

APPELLATE DIVISION FIRST DEPARTMENT

JAMES COURI,
Plaintiff/ Respondent

INDEX 107240/04

-against-

NOTICE OF MOTION

JOHN SIEBERT, JOHN W. SIEBERT MD PC,
Defendants/ Appellants.

PLEASE TAKE NOTICE:

Upon the annexed Affidavit of James Couri (Couri), Exhibits, and all prior pleadings had herein, Couri will move this Court at 10:00AM on ~~July 7, 2009~~ ^{July 3, 2009} at the Appellate Division First Department, 27 Madison Avenue, NY, NY 10010; for an Order pursuant to CPLR 5015(a)(2)(3)(5), CPLR 2221, and the power of this Court:

1. Vacating and Reversing Order issued by this Court in February 28, 2008 on the grounds that said Order was issued by this Court based upon fraudulent pretenses, and obtained by Defendants and Joseph Burke Esq. intentional acts of frauds, misrepresentation, secretion of material evidence, and in violation of 22NYCRR202.21, et-seq. The Order was procured by Defendants' John Siebert, John Siebert, MD PC and their lawyer Joseph M. Burke through systematic and orchestrated illegalities, violations of **law**, unconscionability, and other corrupt acts, including but not limited to, the withholding by Defendants and Burke of material facts **inter alia**; in particular their failing to disclose to this Court the existence of (and in fact secreting) a Note of Issue and Certificate of Readiness known by Burke/Siebert to have been filed March 22, 2006, predating and thereby barring and precluding all of Defendants/Burke's claims and charges of alleged non-compliance by Couri in connection with Disclosure. Such barred claims are the basis of this Court's Feb. 28, 2008 Order. By virtue of the filed Note of

ue, all of Defendants' Disclosure claims of alleged non compliance by Couri were accordingly untimely, fraudulent, barred and precluded.

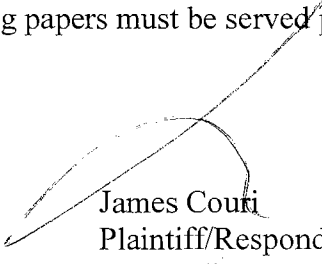
2. The existence of this FILED Note of Issue and Certificate of Readiness as filed with Trial Support on March 22, 2006 were unknown to Couri until recently when revealed by Defendants' Attorney, Joseph Burke Esq. in or about June 19, 2009 in his Affirmation in an attempt to thwart a Summary Judgment Motion made by Couri.

3. Impose meaningful and harsh penalties against John Siebert, his PC, and Lawyer Joe Burke for their, deception, willful and contumacious acts, violations of 22NYCRR202.21(d)(e), intentional frauds on this Court and Couri, and intentional violations of DR7-102 et-seq,

PLEASE TAKE FURTHER NOTICE: Answering papers must be served pursuant to CPLR 2214(b) and 2215.

Dated: June 30, 2009

To: Russo Burke Esqs.


James Coufi
Plaintiff/Respondent Pro-se
575 Madison Avenue
New York, NY 10022
212-605-0277

APPELLATE DIVISION FIRST DEPARTMENT

JAMES COURI,
Plaintiff /Respondent

-against-

JOHN SIEBERT, JOHN SIEBERT MD PC,
Defendants/Appellants.

INDEX 107240/04

AFFIDAVIT IN SUPPORT
OF MOTION TO VACATE
ORDER OF FEB. 28, 2008

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JAMES COURI being duly sworn deposes and says:

INTRODUCTION

1. I am Plaintiff/Respondent herein and make this Motion for an Order Vacating this Court's Decision of February 28, 2008, which directed the Striking of James Couri's (Couri) Complaint in this Case on the false grounds that Couri did not comply with Discovery Orders issued by Special Referee Louis Crespo commencing at or about March 16, 2006 and ensuing for months thereafter. The Defendant Disclosure Demands were not legitimate and were barred and precluded: facts that Defendants and their attorney Joseph Burke knew or should have know and willfully withheld these facts from Couri and this Court. Thereby obtaining unjust enrichments through corruption and fraud (see Appellate Order of Feb. 28, 2008, Exhibit A). Couri is and has been ill, suffering from cancer, heart disease and other serious medical disorders, and cannot travel at this time. Couri exhibits, as Exhibit One some current Medical Affirmations and Medical Records confirming Couri's current medical problems.

STATEMENT OF FACTS

2. CPLR 5015(a)(2)(3)(5) "Relief From Judgment or Order":

"A Court is expressly authorized to vacate a Judgment/Order upon terms as may be just."

