

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DONALDSON TWYMAN,)	
Plaintiff,)	
)	No. 16-cv-04182
v.)	
)	Honorable Virginia Kendall
S&M AUTO BROKERS, INC., <i>et al.</i>)	Magistrate Judge Sheila Finnegan
Defendants.)	

**RESPONSE TO JOEL A. BRODSKY’S REQUEST FOR
JUDICIAL NOTICE OF CERTAIN DOCUMENTS**

Plaintiff responds to Joel A. Brodsky’s request for judicial notice as follows:

1. One of the documents Mr. Brodsky asks the Court to take judicial notice of is a motion to reconsider his disqualification that he filed in the case of *Salem v. Nesheiwat*.
2. Although Mr. Brodsky attached his motion to reconsider to the request for judicial notice, he did not attach the order ruling on that motion.
3. In the interest of completeness, Plaintiff’s counsel has obtained a copy of that order and attaches it hereto as Exhibit A. Plaintiff would request that, if the Court takes judicial notice of Mr. Brodsky’s motion to reconsider in *Salem*, it also take judicial notice of the *Salem* court’s order ruling on that motion.

DONALDSON TWYMAN

By: /s/ Andrew C. Murphy
One of his attorneys

Peter S. Lubin
Andrew C. Murphy
DITOMMASO LUBIN AUSTERMUEHLE, P.C.
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EXHIBIT A



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT, LAW DIVISION

FAHRED SALEM, MARIAM)	
SALEM and JROUGH AL-DAOUD,)	
)	11 L 1348
Plaintiffs,)	
)	Calendar S
v.)	
)	Judge Raymond W. Mitchell
RABI NESHEIWAT and GEORGE)	
NESHEIWAT,)	
)	
Defendants.)	

ORDER

This case is before the Court on Plaintiffs' Motion To Reconsider the Order entered April 24, 2013 striking the appearances of Plaintiffs' attorney Joel Brodsky and Defendants' attorney Michael Meschino for repeated instances of bad conduct — conduct admitted by each attorney and observed by the Court.

I. Objections Barred By Waiver & Forfeiture

Plaintiffs, for the first time, raise objections to the disqualification of Mr. Brodsky. None of these objections were interposed at the time the Court announced its decision to disqualify counsel. Because these are matters now raised for the first time in a motion to reconsider, these points have been waived or forfeited. *See, e.g., RBS Citizens, Nat'l Ass'n v. TRG-Oak Lawn, LLC*, 407 Ill. App. 3d 183, 189 (1st Dist. 2011) (arguments raised for the first time in a motion for reconsideration in the circuit court are waived).

Plaintiffs' assertion that counsel had no notice or opportunity to object to his disqualification is without factual basis. In open court, on February 14, 2013, the Court advised counsel that it was contemplating a variety of sanctions, including disqualification, in light of each attorneys' inability to behave in an appropriate manner and each attorney's violation of past admonitions. Twice by written motion in February and April, with voluminous citations to authority, full notice and unfettered opportunity to raise any and all arguments, Mr. Brodsky *invited* the Court to sanction counsels' bad behavior.

On April 24, 2013, when the Court announced its decision to disqualify each attorney, the Court reviewed with counsel their past transgressions and the latest allegations of misconduct occurring during a deposition held in the courtroom on March 15, 2013. Each attorney acknowledged aspects of his own bad behavior and

commented on the behavior of opposing counsel. Significantly, in a colloquy with the Court on April 24, Mr. Brodsky *did object* to the Court's characterization of his two letters to the Chief Judge as constituting prohibited *ex parte* communications, but he raised no other objections on any other issue.

Moreover, after the Court announced its decision to strike counsels' appearances, Mr. Brodsky and Mr. Meschino each thanked the Court. Because there was no court reporter present, the Court indicated that it would issue a memorandum opinion and order later in the day. Neither attorney expressed discontent with the oral ruling; neither requested further explanation of the Court's decision; neither requested further opportunities to submit additional briefs; and neither gave any indication that he disagreed with the decision.

