

SUPREME COURT NEW YORK

JAMES COURI,
Plaintiff

INDEX 107240/04

-against-

COURI REPLY AFFIDAVIT OPPOSING THE
LATE AND INCOMPLETE RECORD AND
OPPOSING THE DERAILED HEARING
ORCHESTRATED BY REFEREE CRESPO, ETC.


Defendants

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JAMES COURI, being duly sworn deposes and says:

1. I make this Affidavit to advise the Court that the transcript provided by Joe Burke Esq. is incomplete, convoluted with another proceeding, and was served over 10 days late in violation of this Court's explicit Order, Exhibit A, dated April 13, 2009 which states:

“Adjourned to Motion Part (room 130) to May 27, 2009 for submission of a certified copy of hearing transcripts and of exhibits record in evidence with proof of service of the submission made ten days prior to the return date.”

2. This was ‘apple-bite’ two. Number one ‘apple-bite’ came from this Court on Oct. 16, 2008, giving until Dec. 2, 2008 to provide the same supposed ‘records’. Why? This Court has ignored the flawed Acts, well documented, of Referee Jack Suter, and wants possibly to shore up Referee Crespo's irregular and improper acts. A Motion has been filed returnable 6-30-09 Exhibit J hereto seeking preclusion of these incomplete documents and other relief.

3. Joe Burke appeared in room 130, on May 27, 2009, for submission, the Transcript and Burke's Affirmation, dated May 26, 2009, and served by post to Couri not on May 17, 2009 as Ordered, but on May 26 or 27, 2009, totally disregarding the Order. Burke admitted same was served in violation of the Order. Couri's Supplemental Affidavit was properly served on May 15, 2009. Fortunately Mr. Wilson was there to object and the Motion Clerk adjourned the submission until June 17, 2009, to permit Couri to receive the Burke papers, and take action on them.

4. The Court cannot continue to indulge Defendants. The documents served by Burke were served in violation of the Court's Orders twice issued, and must be rejected.

5. Furthermore, the supposed Crespo Hearing Transcript is incomplete, bogus and woefully deficient, and further confirms the Hearing of March 23, 2006 was far from complete.

MARCH 23, 2006 CHARADE HEARING BEFORE CRESPO

6. The hearing supposedly began (Exhibit B, relevant excerpts):

page 3) Crespo: "Mr. Couri provided 10 subpoenas to be So Ordered"

page 4) Crespo: "Couri will serve a FOIL Request on Department of Children & Families, compliance will take at least three weeks"

page 5) Crespo: "Second subpoena Linn Lowey, third, Dr. Max Cohn, who would appear at a later date"
"E. Ludberg, Director of Lower School Brunswick School, (Greenwich) Conn."

page 6) Crespo: "Mr. Couri intends to serve these Subpoenas pursuant to Rules of State of Conn" (and Children & Families, due to Siebert's pedophilia)
"When are you going to do that?"

page 7) Couri: 'I AM GOING INTO HOSPITAL, so it has to be by end next week
I AM GOING INTO HOSPITAL TOMORROW'

page 8) Crespo: "Sixth subpoena D. Casler and L. Carnvale" (and Frahlich)

page 9) Crespo: " Sheril Aston has been conferenced with the Court. Council for Aston advises it needs to be scheduled at a later date"
"Subpoena 8 Dr. Rosenthal, has not appeared"
" All subpoenas were served"

page 10) Crespo: " Frahlich has not been served yet"

page 59) Crespo: "Mr. Couri's position is that he is allowed to call Burke as to violations of the Order"

page 86) Crespo: "Dr. Rosenthal has not appeared and is in contempt"

page 99) Couri: "Get my 4th artery opened"(the March surgery)

page 100) Couri: "I'm going to pursue the case, but I cannot and be in UCLA and deal with this"

page 100) Crespo: "As long as you comply with my Order re Affirmations I don't have a problem with that"

MAY 24, 2006 CONTINUATION OF CRESPO'S CRAM-DOWN HEARING

7. Couri on that day, albeit extremely ill and under medication, was forced to examine three witnesses only. Couri was between cancer surgeries (ie: May 17 and May 31, 2006, and against medical orders, see Shafir Affs.), yet Couri's appearance was demanded by Crespo, who violated his own Orders as to Medical Affs. Couri on that day examined Mr. Sicri, Casler, and Siebert: no one else, although as the Record confirms (See Exhibits B, C, E, F, H), at least 7 more Couri witnesses were subpoenaed and were being scheduled; as well as 2 out-of-state Entities (Brunswick and Children & Families). See Exhibit F, pages 3,4,5,6,7, Crespo admissions in transcript of 'Hearing' May 27, 2008, also see Exhibit E, Transcript.

