

**Michael T. McKibben****From:** Eric J. Wittenberg [eric@ewittenberglaw.com]**Sent:** Thursday, April 30, 2009 1:21 PM**To:** mmckibben@leader.com**Cc:** Jim Sobwick; Adam Steiger**Subject:** Re: Demand for retraction

Mr. McKibben,

Because Mr. Donchatz has specifically instructed me not to bother him with these matters and to address them with you specifically, I have not copied him or his partners on this e-mail.

I would agree that facts are not libelous. However, your persistent editorializing of the facts certainly constitutes actionable libel. The particular passage appears in your April 7 blog entry:

Another of Mr. Zacks' pawns in the vexatious lawsuit scheme is **Adam J. Steiger** and his surrogate attorney **Eric J. Wittenberg**. Mr. Steiger filed a lawsuit to collect \$17,000 in interest he claimed the company owed him from a 1998 \$100,000 loan; a loan which had been paid back (see Footnote 4, first blog entry below). In lieu of having to pay Mr. Steiger cash, the company had issued him over 200,000 stock options. The interest claim was settled. Mr. Zacks as the corporate attorney was asked to document the agreement. He never did (illustrative of the company's general experience with his legal work). True to Zacks' form, in 2005 he assisted Mr. Steiger to file a lawsuit to collect this fictitious interest obligation.

### False testimony fuels more pleadings; justice is the victim

When Leader responded showing clear evidence that Mr. Steiger had been compensated with options, Mr. Steiger (read: Mr. Zacks) counter sued the founder Mike McKibben for \$1.5 million in fraud! No evidence of the fraud alleged was ever given because there is none, which is a violation of the [Ohio Rules of Civil Procedure Rule 9\(b\)](#) that requires fraud allegations to be plead with "particularity". Mr. Steiger's basis for his damages claim? "That is the number my attorney [Zacks/Wittenberg] suggested." This admission that the \$1.5 million damages number was unfounded is a breach of the [Ohio Rules of Professional Conduct, RULE 3.3: CANDOR TOWARD THE TRIBUNAL](#). The fact is that Mr. Steiger has no money invested in Leader.

[This meaningless lawsuit has muddled on since 2005](#) due to attorney misconduct (Wittenberg conflict of interests) and frivolous Zacks/Wittenberg pleadings. The judge recently ruled against Leader, claiming that the company had not provided evidence of the options compensation to Mr. Steiger. The judge apparently missed the exhibit showing actual pages from an **Ohio Division of Securities ordered and approved document** enumerating Mr. Steiger's holdings, including the 200,000 stock options. Mr. Steiger has no money invested in the company, therefore, Mr. Steiger has no damages. But to an unscrupulous attorney like Mr. Zacks, truth and justice are irrelevant. Gaming the Franklin County (Ohio) Courts system is paramount. Mr. Steiger and Mr. Zacks and their surrogates waste company time and expense with this nonsense, and yet, the court procedures allow them to keep filing frivolous pleadings *ad infinitum*. Taxpayer resources are wasted. Leader share value is diminished.

Click here to view evidence of Wittenberg's legal representation of Zacks on May 27, 2005

There are so many patently false statements there that one hardly knows where to begin.

1. I have never been affiliated with the Zacks law firm in any fashion. I am ethically obligated to provide my client with my independent, objective legal advice and actions. I take no instructions from anyone but Mr. Steiger. I am most assuredly no one's surrogate, and it is libel per se to suggest otherwise.

2. There was no conflict of interest, only those invented by your counsel to delay this case. The court has found that to be the case. The delays were engendered by you and your client, and your suggestion that I have committed some misconduct is libel per se.

2. YOU may think that Mr. Steiger's case is fictitious and that our filings are frivolous but the Franklin County Court of Common Pleas does not see it that way. The fact that it has entered judgment in favor of Mr. Steiger and against your company is all that's necessary to prove the falsehood of your statements.

That should suffice for now.

I reiterate the demand that these libelous statements regarding both Mr. Steiger and me be retracted. There will be consequences if they are not. Proceed at your own caution and with notice that there will be consequences.

It is not appropriate for me to speak to Mr. Sobwick directly with respect to Mr. Steiger's litigation against Leader unless and until (a) the Court grants Mr. Donchatz's motion for leave to withdraw or (b) I receive written permission from Mr. Donchatz to communicate with Mr. Sobwick directly regarding Mr. Steiger's litigation. If Mr. Donchatz wishes to forward that written permission to me directly, I will be happy to communicate with Mr. Sobwick. Otherwise, I must insist that any communication regarding the resolution of Mr. Steiger's litigation be made solely through counsel.

Eric J. Wittenberg

On Apr 30, 2009, at 12:16 PM, Michael T. McKibben wrote:

Dear Mr. Wittenberg:

I am in receipt of your April 30, 2009 email (below). Our public blogs are a collaborative effort. Kindly forward to us the specific URL(s) and citation(s) that you consider false, defamatory or libelous. We believe that no such information exists. However, reasonable people can differ. Therefore, we will ask the editorial group to review your citations and make changes that are appropriate, if any.

Leader shareholders have a vested interest in removing encumbrances to share value. You and your client, Adam J. Steiger, have been interfering in Leader's business by your protracted, malicious actions since 2003. Therefore, Leader shareholders are well within their fiduciary rights, not to mention free speech rights, to express their disapproval to you and your client; including taking whatever actions they and their advisors may deem appropriate.