Having failed to object to anything other than the Court's characterization of his *ex parte* communications, Plaintiffs' counsel waived or forfeited every other point raised in Plaintiffs' motion to reconsider.

II. Adequate Factual Basis

Even if counsel had raised any form of objection, there is more than an adequate basis to order Mr. Brodsky's disqualification, based exclusively on the bad conduct he *admitted* and the conduct observed by the Court. On April 24, Mr. Brodsky handed the Court a transcript from the deposition in which he reportedly called Mr. Meschino a "moron" and a "liar." Indeed, in his February 4, 2013 motion, Mr. Brodsky admitted to calling Mr. Meschino a "low life piece of garbage" in the courtroom during a recess. In addition, there were the repeated instances in open court where counsel exchanged insults and other improper comments, in spite of admonitions from the bench and the intervention of courtroom deputies.

While there are fact disputes over the extent of some of the conduct (*e.g.*, while Mr. Brodsky admits to calling Mr. Meschino a "low life piece of garbage," Mr. Meschino contends that Mr. Brodsky called him a "fucking low life piece of garbage"), the Court concluded that an evidentiary hearing on such disputes was not necessary because counsels' admitted bad conduct along with the conduct observed by the Court was more than sufficient to warrant disqualification. Indeed, the Court's April 24 opinion makes clear that the disqualification is based only on conduct admitted by counsel or observed by the Court. Any conduct reported by sheriff's deputies or court personnel that was referenced in the opinion was conduct later confirmed and admitted to by the attorneys in open court.

III. Improper Ex Parte Communication

The only argument not forfeited is Plaintiffs' objection to the Court's characterization of Mr. Brodsky's two letters as improper *ex parte* communications.

Each letter was addressed to the Chief Judge and was delivered by facsimile transmission to the Office of the Chief Judge on April 22, 2013 and February 4, 2013, respectively. Mr. Brodsky admitted in open court that he sent the letters and did not copy his opposing counsel on either letter. Each letter references motions filed by Mr. Brodsky in this case. Each letter includes the case name, case number, and the name of the judge presiding over the matter. Each letter notes the date that Mr. Brodsky's motion was to be presented, and at least one letter included a copy of Mr. Brodsky's motion. Each letter urges the Chief Judge to "confer with your colleagues and whoever else you deem necessary." Each letter requests the Chief Judge "to deal with Mr. Meschino [sic] anger and rage issues, and enforce civility and decorum in the courts." (The letters are included in an Appendix to this Order).

Mr. Brodsky maintains that these communications do not run afoul of the prohibition on *ex parte* communications, because the Chief Judge was not presiding over the case. (Mr. Brodsky also maintains that the letters do not relate to the "merits" of the case, but that is hardly a serious contention given that each letter sought relief identical to the relief sought from this Court in the then-pending motions).

Rule of Professional Conduct 3.5 prohibits this type of *ex parte* communication with the court: "A lawyer shall not: (a) seek to influence a *judge*, juror, prospective juror or *other official* by means prohibited by law; (b) communicate *ex parte* with such a person during the proceeding unless authorized to do so by law or court order." (emphasis added). The express language of the Rule applies to communications with the judge hearing the matter and *other officials* at the court.

The Restatement makes clear that the prohibition on *ex parte* communications extends beyond the judge presiding over the case to include other officials at the tribunal, including a supervising judge with the authority to assign cases to specific judges. See Restatement of Law, Third, The Law Governing Lawyers, § 113 cmt. d (the prohibition also applies to other officials who have decision-making authority in the litigation, such as those with the "responsibility to assign cases to judges."); see also *In re Hancock*, 136 Cal. Rptr. 901 (Cal. Ct. App. 1977) (*ex parte* comment to supervising judge with power to assign cases to trial judges). The prohibition against *ex parte* communications with the court is intended to protect the proper exercise of the judicial power: "[u]nauthorized *ex parte* contacts with a trier of fact or other adjudicatory personnel undermine the system itself, because they deprive the opposing party of an opportunity to respond." Geoffrey C. Hazard, *The Law of Lawyering*, § 31.5, 2011 Supp. at 31-8.