PROOF HEARING TRANSCRIPT IS INCOMPLETE AND COMINGLED
SEE PAGE 141 HEARING TRANSCRIPT MAY 24, 2006, EXHIBIT C

Crespo: "This (RE Siebert CPA Pecker) is a SEPARATE MATTER, but a continuation of supervision of discovery, referred to Referee Crespo by JSC

Beeler on November 17, 2005. There has been several conferences and.....
the deposition testimony of Mr. Couri. I have instructed pursuant to subpoena
to have Mr. PECKER APPEAR FOR THE PURPOSES OF IDENTIFYING
FINANCIAL RECORDS THAT WERE SUBPOENAED PURSUANT TO A
SUBPOENA ISSUED AND MODIFIED. SO MR. PECKER YOU ARE
HERE TODAY JUST TO IDENTIFY THOSE RECORDS.”

Mr. Pecker: “Yes”
(see: Subpoena so-ordered by Crespo, issued by Couri, Exhibit D hereto)

8. Thereafter Pecker testified solely relegated to the production/ identification of the records
(incomplete), produced under the Subpoena, and nothing else. From page 143:

Couri: “Mr. Pecker you were served with what is defined as a Modified
Judicial Subpoena Duces Tecum, so ordered by Referee Crespo on
about April 7, 2006, Is that that is correct?” (see Exhibit C, and D, hereto)

From page 143 to page 223 CPA Pecker was examined per the Subpoena production, having
zero to do with the Contempt matter as revealed by Crespo:

Crespo: “THIS IS A SEPARATE MATTER”
(see Transcript May 24, 2006 page 141, Exhibit C)

This Hearing according to the Burke produced Transcript was CONCLUDED on page 223.
Curiously there was, after the Pecker ‘production testimony’, extensive dialogue involving
Crespo, Couri and Burke regarding Couri’s health issues, surgeries, Affirmations and plans to
travel to California for cancer treatment; yet this is omitted. See Crespo admissions in his Report
and 2008 Transcript. See also the Crespo Report of 5-29-08, Exhibit H, pages 3 and 4. Crespo
states inter alia:

“The hearing was adjourned on May 24,2006, and future dates set
aside for the examinations of Drs Cohen and Aston.....
In the interim, Couri was diagnosed with a serious ailment and
pending resolution of his medical diagnosis, the instant hearing
was adjourned without a specific date.”

This alone confirms the supposed hearing was far from over. Also the Records reveal Crespo’s

own contradictions. Also see Wilson Aff. Exhibit I and Couri Nov. 12, 2008 Aff.

9. Referee Crespo's Transcript of the proceeding on May 27, 2008 confirms Couri had not called witnesses and Couri's cancer (see transcript of 5-27-06 Hearing: Exhibit E; and Couri affidavit of November 12, 2008, Exhibit F).

10. Finally, hereto appended as Exhibit G, is another Document found. A scurrilous letter Siebert published about Couri repeatedly, in direct violation of the Beeler 'Gag Order'. In fact after the Beeler Order was issued, Siebert in willful violation of the Order, published this letter to: Chase Bank personnel, Brunswick Prep School, where Couri graduated with Honors in 1957, and where Siebert's son attended for about a year, and other Brokers, Hospitals and Doctors, including Aston, Cohen, McCarthy, Rosenthal etc. All Subpoenaed by Couri. (see Crespo May 2008 Transcript Exhibit E.). Further, the Dept of Children and Families, of Conn., who investigated Siebert for child abuse (Siebert we are told is in the Data-Base as a accused Abuser), were providing proof to Couri, per FOIL Request, of violations by Siebert of the Beeler Order regarding Siebert's false statements about Couri with that Agency made in a rouse to cover up Siebert's conduct as accused by the Agency. Siebert's proclivity towards perjury and abuse is now well documented. Also see: M. Karras v Siebert et-al, Index 103778/07, in this Court, and related Criminal charges by Karras against Siebert (all public Records), and reported by Karras, a former patient and associate of Siebert.