3. CPLR 2221:

"Shall be based upon new facts not offered on a prior Motion that would change the prior determination"

See Ladd v Stevenson 112NY325, 332, 19NE, 842, 1889; Weinstein Korn NY Civ. Practice 5015.01, 5015.12

BACKGROUND

4. Respectfully, this matter has been a disturbing and complex tale of fraud and deception perpetuated by Defendants John Siebert and his PC (collectively Siebert), and lawyers Russo-Burke/Joe Burke (collectively Burke) since the onset of this Case. Burke in this matter has, by secreting the filed Note of Issue/Certificate of Readiness (Exhibit B, hereto), breached his duties as an Attorney, duties under the Law, and perpetuated Fraud on The Court in a scheme to deprive Couri Due Process and rightful pursuit of the Claims Couri asserted (that Defendants attested to) in excess of \$20Million, and covered up Siebert and PC fraud, conversion, perjury and theft.

5. First and foremost, if this Court knows anything about Couri now, they must respectfully be aware that he is far from stupid or negligent particularly since Couri held 'all the Aces' in this Case. According to Defendants' false premise that Couri flouted disclosure and 'willfully' failed to produce documents, and that Couri supposedly withheld his medical condition and did not produce tax Authorizations is ridiculous, and is a scheme of lies and fraud instigated by

Burke/Siebert to avoid paying their rightful commitments/obligations.

6. Couri is the Plaintiff here and in fact produced over 320 Documents comprising of about 4,000 pages, signed by Siebert and his PC, that confirm the Causes of Action in Couri's Complaint are binding and valid. Why then would Couri supposedly fail to produce Disclosure? In fact on March 21, 2006 Couri produced 3,920 pages of 320 Documents (Exhibit J, copy of Couri Document Production). This Document is a part of Burke/Siebert Appellate Record.

7. As to Couri's Medical Issues, and Defendants' false claims that Couri failed to produce evidence of his then just diagnosed cancer and pre-existing heart disease, and other medical disorders, is likewise preposterous. Couri produced numerous doctor's Affirmations, Hospital Records, and other Medical Records to Referee Crespo, by hand repeatedly. (Exhibit I, collectively and Exhibit D, Aff of Stanley Wilson).

8. As to Tax Authorizations: all of them were also produced by hand to Referee Crespo by Mr. Stanley Wilson who also delivered at Couri's direction, the numerous Medical Records and Affirmations to Crespo (See: Wilson Affidavit, Exhibit D hereto). Sadly Referee Crespo failed to understand that if a Corporate Taxpayer was a 'Parent' to numerous Subsidiaries, the Federal and NY State Authorization required is only one, for the Parent and its Subsidiaries. Here Couri Acquisition Corp was Parent to Subsidiaries ---Goldfish, Kindervest, Couri Cap., Tangerine, etc. Referee Crespo, not understanding this, in his Order of May 16, 2006, pg24, Crespo demanded Tax Authorizations that were improper, and that the IRS and NYS would definitely reject. See Exhibit T, and pg 24. Also, although Couri complied properly, as mandated by IRS and NYS

Department of Taxation, the Referee Crespo Order was incorrect, improper and in violation of the Filed Note of Issue/Certificate of Readiness, secreted by Burke/Siebert, filed on MARCH 22, 2006; and withheld from this Court and from Couri, see Exhibit C letter to the Heitler Court by Couri dated March 21, 2006.

9. The Record filed by Joseph Burke in connection with this Appeal (although intentionally omitting the filed March 22, 2006 Note of Issue/Certificate of Readiness), in fact, includes a number of Couri's Doctors' Affirmations, Medical Records and the "Couri Document of Production". Exhibit I hereto are some of the Couri Medical Records that Burke included in his Appeal Record and are the very Medical Documents delivered to Referee Crespo during the period March through September 2006 (see Wilson Affidavit, Exhibit D). When Couri Moved before this Court to Amend and correct Burke's incomplete Record on Appeal to, a) include omitted additional Couri's Medical Records produced by Couri to Crespo during the relevant period and, b) to include timely and duly executed correct Federal and State Authorizations of all relevant Couri and Affiliates' tax returns, Couri's Motion was Denied. (See Exhibit D, Affidavit of Stanley Wilson, and see Exhibits B and C, D and I). All the while, Burke secreted the existence of a filed Note of Issue so that he and his client could steal through perjury, fraud, and deception approximately \$20 million dollars in documented and agreed to claims and causes of action duly assigned to Couri for prosecution and collection in this Case.

