMITTED ON PLTF'S MOTION TO STRIKE AND FOR ADDITIONAL DISC. |
| | | ALL FURTHER ENTRIES WILL BE MADE ON THE CIVIL COMPUTER DOCKETING SYSTEM |

VOLUME 2 ENDS

VOLUME 3 BEGINS

VOLUME 3 CONT.

VOLUME 3 CONT.

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- 5/7/87 1 (39) Brief of newly discovered material submitted in response to court's order & in support of pltf's motion for reconsideration by pltf's. To ODE (dt) [Entry date 5/14/87]
- 5/12/87 2 (40) Application by Atty. Butters for leave of absence. To courtroom deputy. (dt) [Entry date 5/19/87]
- 5/13/87 3 (41) RESPONSE to pltf's brief [1-1] by defendant BRG of Georgia, Inc., defendant Bar Review Group, defendant BRG Publications, defendant Harcourt Brace Jovan, defendant Ronald O. Pelletier. To ODE (dt) [Entry date 5/19/87]
- 5/20/87 4 (41A) ORDER approved by ct dep. GRANTING application motion by Atty. Butters for leave of absence from 6/18 thru 6/25/87. cc&eod 5/26/87. [2-1]. (dt) [Entry date 5/26/87]
- 7/8/87 5 ORDER that dft's motion for s.j. on count one is GRANTED and pltf's motion for s.j. on count one is DENIED & DIRECTING clerk to enter judgment in favor of dft by Judge Orinda D. Evans filed. cc (dt) [Entry date 7/16/87]
- 7/8/87 6 (42) JUDGMENT ENTERED on for defendant BRG of Georgia, Inc., defendant Bar Review Group, defendant Harcourt Brace Jovan, defendant BRG Publications, defendant Ronald O. Pelletier against plaintiff William Ferguson, plaintiff Benjamin First for costs. cc. (dt) [Entry date 7/16/87]
- 7/17/87 7 (43) MOTION by plaintiff Jay Palmer, plaintiff Michael Chidester, plaintiff Teri L. Powers, plaintiff David Dunbar, plaintiff William Ferguson, plaintiff Benjamin First to alter judgment, or to amend judgment [6-1] with brief in support. (dt) [Entry date 7/23/87]
- 7/23/87 8 (44) RESPONSE by defendant BRG of Georgia, Inc., defendant Bar Review Group, defendant Harcourt Brace Jovan, defendant BRG Publications, defendant Ronald O. Pelletier in opposition to motion to alter judgment by plaintiff [7-1], motion to amend judgment [6-1] by plaintiff [7-2]. (dt) [Entry date 7/27/87]
- 7/28/87 -- SUBMITTED to Judge Orinda D. Evans on motion to alter judgment by plaintiff [7-1] (dt)
- 9/16/87 9 (45) ORDER DENYING motion to alter judgment by plaintiff [7-1], DENYING motion to amend judgment [6-1] by plaintiff [7-2] by Judge Orinda D. Evans. cc (dt) [Entry date 9/17/87]
- 10/6/87 10 (46) Bill of costs of defendant BRG Publications, defendant Ronald O. Pelletier against pltf for \$1,025.77.. (dt) [Entry date 10/8/87]
- 10/9/87 11 (47) MOTION by pltf's. to review bill of costs with brief in support. (dt) [Entry date 10/13/87]

Proceedings include all events.

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10/9/87 12 Stipulation for filing interr & resp to interrogatories which should have been filed with the motion for s.j. filed with above mentioned matter to be part of record on appeal. (dt) [Entry date 10/13/87]

10/13/87 -- COSTS TAXED in the amount of \$ 1,025.77 for defendant BRG Publications, defendant Ronald O. Pelletier. cc (dt)

10/13/87 -- SUBMITTED to Judge Orinda D. Evans on bill of costs [10-1] (dt)

10/13/87 13 RESPONSE by defendant BRG Publications, defendant Ronald O. Pelletier to motion to review bill of costs [11-1]. to ODE (dt) [Entry date 10/14/87]

10/14/87 14 NOTICE OF APPEAL by pltfs from judgment [6-1], order [9-1] and orders (3) of 1/9/87.. cert c/dkt, NOA, Judgment & orders to USCA. ack 10/26/87 #87-8804 (dt) [Entry date 10/19/87] [Edit date 10/28/87]

11/9/87 15 ORDER DENYING reduction of the bill of costs in the motion to review bill of costs [11-1] by Judge Orinda D. Evans . cc (dt)

12/3/87 -- FORTHWITH LETTER from U.S. Court of Appeals. (dt) [Entry date 12/08/87]

12/22/87 -- Certified and TRANSMITTED RECORD on to U.S. Court of Appeals. (4 vols of pleadings and 8 depos) ack 1/20/88 (bbf) [Edit date 01/26/88]

1/21/88 -- SUPPLEMENTAL RECORD #1, consisting of plas' brief and additional evidence submitted in response to the court's order of 1/9/87, filed 2/9/87, forwarded to USCA. ack 2/1/88 (bbf) [Edit date 02/09/88]

3/5/90 16 Certified copy of ORDER of the U.S. Court of Appeals appeal [14-0] AFFIRMING this court's decision. Entire file returned. cc (dt) [Entry date 03/14/90]

11/6/90 -- LETTER from USCA wanting us to send the file to them as US Supreme Court has requested that record be forwarded to them. Orig. file sent to USCA (dt) [Entry date 11/13/90]