Your lawsuit is public record.\* Your allegations are public record. Adam J. Steiger is the public captioned Plaintiff. Eric J. Wittenberg is the public plaintiff's attorney of record. The public Franklin County Clerk of Courts records are not false, defamatory or libelous.

You and your client are the ones who chose to make your actions public starting in 2003. Facts are neither defamatory nor libelous.

I have asked Jim Sobwick, our Chief Operating Officer, to reach out to you later today to discuss this matter. Our shareholders have lost patience with your actions. It is time for everyone to move on before the consequences take on a life of their own.

Mike McKibben

**Footnote:**

\* *Adam J. Steiger v. Leader Technologies et al*, Case No. 05CVH 10 11582.

Marellan O'Shaughnessy, Franklin County Clerk of Courts.

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[<productsandservices-panel-465W.jpg>](#)

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-----Original Message-----

From: Eric J. Wittenberg [<mailto:eric@ewittenberglaw.com>]  
Sent: Thursday, April 30, 2009 8:46 AM  
To: Michael McKibben T.  
Cc: Jim Sobwick; Adam Steiger  
Subject: Demand for retraction

Mr. McKibben,

As your counsel has directed me to communicate with you about this directly, it has come to my attention that you have been posting defamatory statements about me on your blog that constitute libel per se.

The purpose of this e-mail is to demand that you immediately cease and desist from further defaming me, and that you immediately retract those false and defamatory statements that have already been published by you on your blog. Written verification that you have done so is respectfully demanded.

Thank you.

Eric J. Wittenberg  
Attorney and Counselor at Law  
ERIC J. WITTENBERG CO., L.P.A.  
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Pickerington, OH 43147  
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<Adam J. Steiger v. Leader Technologies et al, Case No. 05CVH 10 11582.pdf>

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another person any transaction, arrangement or matter addressed herein.

**KRUPMAN, GOLDEN, MEIZLISH, MARKS & WITTENBERG, LLP**  
ATTORNEYS AT LAW

Keith E. Golden  
Victor S. Krupman  
Irving B. Marks

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Jodie K. Meizlish  
Eric J. Wittenberg  
David R. Busam

May 27, 2005

Don M. Patterson, Chief Financial Officer  
Leader Technologies, Inc.  
Spectrum Commerce Center  
921 Eastwind Drive, Suite 118  
Westerville, Ohio 43081

On April 30, 2009 Mr. Wittenberg claimed: I have never been affiliated with the Zacks law firm in any fashion." This letter from Mr. Wittenberg proves that he represented Mr. Zacks four years earlier. This refutes Mr. Wittenberg's assertion that he had no association with Mr. Zacks prior to the Steiger

Re: Nation  
Leader Tech

Dear Mr. Patterson:

I have received your voice mails, as well as the dismissal entry. Ben and I both appreciate the steps taken to resolve this debt.

However, we remain distressed that Ben ended up getting sued in this matter, which will end up on his credit. We also remain distressed that Ben was forced to incur legal fees in this matter. We believe it is appropriate for Leader to pay these legal fees. Enclosed please find an invoice for my services rendered. I would appreciate it if Leader forwarded payment to me at its earliest possible convenience. Thank you.

Should you have questions or comments, please feel free to contact me.

Very truly yours,

KRUPMAN, GOLDEN, MEIZLISH,  
MARKS & WITTENBERG, LLP

  
Eric J. Wittenberg

EJW/me  
cc: Benjamin S. Zacks, Esq.

Enclosure

**Exhibit B**

**KRUPMAN, GOLDEN, MEIZLISH, MARKS & WITTENBERG, LLP**  
923 EAST BROAD STREET  
COLUMBUS, OH 43205-1101  
(614)258-1983  
FAX: (614)253-5071

May 27, 2005

Benjamin S. Zacks, Esq.  
Zacks Law Group  
33 South James Road  
3<sup>rd</sup> Floor  
Columbus, OH 43213

Eric J. Wittenberg: "I have never  
been affiliated with the Zacks law  
firm in any fashion." (4/30/09)

**INVOICE FOR PROFESSIONAL SERVICES RENDERED**

4/15/05	Review and analysis of Complaint; Legal research on venue issue	
4/16/05	Draft Motion for Change of Venue and Supporting Affidavit; Leave voice mail for Don Patterson at Leader	
4/27/05	Finalize same and send out for filing.	
TOTAL		3.75 hours
AMOUNT DUE:		\$750.00

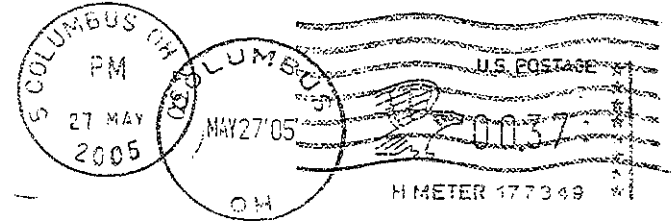
Due upon receipt. Past due balances accrue finance charges at the rate of 18% per annum.

**Exhibit B**

KRUPMAN, GOLDEN, MEIZLISH,  
MARKS & WITTENBERG, LLP  
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RECEIVED  
MAY 31 2005



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**Exhibit B**