Mr. Brodsky has violated both the letter and spirit of Rule 3.5, and his letters to the Chief Judge are textbook examples of improper *ex parte* communications.

IV. No Unfair Prejudice

By way of affidavit, one of the Plaintiffs complains that the disqualification of Mr. Brodsky works an undue hardship because Mr. Brodsky has built-up knowledge about the case. In an adversarial legal system, attorney conduct is routinely charged to the client and can result in the loss of substantive rights. As the Court noted in its opinion, the decision to disqualify counsel was made after careful deliberation and after a host of other measures proved unavailing to curb the persistent bad conduct of counsel.

It is worth noting that this case is 27 months old, which places it in the oldest decile of the 340 cases pending in this courtroom, where the average case is disposed of within 18 months of filing. Part of the delay in resolving this case is attributed to Plaintiffs. Last summer, the Court stayed these proceedings at Plaintiffs' request because their counsel, Mr. Brodsky, was busy handling a criminal trial. The Court extended that courtesy to a sole practitioner in recognition of the significance of a client's right to have the counsel of her choice. But as discussed in the April 24 opinion, that right is not absolute.

There is no unfair prejudice here. In its April 24, 2013 opinion, the Court recognized the potential prejudice to the parties and sought to ameliorate it by striking the June trial date and by giving each party time to retain new counsel. Successor counsel will no doubt benefit from the work that Mr. Brodsky has done on the case and Mr. Brodsky is obligated to cooperate with successor counsel to further limit any potential hardship on his clients.

* * * *

For all these reasons, Plaintiffs' Motion to Reconsider is DENIED. A copy of this Order shall be transmitted to the Attorney Registration and Disciplinary Commission.

(4/24)
5285

Judge Raymond W. Mitchell

MAY - 8 2013

ENTERED,

Circuit Court, 1992



Judge Raymond W. Mitchell, No. 1992

APPENDIX

Law Office of Joel A. Brodsky
8 S. Michigan Ave.
Suite 3200
Chicago IL 60603

urgent

f a c s i m i l e

To: Hon. Timothy Evans
Fax Number: 1 312 603-5366

From: Joel A. Brodsky
Fax Number: 312 541-7311
Business Phone: 312-541-7000
Home Phone:

Pages: 20
Date/Time: 4/22/2013 7:21:33 PM
Subject: URGENT MATTER - PLEASE READ ASAP

JOEL A. BRODSKY

Attorney At Law

EIGHT SOUTH MICHIGAN AVENUE
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joelbrodsky@abcglobal.net

April 22, 2013

Hon. Timothy C. Evans
Chief Judge, Circuit Court of Cook County
50 W. Washington St., Suite 2600
Richard J. Daley Center
Chicago IL 60602
Fax: 312-603-6366

Re: Motion To Enforce Decorum
Fahred Salem et. al. vs. Rabi Neshelwat et.al, 11 L 1348
Attorney Michael A. Meschino

Dear Judge Evans,

Because this matter is up in Court tomorrow (Wednesday, April 24, 2013), this is urgent. Unfortunately this is the second time I have had to bring this matter to your attention. I do it because I know that you are interested in decorum in the courts in the Circuit Court of Cook County, I am bringing this matter to your attention. I am the attorney for the Plaintiffs in the above referenced matter. The Defendants are represented by Attorney Michael A. Meschino. In my prior letter, a copy of which I am attaching, I reported to you that in several appearance in court Mr. Meschino has become abusive, insulting, and aggressively threatening toward me, both before the court and after the judge has left the bench. On two (2) occasions he has had to be escorted from the 20th floor of the Daley Center, the last time being January 26, 2013.