10. There was no reason in fact or law for Couri to supposedly flout any Disclosure or hide his medical condition. In fact over 40 relevant tax returns have again been produced by Couri and Affiliates obtained via Authorizations through the Internal Revenue Service and New York State

Department of Taxation over 15 months ago. The tax returns confirm that Couri and Affiliated Companies suffered losses of about \$5 million dollars, such losses directly attributable to the willful defaults and frauds engaged in by Burke and Defendants. The Couri/Affiliates tax returns also confirm that nothing was “misappropriated”, the Companies were not “shell companies”, and Defendants are liars. In fact, all of these Companies and Couri’s individual tax returns were audited by both IRS and NYS for all relevant periods. The Audits, which were extensive, resulted in Refunds to these Companies and to Couri. This is further evidence that Burke/Siebert have defrauded this Court and Couri to avoid paying rightful commitments.

11. Couri respectfully reminds the Court that he was a great value to law enforcement in the Gilbert Case and became a key Government witness and paid his dues, having nothing to do with **taxes**. Thereafter Couri was awarded sole and separate Custody of his then 7 year old Daughter by then Supreme Court Justice Sandra Miller, now at the Appellate Division Second Department, in Brooklyn, New York.

12. All of that said, to follow are the grounds for Vacature of this Court’s Order of February 28, 2008.

SIEBERT AND BURKE’S FRAUD ON THIS COURT

13. On or about April 17, 2009, Couri Moved pursuant to CPLR seeking Summary Judgment on Defendants Counterclaims in Case 107240/04 (Exhibit E hereto).

14. On June 3, 2009, Burke opposed the Couri Summary Judgment Motion with an Affirmation

Exhibit F). On June 15, 2009, Couri Replied, Exhibit G. Also please See: Exhibits K,L,M.

**THE FILED MARCH 22, 2006 NOTE OF ISSUE AND CERTIFICATE OF READINESS
WAS BROUGHT TO LIGHT JUNE 2009 BY JOSEPH BURKE ESQ, TO AVOID
SUMMARY JUDGMENT**

15. Judge Heitler on 3-20-06, **Exhibit H**, Ordered that a Note of Issue be filed by 3-27-06. Couri questioned the Court as to this request, particularly since Couri had not obtained any Disclosure at that time. Couri was departing for California for cancer testing. Accordingly, Couri wrote a letter to JSC Heitler on 3-21-06 (Exhibit C), hand delivered to the Heitler Court on that day, accompanied with a partially filed-out Note of Issue and Certificate of Readiness with Exhibits, stating that “Couri **could not fully complete or file** the Note of Issue/Certificate of Readiness, inter-alia, because Disclosure was not complete”, see Exhibit C, Couri’s Letter to JSC Heitler. The letter is self- explanatory. The Note of Issue Couri delivered to the Heitler Court was not filed with Trial Support by Couri and Couri did not pay the fee (see Note of Issue filed 3-22-06, Exhibit B). The filed Note of Issue was just obtained by Couri from Trial Support on or about June 5, 2009, since Burke had finally revealed it in his papers (Exhibits F and L): the first time Couri knew the document was filed. The Note of Issue was tampered with and contains ‘misinformation’. See Couri Letter to Heitler Court dated March 21,2006 Exhibit C, hereto.

16. From March 22, 2006 through only weeks ago, Disclosure has been repeatedly attempted in this Case. Since March 22, 2006, Referee Crespo either ignored the Note of Issue or was left in the dark like Couri and this Court. Crespo issued numerous Disclosure Orders from March 31,

.006 (The date Crespo's 3-16-06 Order of Disclosure was filed). From March 16, 2006 through September 2006 more Disclosure Orders were issued by Referee Crespo including Demands for Couri's tax returns Authorizations, all made **after** the Note of Issue and Certificate of Readiness were filed on 3-22-06. Referee Crespo, it seems, was misled by Burke as well. See Crespo Order (post date the filed Note of issue/ Certificate of Readiness of March 22, 2006 Exhibit B) entered March 31, 2006 and May 16, 2006, Exhibits S and T, hereto. Although Couri was Hospitalized in California, he did comply properly.

