
by Plaintiff for adjournment before Special Referee due to health, upon affirmation from a physician that for specific medical reasons cited by the physician that Plaintiff's participation in the hearing would be hazardous to Plaintiff's health".

3. On May 27, 2008, I appeared before Referee Crespo and provided Medical Affirmation from my Cardiologist, Dr. A. Lansky, Professor of Medicine at Columbia Presbyterian Medical Center obtained from the doctor on February 28, 2008 for and in compliance with this Court Order. (See Exhibit B Affirmation) and see Exhibit H, Transcript of May 27, 2008 Hearing.

The Affirmation (Exhibit B) states *inter alia*:

"I have advised Mr. Couri to refrain from any stressful or upsetting activities, including contested Court proceedings, hearings or trials, which can result in negative and serious consequences for Mr. Couri and confront him with life threatening circumstances including possible heart attack because of his cardiac disease and unstable Angina".

4. Dr. Lansky's Affirmation was in full compliance with the Court Order and absolute grounds for adjournment of the Hearing, **Crespo refused and took the law into his own hands.**

5. Furthermore, the Record (see Transcript here Exhibit H) will reveal that these contempt hearings began **March 23, 2006** and went on for a total of 3 separate interspersed occasions until **May 24, 2006** when the hearings were adjourned without date, unfinished, in part because I was to be operated on for Cancer at Mt. Sinai and, thereafter, under surgeries and treatments in New York and Los Angeles.

6. On or about May 5, 2006, I learned that I had serious Melanoma Cancer. On May 17, 2006, I was operated on at Mt. Sinai Medical Center by Dr. M. Shafer. I was operated on, again, at Mt. Sinai May 28, 2006. Please see Shafer Affirmation, Exhibit C, and Mt. Sinai Pathology Report (Exhibit D) dated 5/17/06.

7. The Court will see, by the Shafer Affirmation, the gravity of my cancer and the continuation of my medical treatment during 2006 and 2007 and ongoing now.

8. Thereafter, I traveled to California for consultations and subsequent treatment at the John Wayne Cancer Institute. St. John's Health Center, Angeles Clinic, an UCLA Medical Center. These treatments and subsequent surgeries have been continuing until the present. Please see Exhibit E Report from St. John/John Wayne Cancer Institute, Dr. Donald Morton; Exhibit F affirmation from Dr. M. Rubin, and Exhibit G Medical Letter UCLA Medical Center, September 2008, all relating to my medical conditions.

9. The foregoing medical evidence reveals my inability to have proceeded with the Contempt hearings which was adjourned, without date, after 3 sessions on May 24, 2006 to permit me to be operated on again on May 28, 2006 for serious level 5 stage 3 cancer and removal surgically of over 25 lymph glands and for me to begin cancer consultations and treatment. To be sure the Hearings on Contempt were far from being completed. I have not completed my defense nor even begun to put on my case which will be proven here by documentary evidence out of Referee Crespo's own statements on the record in the Transcript of May 27, 2008. (Exhibit H here)

HEARING BEFORE REFEREE CRESPO MAY 27, 2008

10. As the Court knows I am in California undergoing cancer treatments and now the third surgery. I cannot travel and, thus, I am at a disadvantage. Fortunately, I have the

Transcript of Hearing before Referee Crespo on May 27, 2008 conducted supposedly in compliance to this Court's Order of January 14, 2008. I append the transcript of Referee Crespo of May, 2008 as **Exhibit H**.

11. The dialogue within the transcript will prove that the hearing were far from closed. I did not put on my case or complete my defense. I did not call my witnesses and Referee Crespo was and is well aware of these facts, and is well aware of my grave medical condition. Crespo accented the Medical Affirmation that this Court directed in its Order of January 2008 (See Exhibit B - Dr. Lansky Affirmation). Yet refused to simply stay the hearings as required.

