

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

PIOTR NOWAK,	:	
	:	CIVIL ACTION
<i>Plaintiff</i>	:	
	:	No. 2:12-cv-04165-MAM
vs.	:	
	:	
PENNSYLVANIA PROFESSIONAL	:	
SOCCER, LLC, and KEYSTONE SPORTS	:	
AND ENTERTAINMENT, LLC,	:	
	:	
<i>Defendants.</i>	:	

**PLAINTIFF’S RESPONSE TO THE COURT’S ORDER TO SHOW CAUSE WHY THIS
CASE SHOULD NOT BE DISMISSED WITH PREJUDICE**

Plaintiff, Piotr Nowak, through his undersigned counsel, hereby submits this response to the Court’s June 26, 2015 Order to Show Cause as to why this case should not be dismissed with prejudice.

1. Defendant Pennsylvania Professional Soccer, LLC which operates as Philadelphia Union Soccer Club (“the Team”) entered into an Employment Agreement, which employed Mr. Nowak as Team Manager through the end of 2012. *See* Exhibit A, Employment Agreement.
2. The agreement provided that Nowak was to be terminated “for cause” only, and that whether his termination was “for cause” was to be “determined in good faith.” *See* Exhibit A.
3. The contract also provided that prior to terminating Nowak, the Team would specify the basis for potential termination and give Nowak the opportunity to cure the defect. *See* Exhibit A, paragraph III(c).

4. After over two years of serving as Team Manager, due to his exemplary performance in December of 2011, the Team extended Nowak's existing contract until December 31, 2015. A copy of the contract extension is attached as Exhibit B.

5. After several players and the players' union complained to Major League Soccer ("MLS") about their unhappiness with Nowak's coaching methods, on June 12, 2012, MLS published a report, which found Nowak to be in violation of League policy, primarily for making players run without water during a hot and "humid" day.

6. On June 12, 2012, Mr. Nowak was notified verbally and in writing that he was being terminated by the Soccer Club "for cause." A copy of the "for cause" letter is attached as Exhibit C.

7. The termination letter did not state with specificity which allegations relate to which termination clause in the contract.

8. The termination was fundamentally unfair and contrary to the terms of the contract because it was made:

- (a) without seeking any input from Piotr Nowak concerning the issues raised by the players' union;
- (b) without any prior written discipline;
- (c) without providing Mr. Nowak the opportunity to cure any issues the Team had with him as was required by the contract; and
- (d) without the good-faith required by the contract.

9. As a result of the Team's breach of contract, on July 20, 2012, Nowak filed this lawsuit. *See* Doc. No. 1.

10. On September 11, 2013, this Court sent this matter to the American Arbitration Association's Employment Arbitration Tribunal.

11. On May 28, 29 and 30 of 2014, arbitration hearings were held.

12. On April 21, 2015, an Interim Award was entered by the AAA Arbitrator, in favor of the Team.

13. In the Interim Award, the AAA arbitrator erred in her application of the law and ignored indisputable evidence that was critical and directly contrary to her findings.

14. Accordingly, Nowak intends to file a motion to vacate the AAA arbitration award.

15. The Federal Arbitration Act ("FAA") provides that an award may be vacated when there is evidence of corruption, fraud or undue means. 9 U.S.C. § 10(a)(1).

16. The FAA also provides that an award may be vacated when there is evidence of partiality or the arbitrator imperfectly executed her power. 9 U.S.C. § 10(a)(2); 9 U.S.C. § 10(a)(4).

17. The award demonstrates her bias in favor of the defendants, not only in these specific erroneous acts but also in her failure at every turn to accept any aspect of Nowak's case to include matters that were not in material dispute.

18. The FAA provides that notice of a motion to vacate must be served upon the adverse party within three months after the award is delivered. 9 U.S.C. § 12.

19. As the AAA award was entered on April 21, 2015, Nowak has until July 21, 2015 to provide notice of his intent to file a motion to vacate.

20. Because Nowak intends to file a timely motion, this Court should not close this case.

WHEREFORE, Plaintiff, Piotr Nowak respectfully asks this Honorable Court not to dismiss this case with prejudice.

Respectfully submitted,

HAINES & ASSOCIATES,

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