

IN THE DISTRICT COURT OF APPEAL  
FOR THE THIRD DISTRICT  
STATE OF FLORIDA

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APPEAL NO. 3D13-3278

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HEAFEY BENTLEY MANAGEMENT, LLC, a Florida limited liability company,  
GINO FALSETTO and PIERRE HEAFEY  
Appellants-Petitioner

v.

HEINZ DINTER  
Appellee-Respondent

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An Appeal from the Circuit Court of the 11th Judicial Circuit  
In and for Miami-Dade County, Florida  
Case No. 07-11842 CA 20  
The Honorable Ronald C. Dresnick, Circuit Judge

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**APPELLEE'S AMENDED ANSWER BRIEF**  
(correcting two scrivener's errors)

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**STATEMENT OF THE CASE AND FACTS****SUMMARY**

Twenty-five years ago, in his capacity as an investigative journalist, Heinz Dinter, PhD, served his neighbors at Miami's The Grand mixed-use condominium with a printed periodical, *Grand Lifestyle*, premiering in January 1991 and distributed free-of-charge to The Grand residents; and made available on the Internet at [www.GrandLifestyle.com](http://www.GrandLifestyle.com) and blogs, including [www.GrandLifestyle.blogspot.com](http://www.GrandLifestyle.blogspot.com), in the mid-nineties.

Pierre Heafey, the successor developer, and Gino Falsetto, employee and business associate of Pierre Heafey, and subsequently having also become a real estate developer, were the subject of numerous articles in *Grand Lifestyle* documenting illegal and/or exploitive and conscience-arousing business activities.

Some reported activities, having come to the attention of the FBI, led to the successful prosecution of Dinter's article subjects by the United States government whilst others became the plaintiffs of several lawsuits against Dinter in Miami's state and federal court dealing with defamation, injunction and trademark issues, all of which were successfully defended by Dinter.

When Heafey and Falsetto were denied a favorable defamation and injunction ruling in the sixth lawsuit against Dinter (Case No. 07-11842 DA 20), the *Grand Lifestyle* publisher was offered a settlement agreement in which he

accepted a dismissal notice with prejudice and money in exchange for the promise never to make Heafey, Falsetto, and their associates subject of Dinter's publishing.

After one year of peace, Dinter agreed to transmit a 68-page white paper containing documentation of complaints by condo dwellers who were subject to Heafey's and Falsetto's control in a **private** communication to Heafey and Falsetto. *Nota bene*: The white paper was neither authored nor published by Dinter.

Dinter was accused of violating the settlement agreement and — employing trickery, misrepresentations, and lies — secured a contempt of court citation against Dinter despite Dinter having presented evidence representing the truth.

Dinter promptly embarked on his defense in the public court of law and in the public forum of conscience by

- Publishing the truth which is an affirmative defense — “a defendant's assertion raising new facts and arguments that, if true, will defeat the plaintiff's or prosecution's claim, even if all allegations in the complaint are true”;
- Documenting the motives for Heafey's and Falsetto's strenuous efforts to secure contempt of court orders: embark on a campaign of revenge and hiding their nefarious business activities; and

- Asking the Court to deny the petitions for contempt and to vacate the March 7, 2013 order.

### **IN THE SERVICE OF MY NEIGHBORS**

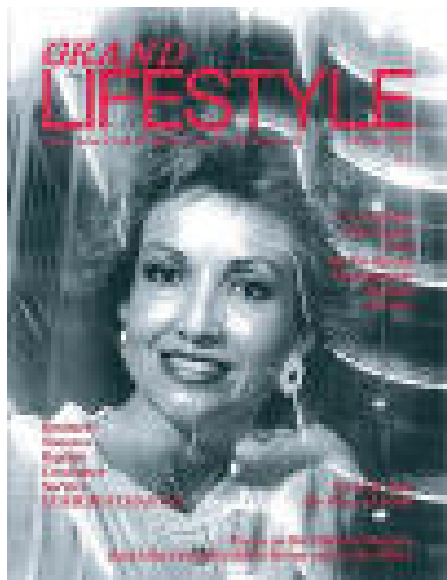
A quarter century ago, Appellee-Respondent Heinz Dinter (“Dinter”) decided to enjoy the unique benefits offered at condominium life in general and the highly desirable amenities available at the mixed-use The Grand condominium (then known as The Venetia) located along the shores of Biscayne Bay in Miami, Florida. Dinter chose a life under one roof in close proximity of 810 neighbors, a 152-room luxury hotel, and many retail establishments including restaurants, food stores, dry cleaner, barber shop, dentist, art gallery, gymnasium, and many more totaling 80,000 square feet. What a wonderful prospect! A speedy ride on one of several elevators would put Dinter in touch with his neighbors and fulfill his need for life’s necessities without leaving the building and calling on his automobile for travels away from the 56-story condominium complex.

