

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MICHAEL ELBERY, )  
Plaintiff, )  
 )  
v. ) C.A. No. 97-11743-MLW  
 )  
DANIEL SKLUT, ET AL., )  
Defendants. )

ORDER

WOLF, D.J.

November 29, 2001

1. Plaintiff Michael Elbery's Motion to Correct Court's Error of Law (Docket No. 221), which in effect requests that the court reconsider and revise its September 20, 2001 decision denying his motion for partial summary judgment, is DENIED, essentially for the reasons stated in the September 26, 2001 Memorandum and Order and Defendants' October 30, 2001 Opposition to Plaintiff's Motion (Docket No. 242).<sup>1</sup>

2. Elbery's Motion for Court to Perform Ministerial Act (Docket No. 241) raises essentially the same issues as the foregoing Motion to Correct Court's Error of Law and is also DENIED.

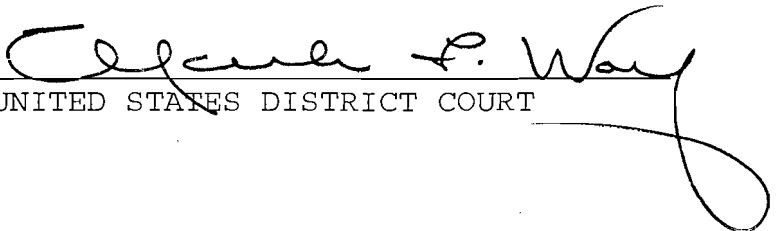
3. Elbery has filed in this case a Motion to Stay Judgment on Consolidated Cases (Docket No. 224) requesting that the court not enter judgment on its September 26, 2001 Orders granting

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<sup>1</sup>Defendants' Motion to Extend Time to file their Opposition (Docket No. 228) is ALLOWED.

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summary judgment against Elbery in Elbery v. Sheketoff, et al, 98-10163-MLW ("Sheketoff") and Elbery v. Breen, et al., 98-10438-MLW ("Breen"). That motion should have been filed in the cases in which summary judgment was granted. In any event, Elbery's motion was filed after September 26, 2001, when judgment was entered in Breen and Sheketoff. The dockets reflect that Elbery is pursuing appeals in each case. While his motion for a stay is now MOOT, it was also not meritorious. The defendants in Breen and Sheketoff are entitled to a resolution of the long pending claims against them by affirmance of the granting of summary judgment on appeal or by trial if this court's decisions are reversed. Elbery filed separate actions. There was some efficiency to consolidating them for the purpose of discovery. It is most appropriate that the appeals, which raise distinct issues, proceed separate from the instant case, which must be tried.

  
UNITED STATES DISTRICT COURT