17. Thereafter, from Nov 2006 to date, ie June 2009, three more Referees have come and gone, due to Burke's documented corruption, fraud, tampering and ex parte activities (too numerous to outline here and irrelevant to this Motion). **BURKE VIOLATED HIS REQUIRED OBLIGATIONS TO DISCLOSE TO THIS COURT THAT HE HAD IN HIS POSSESSION A FILED NOTE OF ISSUE, WHICH PRE-DATED AND PRECLUDED HIS CLAIMS FOR CONTINUED DISCLOSURE.**

18. On June 5, 2009, Couri Moved to Vacate the Note of Issue (Exhibit K). On June 19, 2009 Burke Answered and Opposed (Exhibit L): Burke states on page 2 of his Affirmation that he received in the mail the Note of Issue filed on March **20**, 2006. Burke goes on to falsely claim that on March **20**, 2006 "Couri was escorted by the Heitler Court Clerk" to file the Note of Issue **on March 20, 2006**. Interesting, as the Note of Issue was filed on the **22nd** of March, not the **20th** of March, 2006, and not by Couri. It is clear that Burke/Siebert paid the fee and deceptively filed the Note of Issue/Certificate of Readiness themselves, obtaining the Document by flim-flaming Steve the then Heitler Courtroom Clerk. The Court will notice on the Filed Document,

Exhibit B, the 'Caption' is in a different handwriting, and it was clearly tampered with. Please see Couri Motion to Vacate Note of Issue, Burke's Answer and Couri Reply, Exhibits K, L, M, hereto.

Note: there was never any Courtroom appearance on March 22, 2006---Burke's lying tale of Couri having filed the Note of Issue on March 20, 2006 is another Burke fraud.

19. Burke willfully and systematically secreted the existence of a filed Note of Issue and Certificate of Readiness from this Tribunal when he filed and perfected Defendants' Appeal seeking the Reversal of JSC Heitler's Order--- Denying Burke's Motion to Preclude Couri--- based on Burke's false allegations of Couri 'non compliance of Disclosure' which were all post date and barred and precluded----- as a result of the filed Note of Issue/Certificate of Readiness dated Mar 22, 2006. This Burke's fraud on the Court resulted in the Order of February 28, 2008, Exhibit. A; unjustly Striking Couri's Complaint for alleged failure to comply with Disclosure that was barred and known to have been barred by Burke. See: 22NYCRR202.21.

RULES GOVERNING NOTE OF ISSUE AND CERTIFICATE OF READINESS

20. A Note of Issue is filed signifying that a Case is "Trial Ready" (see 22 NYC RR 202.21). Burke claims in his Pleadings (Exhibits F and L) that he received a valid Note of Issue and Certificate of Readiness on March 20, 2006. **Yet Burke conducted Disclosure and made repeated Demands for Disclosure while Couri was in the hospital at Mt. Sinai in NYC and at St. Johns Cancer Center, Eisenhower Medical Center, and UCLA Medical Center in California and thereafter: ALL POST-DATE THE FILED NOTE OF ISSUE. BURKE'S DEMANDS WERE IN DIRECT VIOLATION OF 22 NYCRR 202.21(d), AND KNOWN**

J BE BY MR. BURKE, WHO IS A LAWYER.

21. Notwithstanding, Couri's proper compliance with Disclosure, all the while Burke secreted the fact the Note of Issue was filed (facts unknown to Couri). Also Couri never received any Notice of Trial Ready Conference. Thus, Couri was intentionally left in the dark by Burke.

Burke in violation of Court mandates and 22 NYC RR 202.21(d) made repeated Disclosure Demands that Burke knew were barred and precluded by virtue of the secretly filed Note of Issue, and has continued this fraudulent conduct for 3 YEARS, after the Filed Note of Issue. Burke, in this Court, made a fraudulent Appeal secreted the existence of the filed Note of Issue and created a scam of deception alleging Couri's non-compliance with barred disclosure: all post-date the filed Note of Issue and Certificate of Readiness that Burke never revealed to this Court or to Couri or Referee Crespo.

22. Burke, through misrepresentation, fraud, and deception obtained the Order from this Court of February 28, 2008, Exhibit A, Striking the Couri Complaint on supposed Disclosure violations and infraction by Couri that: a) were false, and b) in any event were barred and precluded by virtue of the deceptively filed Note of Issue and Certificate of Readiness. (See also Exhibit M, Couri Reply Affidavit.)