But Dinter also embarked on a hejira strewn with human failing and capped by distant hope for truth, honesty, and respect for others’ rights and property.

*Undemocratic condo life*

Soon, the problems reared their ugly heads. The rules by which all residential condo dwellers lived in the condominium community under the auspices of a condominium association were in ironclad control of just one man, Pierre Heafey. The Canadian notary and real estate promoter Pierre Heafey, one of the Appellants-Petitioners (“Heafey”), whose company, Groupe Heafey, headquartered in Gatineau (Quebec), Canada, had purchased the hotel, the entire retail space, and the unsold residential condominium units from the three-bank consortium headed by the Bank of New York and with it the most lucrative piece of the transaction — absolute control over the condominium association’s board of directors. The condo documents, created by the original developer, assign the seven directors as follows: two are elected by the hotel’s owner, two are elected by the owner of the retail space, two are elected by the 810 residential unit owners, and one is tossed up for grabs. Bingo! Pierre Heafey controls absolutely four of the seven directors and the ruthless, uncontrollable plunder began (and continues unabated today).

Our democracy’s founding fathers, it can safely be assumed, did not intend for one man to control the lives of 810 condo dwellers. Of course, the concept of condominium living had not yet become a favorable lifestyle in 1776 and real estate promoters and real estate developers were still a rare breed.

*Bringing the truth to light*

Dinter volunteered his services to The Grand community with a magazine he called *Grand Lifestyle* and reported on the happenings at The Grand.

Of course, he also researched and reported on the marauding activities of Pierre Heafey and issued warnings to his neighbors, and soon, when Gino Falsetto, who hails from Ottawa, Canada, one of the Appellants-Petitioners (“Falsetto”), joined Pierre Heafey, Dinter also reported on the ruthless acts of Gino Falsetto on behalf of Heafey as general manager and on his own behalf with a multitude of business enterprises in the name of Gino Falsetto.

Shortly after his appearance in Miami, Pierre Heafey stood before The Grand’s residential unit owners and assured them he would not turn the building into a rental complex. Dinter’s research discovered otherwise (also subsequently confirmed by the FBI) and his article, “[The Developer Is Your Lord and Master](#),” published in the November/December 1992 issue of Grand Lifestyle magazine presented the evidence that Pierre Heafey had lied to The Grand’s residents — Heafey was selling residential units as rental property to Canadian

taxpayers in a tax shelter scheme (the audacious syndication prospectus even gave five-year rental guarantees).

Furthermore, subsequent investigation by the FBI concluded on December 17, 1998 with the guilty plea for mortgage fraud and payment of an \$800,000 fine sentenced by The Honorable Joan A. Lenard, U.S. District Judge, in United States of America v. 727870 Ontario, Inc., Case 98-639-CR-LENARD, in the United States District Court, Southern District of Florida in Miami. Heafey's ability to negotiate a deal in which the company he owned pleaded guilty possibly saved the real estate promoter from being incarcerated in a U.S. jail.

### **THE TWO-DECADE STRUGGLE IN MIAMI'S COURTS OF LAW**

#### ***The first onslaught was abandoned to dodge testifying under oath***

The first attempt to silence Dinter with a lawsuit by The Grand Condominium Association and its directors came in 1993 when Dinter reported on the Heafey-Falsetto shenanigans in connection with highly inflated roof repair bills the residential unit owners were stuck with following Hurricane Andrew. The article "[Rape By Condo: It's a Miracle](#)" was published in the July/August 1993 issue of Grand Lifestyle. That lawsuit was voluntarily dismissed when Dinter subpoenaed Pierre Heafey (who was not a plaintiff) to testify under oath in a deposition.