12. The Transcript of May 27, 2008 reveals the following evidence (Exhibit H):¹

Page 2 - Crespo	"If you want to make a comment you can"
Couri	"I have such Affirmation . . . hearing hazardous to Plaintiff's health".
Page 3 - Crespo	"You are saying that this affirmation is in compliance with JSC Stallman's 1-14-08 Order. Your medical conditions prevent you From confirming the hearing . . ."
Couri	"Right" . . .
Page 5 - Crespo	"What is your application?"
Couri	"That the matter be set aside until my medical condition permits".
Crespo	"I will not be adjourning this matter. I will mark it submitted for report. This is way to long. You can make your application before Judge Beeler, but you are not going forward today because I am provided with affirmation I don't believe I should give you a date for adjournment and I will mark it for a report and Decision." (The foregoing is clear and convincing proof that Referee Crespo ignored this Court's Order, my Affirmation and

¹ The findings of this Court is that failure to file hearing transcript is not "fatal defect" (Galiber v. Previte, 40 NY 2d 822, 824 1976). The May 2008 Transcript here establishes beyond doubt Plaintiff's claim that Plaintiffs claims and defenses were not completely heard. I need not go any further as this Court was admitted to by the Referee who presided (i.e., Crespo)

Decision.” (The foregoing is clear and convincing proof that Referee Crespo ignored this Court’s Order, my Affirmation and chose to cram down a Report before the matter was concluded. But this is just the beginning)

Page 6- Couri “There are a number of witnesses I had not gotten to yet”

Page 7- Crespo “Couri needed to subpoena particular persons to appear and testify with regard to his position of the case”

“Subsequent to Defendants putting on this case, Couri made an application for adjournment because he was unable to obtain doctors and/or witnesses that were under subpoena . . . The doctors and/or other persons were Dr. Cohen, Ashton, Kassler, Sicre, Pecker, Rosenthal”.

Page 8 - Crespo “The matter was adjourned because you (Couri) were not able to serve and for securing the appearance of Cohen, Ashton, Kassler and Sicre.

Page 9 - Crespo “On May 24 at that time Sicre testified but Cohen and Ashton did not appear and a date uncertain was set aside for their appearance”

Couri (in fact subpoenas were served and outstanding for Cohen and Ashton as my witnesses and I was negotiating with Brunswick School in Greenwich, CT. for testimony of Headmaster and lower school director and Dept. Of Children & Families. Mark Feller, Director for his testimony relating to Siebert’s violations of the Beeler Order, the subject of the hearing.) I had evidence in writing of Siebert’s attack of me, and Disclosures in direct violation of the Order of Beeler from Feller Report obtained in fact and conversations with Brunswick, a Prep School I attended for 4 years and graduated..

“At that time, the matter was adjourned without date and subsequent Motion practice followed as to the discovery aspect of Referee (i.e., June 2006) . . . The Restraining Order was not scheduled for hearing.

Page 11- Couri “What happened was in May 2006 . . . I was in hospital because of Melanoma Cancer. I was operated on twice at Mt. Sinai . . . I then went to California and I made a handwritten Motion for the Facility re CPLR 3104 for your removal”. Because I had produced Tax returns and you said I did not . . . Judge Heitler referred the case to Referee Fields.

Crespo “That was January 2007”

Couri “Exactly”

Page 13 -Couri “I have witnesses that did not show up”

“I haven’t put on my case”

Crespo “. . . Testimony from Mr. Cohen and you were seeking an adjournment because he could not appear . . .”