23. If for any reason a Case is not deemed Ready when a Note of Issue/Certificate of Readiness is filed and served, a party must move to Vacate the Note of Issue promptly (see 22 NYC RR 202.21e); in any event, within 20 DAYS of its filing. Burke's KNOWING that a

Note of Issue/Certificate of Readiness was filed (Exhibit B, hereto) and FAILING to disclose these facts to not only this Court, but to Referees Crespo, Fields, Suter, Lowenstein, and to Couri and JSC Stallman, reveals Burke's corrupt and illegal activities. Burke speaks with a forked tongue in these proceedings and is now caught in his own vicious web. Burke was obligated to immediately move to vacate the Note of Issue/Certificate of Readiness in March 2006 as by his own continuing conduct, Motions, and admission, Disclosure was then **NOT** complete. Rather, Burke secreted the filed Note of Issue/Certificate of Readiness (after he surreptitiously filed the Documents); until he was compelled to disclose it when Couri made a Motion for Summary Judgment (Exhibit E). Burke/Siebert Counterclaims are baseless and without foundation in fact or law, so they resort to more fraud, trickery, and deceit.

24. Burke had a further obligation to Move before the Court with proper Affidavit seeking permission to conduct any further Disclosure, POST filed Note of Issue/Certificate of Readiness. Burke did none of the mandated acts. What he and Siebert did is lie and cheat. (see 22 NYC RR 202.21d). See: Surace v Lostrappo, 176 Misc. 2d, 408, 410.

25. Burke secured the Striking of Couri's Complaint here grounded on not only false Claims of Disclosure Non-Compliance, but did so when he knew that the Disclosure was barred/precluded.

26. See Siegel Practice Commentaries, McKenny's Cons Law of New York, Book 7B, C, 3402:5; also Construction by Singletree Inc. v Lowe 55 AD 3d 861, 863.

27. As such, without the foregoing mandated Methods of Compliance and/or required

Motion to Vacate the Note of Issue/Certificate of Readiness, any further Disclosure and all Pretrial Proceedings are FORFEITED. See: Batista v Batista, Index 201931/05, Exhibit N hereto.

28. Burke, willfully and with intent to deprive Couri of due process through fraud, deception, and perjury, sat on the undisclosed Note of Issue/Certificate of Readiness (that he surely filed and paid the fee himself, as Couri did not) in March 2006. Burke/Siebert defrauded Couri and the Appellate Division when they secured an Order of Feb 28, 2008 that could not have been issued if this Court knew that the Burke/Siebert claims asserted were barred and precluded by an undisclosed Note of Issue/Certificate of Readiness.

29. **See Batista v Batista Index 201931/05, Exhibit N hereto. See also Simon v City of Syracuse PD (Exhibit Q). Also please see: Shoop v Flack, Exhibit O, hereto.**

30. **See 22 NYC RR 202.21e and Gregory v Ford 298AD2d 496, 497.**

31. Burke stood silent as to the existence of Material Evidence thereby defrauding this Tribunal in Defendants' Appeal, which resulted in the Order of February 28, 2008. Couri was wrongfully found to have not complied with Disclosure that should have been deemed barred and precluded by virtue of the March 22, 2006 filed Note of Issue/Certificate of Readiness. **See: Hyman and Gilbert v Greenstein 138 AD 2d 676, 681.**

32. Couri is now seeking, Exhibit K, M, to Vacate the Note of Issue/Certificate of Readiness.

Burke falsely Swears in his current pleadings that he received the FILED Note of Issue on March 20, 2006. Burke stood silent, violated 22NYCRR202.21, conducted and demanded Disclosure, and in the process willfully violated Court mandates. Burke, a lawyer, knows the Law, yet he failed to Move promptly or at all (for over 3 years and after 4 Referees) to Vacate the Note of Issue/ Certificate of Readiness, solely to further his and Siebert's corrupt acts. Although all Disclosure that post date of filing of Note of Issue, is as a matter of law barred/precluded, undaunted, Burke orchestrated improper and barred Disclosure claims and thereafter filed a fraudulent Appeal (not disclosing that a Note of Issue was filed on March 22, 2006); seeking to Strike Couri's Complaint based on false claims of non compliance of Disclosure. Burke knew that such Disclosure was barred/precluded over one year earlier. Burke committed fraud on the Court and Couri, and on the App Div. Now, when Burke and Siebert recently found themselves trapped in a Summary Judgment Motion made by Couri, Exhibit E and G, chameleon Burke belatedly exhumed the Note of Issue and claims it is valid and binding, see: Exhibits F, and L. Accordingly, Burke can't have both ways. A valid Note of Issue filed March 22, 2006 bars and precludes any and all Disclosure Subsequent to March 22, 2006. See 22NYCRR202.21(d), and Batista v Batista Exhibit N, here.