***A flood of lawsuits intent on submission and hiding the truth***

Five more lawsuits followed, all of which Dinter defended successfully, including one which Dinter successfully moved to the federal court and won because Pierre Heafey's attorney, Jane E. Hendricks, attempted to steal Dinter's trademark, Grand Lifestyle™.

Pierre Heafey orchestrated six (6) lawsuits against Dinter (primarily for defamation and injunctive relief) in all of which Dinter was not adjudicated of having libeled or slandered Pierre Heafey, Gino Falsetto, or anyone else:

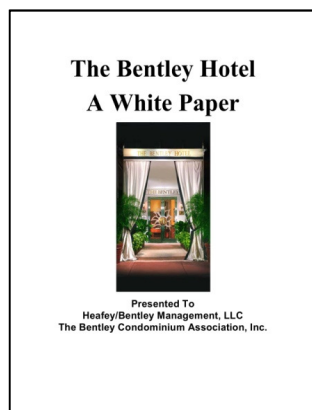
- (1) In 1993: Case No. 93-11817 CA 03;
- (2) In 1993: Case No. 93-25497 FC 45;
- (3) In 1994: Case No. 94-22543 CA 03;
- (4) In 1995: Case No. 95-04319 CA 04;
- (5) In 1995: Case No. 95-0802-CIV-MORENO;
- (6) In 2007: Case No. 07-11842 CA 20.

***Was the intent true truce with permanent peace?***

When in 2008 The Honorable Daryl E. Trawick found no defamation in the latest 2007 lawsuit, the plaintiffs — Heafey Bentley Management LLC, Gino Falsetto, and Pierre Heafey (the Appellants-Petitioners) — offered to dismiss the case with prejudice and the payment of money if Dinter agrees to stop publishing about the plaintiffs' activities. Dinter welcomed the offer because he sought a life

filled with peace of mind and agreed. The agreement was executed on March 19, 2008 and an amended agreement was executed on May 5, 2009; Dinter removed all plaintiff-related content from his websites and blogs; and published nothing further about the plaintiffs' business activities. But peace lasted only one year.

Significant evidence of the Appellants'-Petitioners' misuse and abuse of the court system manifested itself clearly in the 2007 lawsuit: co-defendant Cynthia Lynn, who stood accused of collaborating with Dinter, was freed from the lawsuit when the notice of dismissal with prejudice was filed. Also, Lynn was never subjected to any discovery proceedings.



Lynn and her husband were owners of a condo unit at the Bentley hotel and Lynn, an experienced hotel manager and professional forensic accountant, was outspoken about the administration of the hotel by general manager Nathalie Heafey, Pierre Heafey's daughter, and the condominium association administered by Gino Falsetto, the association's president, and had called for a forensic accounting audit of both.

Dinter has never met Lynn and has never discussed or entered into any collaborative activity with Lynn.

In 2009, the unit owners of the Bentley condominium hotel on South Beach in Miami Beach asked Dinter to deliver a list of grievances to Gino Falsetto,

president of the Pierre Heafey-controlled condo hotel's condominium association. Dinter agreed, delivered the [68-page compilation of complaints](#) (Appendix, pages A.1–A.68) from the condo hotel's unit owners along with an offer to assist in the conflict resolution, and the assurance that no one else would see this private communication. The sufferers were unable to communicate with the Falsetto-Heafey team, but knew Dinter was in contact with Falsetto

Pierre Heafey's Heafey Bentley Management LLC controlled the operation of the hotel and Nathalie Heafey, Pierre's daughter, was general manager.

Pierre Heafey sold his interest in the Bentley hotel (and therewith his control over the hotel's condominium association) in 2010.

*The opportunity for vengeance presents itself*

Pierre Heafey and Gino Falsetto used this opportunity and responded by accusing Dinter of violating the 2008 agreement with [Plaintiffs' Motion for Sanctions and Contempt for Violating Terms of Amended Settlement Agreement and Settlement Agreement](#) served on March 21, 2009 (The 29-page motion was served with all pages turned 90 degrees counter-clockwise; Dinter righted the pages) (Appendix, pages A.69-A.97).

The subject of the plaintiffs' motion for contempt of court was [The Bentley Hotel A White Paper](#) consisting exclusively of written communication (emails and notes) from unit owners of the Bentley condominium hotel which Veronica

Blake (a unit owner) had compiled and had asked Dinter to transmit to Gino Falsetto for the sole and exclusive purpose of bringing conditions at the hotel and the unit owners' complaints to the attention of Gino Falsetto and Pierre Heafey.