	Couri	“Right”
Page 14	-Crespo	“as well as Mr. Ashton”
	Couri	“Right”
	Couri	“I didn’t have Ashton and Dr. Rackow” ²
	Crespo	“. . . you are giving me a affirmation saying you cannot engage in litigation. I’m not getting into this with you”
	Couri	The fact is the case is not closed”
Page 15	-Crespo	“If you are not ready to go forward today because of affirmation that says you can not engage in litigation”
	Couri	“Whether I can go forward today or next week or next month, I am simply saying that there are witnesses that I chose to call that have evidence of further violations of the Order that was issued and executed by Burke and Siebert. If you choose to preclude it, I intend making a Motion”
	Couri	“You are precluding me fro calling Burke for violations Of the Order and Burke is an extension of Siebert.
Page 16	-Crespo	“what is it you say you would call on your case if you were able” . . .
	Couri	“I would call Joseph McCarthy, George Pavia, Ken Gomez”
	Court	It is your representation that they were also notified by Defendant in this matter in violation of the Order”
	Couri	“Yes, exactly”
	Crespo	“All report that is your position”
	Couri	“Also James Roberts, Dr. J. Walden and Department of Children & Families and IRS Agent Copolla” These are people since I was last here. I was in hospitals in New York and California”
Page 17	Crespo	“Aside for the affirmation provided by your dictation, you would here call these witnesses for the purposes of demonstrating to the Court that they were notified subsequent to the Order’s last date of the hearing in violation of the Justice Beeler Order”.
	Couri	“That is correct”
	Crespo	“James Roberts”
	Couri	“No James Roberts, Dr. Joseph McCarthy (I have evidence of Siebert’s continued violation of Beeler Order as a result of evidence and/or conversations with IRS Agent Sal. Copolla, James Roberts, Chief Council of

² See Exhibit J. Some of my subpoenas still outstanding at time Hearing was suspended May 2006. Also, there were subpoenas out for Michael Fraehlich of U.S. Trust, Dept. Of Children & Families, Mark Felles and Brunswick School and others.

15. Witnesses never appeared as the hearings were derailed due to my medical issues and Motion practice. I had not put in my case or defense.

16. Accordingly, it would be unconscionable to permit Referee Crespo the right to unlawfully unilaterally and in violation of CPLR deprive me of my rights. The Transcript of the entire hearing will only further bolster Crespo's admissions on May 27, 2008. The hearings per CPLR must be void and a new Trial ordered.

Crespo is caught in his own web. **If the matter was fully submitted at the last date of hearing, i.e., May 2006, Crespo was required to, per CPLR 4320, render his report with 30 days after the fully submitted date along with all exhibits and Transcripts.** This did not occur. On May 2008, Crespo first admits the matter was not concluded because I had not put on all of my witnesses, then he claims he intends to render his Report. Actually, the report violates CPLR 4319 and 4320 as it is long past 30 days and the matter is not complete and not fully submitted.

EXHIBITS PRODUCED BY PLAINTIFF'S RECORD IN EVIDENCE

17. During the few days of hearing and in partial support of defense I produced 10 exhibits, some of which are appended here collectively as Exhibit I.

18. The Court will note that the exhibits are incomplete with many of Plaintiff's exhibits appearing to have been systematically removed from the file in the Clerk's Office. Stanley Wilson did a diligent search and found only the following: (See Wilson Affidavit hereto)

- a) 5/24/06 Pecker modified Judicial Subpoena (Exhibit I. Plaintiff) Pecker failed to

produce the documents demanded and did produce incomplete and unsigned Federal returns and no NYS or CT returns.

- b) 5/23/06 Letter from Dr. Max Cohen, NYC Medical Center, Chief Medical Officer (Exhibit 3. Plaintiff) Dr. Max Cohen was to be a witness under Subpoena who had not yet testified (see transcript Exhibit H and Crespo admissions). Dr. Max Cohen's letter exhibit was sent to me after I learned Siebert perpetuated character assassination of me to NYU Medical Center and Dr. Cohen to shore up his precarious condition at the hospital due to his infractions. (Cohen and others were yet to testify as to Siebert's violations of the Beeler Order).
- c) 5/24/06 Letter from Siebert to U.S. Trust (Plaintiff Exhibit 4)
- d) 5/23/06 Dr. Sicre letter and documents and investigative report re Siebert (Plaintiff Exhibit 1a)
- e) 3/23/06 Couri letter to Beeler.
- f) July 25, 2005 Couri blanket letter without evidence stamp
- g) Couri letter to IRS pre date Order of JSC Beeler with Defendant stamp

19. As the Court can see, Plaintiff's Exhibits 2, 5, 6, 7, 8, 9, and 10 are missing. The hearings took place March 23, 2006, May 23, 2006 and May 24, 2006 (as evidenced by the Exhibits hereto).