33. Why did Burke not Move, pursuant to NYCRR 202.21(d), to Vacate the Note of Issue in March 2006 when Burke claims he received Service of it? Burke was at the time actively claiming that Defendant's Disclosure was not complete. Surely Burke knows the Law. Why did Burke not disclose the Note of Issue/ Certificate of Readiness to the Appellate Division? Why did Burke continue to demand Disclosure without moving to Vacate the Note of issue as required by Law? Why did Burke bring it up after 3+ years of his ongoing Disclosure Demands and his

unning through 4 Referees supposedly administering precluded Disclosure, as the Note of Issue/Certificate of Readiness bars and precludes any such disclosure? Why did Special Referee Crespo not put a stop to Burke's violations of 22NYCRR202.21(d) (e), and continue to issue Disclosure Demands in Violation of the filed Note of Issue/Certificate of Readiness? Meanwhile Couri is still waiting for Defendants' compliance with the Law. Burke/Siebert have done a good job conning this Court and in the process trying to steal Couri's valid Claims and Causes of Actions against Defendants worth \$20Million, affirmed by admissions, Agreements, Promissory Notes, Resolutions, and other writings duly executed by Siebert and his PC, many prepared by and approved by Defendant's Attorneys, Gilbride, Tusa, Last and Spellaine.

34. The Trial Court up to now did not Vacate the Note of Issue/Certificate of Readiness and did not direct it a nullity.

35. One fact is certain, Couri and this Tribunal were left in the dark by Burke/Siebert of the existence of the filed Certificate of Readiness/ Note of Issue herein.

36. **See Shop v Flack and Leiserowitz v NYC (Exhibits O, P, hereto).**

37. Accordingly, the Order striking Couri's Complaint, Exhibit A, issued by this Court in reliance on Joe Burke and Defendants' fraud, withheld evidence, misrepresentations, and wanton misconduct was fraudulently induced and procured, and must be vacated in the interest of justice. This Court would not and could not have faulted Couri for alleged Non-Compliance with Disclosure Demands including Referee Crespo's Orders (see: Exhibits S and T) that were barred

and precluded by a filed Note of Issue and Certificate of Readiness. **ALL** such Disclosure Demands **Post Date** the filed Note of Issue/Certificate of Readiness, (ie; on March 22, 2006). The Couri Complaint therefore was struck by this Court based on fraud perpetrated by Burke/Siebert and must be restored.

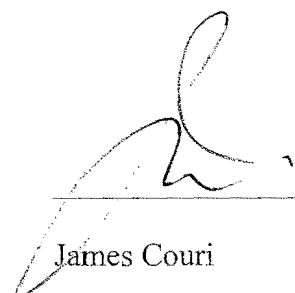
38. These facts regarding the existence of a filed Note of Issue herein on March 22, 2006, were only uncovered by Couri a few weeks ago (see Exhibit F, Burke Aff.), and have resulted in this Motion and Couri's Motion to Vacate the fraudulent Note of Issue (see Exhibit K and M).

SUMMARY


39. Siebert/ Burke's cheating, lies and fraud herein are despicable, and are an intentional scheme to steal Couri's rights for due process and legitimate claims and causes of action against Defendants here. These willful acts have caused Couri significant hardship, loss and injury. Couri is pro-se and ill. Burke, a lawyer, and his Clients have willfully with intent to defraud, systematically stolen Couri's rights and claims in excess of \$20million, and have defrauded this Court in the process. Burke has also violated DR7-102, Exhibit R, hereto.

WHEREFORE: It is respectfully urged that the Order of February 28, 2008 be Vacated in its entirety having been procured by Defendants/Appellants and lawyer Joe Burke, through fraud on the Court, misrepresentation, and deception, and the secreting of material evidence which, if disclosed(ie: Note of Issue), would have resulted in this Court being unable, and surely unwilling, to disenfranchise Couri by Striking Couri's Complaint for alleged Disclosure Non-Compliances that were barred on March 22, 2008 by virtue of a filed Note of Issue/Certificate of

Readiness, not vacated by required Motion via Burke or by the Court. In fact, Defendants' Discovery Demands were not 'legitimate' as recited in the Order of Feb. 28, 2008. The Disclosure Demands of Burke/Siebert were barred, inter-alia, by virtue of the secreted Note of Issue/Certificate of Readiness. The Order respectfully, in the interests of justice, must be vacated.


James Couri

Sworn to before me this 30
Day of June 2009.


Notary Public