Dinter's act of emailing the 68-page document was a **private** communication from Heinz Dinter to Pierre Heafey and Gino Falsetto on behalf of the Bentley's unit owners — and most significantly — was not published as defined in paragraph 8 of the March 7, 2013 court order issued by The Honorable Ronald C. Dresnick, and in the Seventh Edition of Black's Law Dictionary, to wit: "publish, vb. 1. To distribute copies (of a work) to the public. 2. To communicate (defamatory words) to someone other than the person defamed."

Dinter's generosity of offering to help both sides was used as a welcome opportunity by Heafey and Falsetto to deliver vengeance. They accused Dinter of violating the Settlement Agreement and asked the court to hold Dinter in contempt of court.

Of specific interest is the fact that the 29-page motion for sanctions and contempt did not make any reference to the 68-page white paper. Instead, the "evidence" presented constituted blog postings and emails dedicated exclusively to Dinter's defense against the Heafey-Falsetto accusations.

Most noteworthy is the deliberate intent to mislead the Court. For example, the motion states, "Dinter demands an additional \$50,000.00" when, in fact, Dinter

made no such demand as the last page of the motion's exhibit clearly confirms (Appendix page A.97).

On April 24, 2009, the Appellee-Respondent filed [Dinter's Response to Plaintiffs' Motion for Sanctions and Contempt for Violating Terms of Settlement Agreement](#) (Appendix, pages A.98–A.222).

Key arguments presented to the Court by Dinter in his Response are representative of his defense which permeate his responses to all six motions for contempt filed by Heafey and Falsetto during the time period of 2009 through 2013):

1. Dinter's submission of the 68-page White Paper was a private communication, was neither authored nor published by Dinter, and did not violate the terms of the Settlement Agreement.
2. Heafey and Falsetto are engaging in despicable acts of vengeance.
3. Heafey and Falsetto are deliberately misrepresenting facts, twisting dates, and lying to the Court.
4. Dinter's plea for an evidentiary hearing was ignored by the Court.
5. Unable to secure an evidentiary hearing, Dinter mustered a defense by documenting the wrongdoings of Heafey and Falsetto to present evidence of their motives of inflicting vengeance on Dinter and hiding their misdeeds.

6. Heafey's and Falsetto's motion for contempt was exclusively based on twisting the truth, manipulating dates, and misleading the Court.
7. Dinter's desperate effort to let the truth be heard included his presentation of the truth and focus on the real estate developers' motives in the forum of public conscience, the Internet.

Based on the lies and misrepresentations, Judge Dresnick agreed with Pierre Heafey and Gino Falsetto.

***The defense must not rest: The plaintiffs' motive is obvious***

Dinter mustered a defense against these false charges by exposing the false charges and demonstrating the plaintiffs' motives for their actions. Dinter presented his defensive actions in the public forums of the court of law and in the forum of public conscience, the Internet (Appendix, pages A.223–A.245).

More motions for contempt of court were tossed in Dinter's direction, one asked for a fine of \$1,703,000 and two asked the court to toss Dinter in jail.

***The brutal attacks spiced with lies finally were ruled dead***

Following several more contempt of court motions, corresponding court orders, and Dinter's vehement objections — supported by stellar evidence — the plaintiffs filed their last (sixth!) error-riddled, deceiving and incomplete motion for contempt with the Court on November 11, 2013: [Plaintiff's Motion for Issuance](#)

**of a Writ of Bodily Attachment, for Contempt of Court and Imposition of Sanctions and for Entry of a Final Judgment for Damages and Injunction.**

The plaintiffs' attorney set the motion calendar hearing for December 2, 2013 over Dinter's objection that the motion was incomplete and Dinter has a medical appointment in conflict with the hearing date. The motion's defect manifests itself in the fact that the exhibits cited consist of 139 pages of barely readable material of unverified sources and was untimely submitted to Dinter on November 22, 2013. The plaintiffs' attorney did not reschedule the hearing; the hearing took place; and Dinter did not attend.