20. The Exhibits curiously missing are further evidence of Siebert's violations of the Order, included documents I requested from the Connecticut Department of Children & Families

(Mark Feller) who conducted an investigation of Siebert and claims of Pedophilia . The Report (partially redacted) revealed Siebert accusing me of reporting him (although I never heard of the Agency until Siebert made the claim (violations) at my Prep. School (Brunswick) where I graduated and Siebert's son attended for 2 years (Brunswick Prep in Greenwich, CT.) also scheduled to testify.

21. Siebert, in violation of the Order, perpetuated a crusade of malice and attacks on me at Brunswick Children & Families Agency and did so at NYU Medical Center (see Letter from Dr. M. Cohen) who I wrote after I learned of Siebert's attack upon me all in violation of the Beeler Order. Dr. Cohen was to be one of my witnesses (see Transcript Exhibit H hereto.) Dr. Cohen admits an investigation into Siebert's conduct and abuse of me and attack on my credibility in violation of the Beeler Order. Siebert was subsequently discharged from NYU Medical Center and relocated to Wisconsin. Other exhibits were letters, etc., (Raikow, Dr. Ashton, Rosenthal and others) now "missing" from the file.

22. Also, Brown Harris Stevens conducted an investigation into Siebert who was to occupy office space belonging to Dr. Ashton, along with Dr. Walden at 50 E. 71st Street. (See Plaintiff's Exhibit 1a part of Exhibit I).

23. The Court will note Investigative Report revealing:

- a) over \$5000,000 in tax liens against Siebert
- b) criminal indictments against Siebert
- c) over 15 UCC Financing Statements listing Siebert's as Debtor.

24. It is important to note that I sought and was waiting for Subpoena to interrogate Iverson & Bondo who produced the Report, as to information about Siebert and criminal indictments, etc. I was unable to accomplish this as well, due to the adjournment of the hearings due to my ill health.

25. Accordingly, as the Court can see, this matter was and is far from concluded. It is also clear that the Court file has been tampered with as evidence is missing from the file. This is curiously similar to Burke being caught at Motion Support Office tampering with Motion papers, and tampering with Suter and others in these Courts.

CONCLUSION

26. As a result of the overwhelming proof that this matter has been tainted and has not been even remotely finalized and concluded based on the admissions of the presiding Referee Crespo, the Court, based on these facts and the deficiencies, in the belated submission of the Report (even if Crespo is to be believed) must vacate the Report as late, deficient and incomplete and order a entirely new hearing when I am able to proceed based on my medical affirmation and condition, and permit me to produce numerous witnesses evidencing Siebert's violations of the Order, and that any communication I made to anyone was in response to Siebert and Burke's violations and in my defense. I intend calling Joe Burke who was a party to the Order and violated it repeatedly.

27. If Crespo believed the case was closed May 2006, why did he not produce his Report within 30 days from May 24, 2006, the last day of adjourned hearing. Surely, Crespo knew and

admitted in transcript here (May 2008) there was unfinished business, and Plaintiff had many witnesses to call.

WHEREFORE, the Report must be rejected and surely can not be affirmed as Plaintiff did not fully submit his defense and did not put on his case as admitted to Referee Crespo in Transcript here Exhibit H and did not call many witnesses and the Court file has been tampered with.

JAMES COURT

SWORN TO BEFORE ME THIS 12th
DAY OF NOVEMBER, 2008

Eileen Ohanian
NOTARY PUBLIC

I certify under penalty of perjury under the laws of the state of California that the foregoing paragraph is true and correct.

