UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

AF HOLDINGS, LLC, *Plaintiff*, *v.* ELLIOT OLIVAS, *Defendant*.	Civil No. 3:12-cv-01401 (JBA) April 2, 2015

RULING DENYING MOTION FOR SPECIAL FINDING

Defendant Elliot Olivas brings this Request [Doc. # 46] for Special Finding pursuant to Conn. Gen. Stat. § 52-226a,[1] seeking a finding that Plaintiff's action, or any of its counts, was without merit and was not brought in good faith. Plaintiff's complaint was dismissed [Doc. # 42] on September 23, 2014 for failure to prosecute, and following Mr. Olivas's voluntary dismissal [Doc. # 44] of his counter-claims on January 30, 2015, judgment entered [Doc. # 45] in Mr. Olivas's favor on February 13, 2015.

Mr. Olivas contends that this Court may consider his motion because "a federal court may consider collateral issues after an action is no longer pending." (Mem. Supp. at 3 (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 395 (1990)). However, Mr. Olivas does not address why he believes this Court is bound by state procedural law. Conn. Gen. Stat. s. 52-226a, located in a chapter of the law entitled Court Practice and Procedure is clearly a procedural statute. As this is a federal court, under *Erie R. Co. v.*

[1] Under Conn. Gen. Stat. § 52-226a, "[i]n any civil action tried to the court, not more than fourteen days after judgment has been rendered, the prevailing party may file a written motion requesting the court to make a special finding to be incorporated in the judgment or made a part of the record, as the case may be, that the action or a defense to the action was without merit and not brought or asserted in good faith."

Tompkins, 304 U.S. 64, 78 (1938) and its progeny, it applies federal procedural law and not state procedural law such as § 52-226a. The Court has located no case in which a federal court entertained a motion under § 52-226a and Mr. Olivas cites none. For this reason, Mr. Olivas's Motion [Doc. # 46] for Special Finding is DENIED.

IT IS SO ORDERED.

/s/
Janet Bond Arterton, U.S.D.J.

Dated at New Haven, Connecticut this 2nd day of April, 2015.