A grateful intermission in the *Twenty-Five Years' War* graced the end of 2013. The last such motion for contempt (it was the sixth!) was denied by Judge Dresnick on December 2, 2013 with the additional commentary that this Court would not hear any further such motions: "Each time the Court has imposed a sanction or held the Defendant in contempt the Court did so with a feeling of utter discomfort. The Court is of the opinion that enough is enough and that if the Plaintiff wishes any other relief it consider rescinding the agreement and seek the return of its money since it is obvious that the Defendant is incapable of upholding his end of the agreement."

Indeed, Heafey's and Falsetto's vicious efforts of seeking vengeance placed Dinter in the defensive position of being incapable of upholding his end of the

agreement. Dinter simply leaned on his constitutional right to defend himself and to expose Heafey's and Falsetto's motives.

On December 27, 2012, the plaintiffs, Heafey Bentley Management LLC, Gino Falsetto, and Pierre Heafey served Dinter with a Notice of Appeal to challenge the December 2 order with the Third District of Appeal.



**REBUTTAL OF THE APPELLANTS' INITIAL BRIEF**

The Appellants-Petitioners presented their case reeking with distortions of facts, leaving out facts, and intent on misleading the Court.

- The argument that Dinter “immediately” violated the Agreement is false. One entire year elapsed before charges of violations were brought.
- The argument that Dinter published defamatory material is false. No court has ever found Dinter guilty of publishing defamatory material; and every tribunal that was ever petitioned to adjudicate Heinz Dinter guilty of committing defamation adjudicated Dinter innocent.
- The argument that Pierre Heafey and Gino Falsetto enjoy a “sterling reputation” has been clearly negated by the *per se* evidence of their conduct and business activities as documented by Dinter.
- The argument that Dinter pursues an agenda of harassment and defamation against The Honorable Ronald C. Dresnick is a blatant lie and constitutes an actionable offense.

**CONCLUSION BASED ON PLEAS FOR EVIDENTIARY HEARINGS**

**WHEREFORE**, pursuant to the foregoing, and in repetition to the multiple requests made by Dinter that evidentiary hearings be held to ascertain the truth, Appellee-Respondent Heinz Dinter respectfully requests that this Honorable Court deny the appeal.

In support thereof, Appellee-Respondent Heinz Dinter offers the following evidence:

1. Appellee's November 11, 2009 Amended Response to Plaintiff Pierre Heafey's Fifth Emergency Motion for Sanctions and Contempt for Violating Terms of Amended Settlement Agreement and Settlement Agreement and Plaintiff Pierre Heafey's Second Supplemental Motion to Incarcerate Heinz Dinter for Contempt of Court (Appendix, pages A.246–A.254);
2. Appellee's March 11, 2013 Response and Objection to the Order Finding Defendant Heinz Dinter in Contempt of Court and Imposing Sanctions Against Heinz Dinter of One Thousand Dollars and Heinz Dinter's Motion for Recusal of The Honorable Ronald C. Dresnick (Appendix, pages A.255–A.267); and
3. Appellee's December 5, 2013 Response to and Expression of Gratitude for the Order Denying Plaintiff's Motion for Issuance of a Writ of Bodily Attachment, for Contempt of Court and Imposition of Sanctions and for Entry of a Final Judgment for Damages and Injunction (Appendix, pages A.268–A.274).

**NOTICE OF PRO SE LITIGATION**

PLEASE TAKE NOTICE that the Appellee-Respondent, Heinz Dinter, is not a lawyer formally trained in an accredited law school and is proceeding *pro se* in this cause; therefore, the contents herein should be liberally construed; Haines v. Kerner, 404 U.S. 519, 92 S. CT. 594, 30 L Ed 2d, 652 (1972). Additionally, a *pro se*'s pleadings should be held to a less stringent standard than pleadings drafted by attorneys; Byrd v. Stewart, 811 F 2d, 554 (11th Cir. 1987).

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was emailed this 14th day of April, 2014 to Jorge A. Garcia-Menocal, Esq. at [jgm@gmilaw.com](mailto:jgm@gmilaw.com) and Dennis R. Bedard, Esq. at [DennisBedard@mac.com](mailto:DennisBedard@mac.com).

/s/ Heinz Dinter

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**CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENT**

The undersigned Appellee-Respondent certifies that, in compliance with Florida Rules of Appellate Procedure 9.210(a)(2), the font used herein is Times New Roman, 14 point.

/s/ Heinz Dinter

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