SUMMARY

11. Anyone can easily see by the documentary evidence, admissions by Referee Crespo in his so-

called Report of 5-29-06 (Exhibit H), the Transcript of May 27, 2008 (Exhibit E) and this incomplete Transcript of two days: March 23 and May 24, 2006 (Exhibits B and C), the Hearing was far from over. Couri had not put on his full case and/or rebuttal. Witnesses subpoenaed had not been scheduled due to various reasons out of Couri's control. Couri was during the period, diagnosed with cancer, and operated on at Mount Sinai Hospital twice in or about May 18 and May 31, 2006. Couri provided Referee Crespo with Affirmations from the Surgeon Dr. Shafir (see Wilson Affidavit, Exhibit I) and then Couri departed for California for cancer treatment. Referee Crespo admitted all of the foregoing (see: Ex E,F,H). The transcripts of March and May 2006 are a disgrace and establish the Contempt Hearing was far from over. Further they fail to memorialize the Crespo's admitted-to disclosures regarding Couri's medical matters, cancer, and immediate required departure to California for cancer treatment. Interestingly, even Burke stands silent on the supposed transcripts and incomplete documents he belatedly produced. Burke also does not deny his tampering with the Court Record Files. See Wilson Aff, Exhibit I hereto. Burke also did not refute any Couri claims and allegations supported by documents contained in 'Couri Supplemental Affidavit Sworn to 5-6-09, and Wilson Affidavit served on Burke on May 15,2009, 12 days before Burke submitted his Affirmation dated May 26,2009. Ample time to deny Couri's claims that were carefully outlined in the Couri Supplemental Affidavit dated 5-6-09 served 5-15-09 and filed 5-27-09, before Couri saw the flawed Contempt Hearing Transcripts.

12. Finally, a rudimentary review of all of these Exhibits herein, reveals that Crespo chooses and chose to deprive Couri of due process by ignoring Couri's doctor's Affirmations and Couri's medical condition and as a result thereof closed the Hearing and essentially said, "Screw you Couri". It is apparent that Referee Crespo has been involved in an undisclosed agenda (see Crespo transcript and Report of May 2008 Exhibit E, and H). Probably Crespo, among other

things, is angry for Couri's seeking and obtaining his discharge and substitution Ordered by Justice Heitler (to Referee Bernard Fields). Couri's medical condition was no secret withheld from Referee Crespo as he has admitted to these facts in his own Report and out of his own mouth. Crespo does state in the May 27, 2006 Hearing Transcript (produced by Burke) that he was accepting Couri's Doctor Affirmations properly and timely produced by Couri. Then Crespo takes the Law into his own hands and later changes his mind and decides, in contravention to the Law and Court Rules, to close the Hearing. Crespo admits this and apparently closes the Hearing because Couri was ill and because his Doctors advise that any Court activities will imperil Couri's life, etc. Contrary to Crespo's now documented attempt to 'sand-bag' Couri, Couri did not violate the Beeler Order, Siebert and Burke did, and continued to do so. Couri was therefore deprived of producing many witnesses that were to prove that 'Burke and Siebert cast the first stone'. In a nutshell, the supposed "Contempt Hearing" has more holes in it than swiss cheese, it is woefully flawed, and the March and May 2006 Transcripts produced prove that most of the May 24, 2006 hearing was relegated to "another matter: discovery of CPA Pecker's incomplete records re Siebert tax matters" and testimony of CPA Pecker. All the while Couri was very ill and only was able to examine 3 out of 9 witnesses. Also see Exhibit E, Hearing May 2008 and Referee Crespo's admissions at that time.

Accordingly, the Court can not remotely and with a straight face try to consider the "Contempt Hearing" matter completed, as the situation is reprehensible enough, particularly coupled with the yet unresolved and well documented schemes of supposed Referee Suter and Joe Burke. This saga is better than The Pellican Brief.

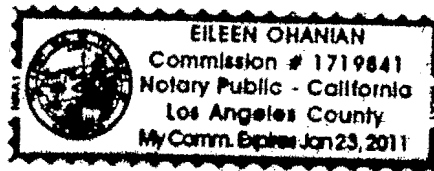
WHEREFORE, the Crespo Report must be rejected as late, contradictory, deficient, incomplete, and the Burke produced Hearing Transcripts, Crespo's own Report of May 29, 2008 and Transcript of Crespo Hearing on May 27, 2008 reveal that the Hearing was far from complete. Couri was gravely ill and did not put on his Case, many Subpoenaed witnesses, Subpoenaed evidence yet not produced, or himself in rebuttal. All of this evidence would have proven that Couri violated nothing, and that Siebert and Burke engaged in corrupt acts, tampering and perjury. Crespo systematically mutilated Couri's rights, and forced Couri to listen to his bias rantings in contravention to Couri's duly produced doctors' Affirmations. Crespo's attempt to 'cram down' this absurd and transparent railroading must be rejected. This excuse for a Hearing was far from over, and is clear and convincing proof of Crespo's orchestration of a systematic abuse of process and a deprivation of Couri's rights.

Sworn to before me this 8th day
of June 2009


Notary Public



James Couri



AFFIDAVIT OF MAIL

STATE OF NEW YORK
COUNTY OF NEW YORK

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STANLEY WILSON being duly sworn deposes and says:

1. I am not a party herein.

2. On 6/14 2009 I placed in a depository, first class mail, controlled by the US Postal Service, James Couri's *Reply in opposition to*

Russo Burke

600 Third Avenue, 15th floor

NYC, NY 10016

Stanley Wilson

Sworn to before me this _____

Day of 6 -2009.

Notary Public