Now, in a deposition which took place in the Daley Center on March 15, 2013, (at my request because I thought that Mr. Meschino would be under control in that location), Attorney Meschino was personally insulting toward me, and assaulted me by grabbing papers out of my hand (which he proudly admits to in the transcript!)

I am filing my second Motion To Enforce Decorum before Judge Raymond Mitchell, which is set for tomorrow (Wednesday, April 24, 2013). I hope that Judge Mitchell can handle this. I believe that Mr. Meschino is mentally unstable, and may become a physical threat. If you read the attached motions you will understand why.

If you wish further proof of Mr. Meschino's behavior, I have recently had the chance to speak with attorney Kathryn C. Liss of the law firm of Griffin, McCarthy & Rice (312) 782-4244, who is involved in another case with Mr. Meschino, Kristina Dron v. Wojciech Dron, 07 D3-31241 (Hon. Hyman Raibman, presiding) She informs me that Mr. Meschino has been similarly and aggressively abusive, insulting, and threatening toward her (and the court), in that case. We both agreed that Mr. Meschino has very significant anger control and rage issues that are inapposite to the proper decorum an attorney is required to exhibit in the courtroom and to opposing counsel.

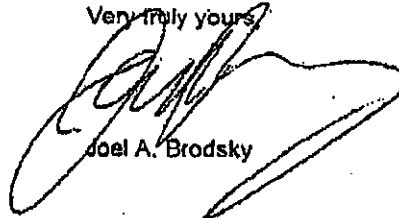
Hon. Timothy C. Evans
 April 22, 2013
 Page 2

I bring this to your attention because no attorney should have to suffer abuse while representing his or her client before the courts. It is up to the courts to do something about it. "...a trial judge has the inherent authority to maintain decorum and to require civility of not only the parties to the case and their attorneys, but to witnesses as well." *People v. Davilla*, 236 Ill. App. 3d 367, 380 (Ill. App. Ct. 1st Dist. 1992). "For years courts throughout this nation have complained about the loss of civility in the practice of law and wondered what they can do to reverse this trend. This case provides a textbook example of the lack of civility we have complained about, and if we judges in Illinois tolerate conduct like this, then we have lost our moral authority to complain." *People v. Conrall Corp.*, 251 Ill. App. 3d 550, 563 (Ill. App. Ct. 4th Dist. 1993) *Presiding Justice Steigmann specially concurring*. "While the adversary system of litigation is alive and well, it does not require that counsel become gladiators prepared to fight to the death. It is not enough for courts of review, bar association leaders and others to decry the lack of civility and fairness in our judicial system. When counsel goes beyond the rules, her client must bear some of the responsibility for her inexcusable conduct." *Rutledge v. St. Anne's Hosp.*, 230 Ill. App. 3d 786 (Ill. App. Ct. 1st Dist. 1992) (emphasis added)

"A trial properly conducted is a dignified procedure. Counsel in the case are officers of the court and owe a duty to the court, to opposing counsel, to the cause of justice and to themselves. Often in the heat and fervor of a sharply contested trial these standards are forgotten. Too often they are not only forgotten but completely disregarded and dragged in the mire. Objections properly made are addressed to the court and counsel is entitled to state his reasons for his objections, but an inflammatory statement accompanying each objection, apparently made solely for the purpose of prejudicing the jury, is improper. *Abuse of opposing counsel* and of the court *has no proper place in a trial. All of these matters rest within the control of the trial court, and the trial court has the power and duty to preserve decorum.* The trial court can and should institute contempt proceedings against recalcitrant counsel and impose either a fine or jail sentence." *Eizeman v. Behn*, 9 Ill. App. 2d 263, 286-287 (Ill. App. Ct. 1st Dist. 1956) (emphasis added)

I ask that you confer with your colleagues and whoever else you deem necessary, to deal with Mr. Meschino anger and rage issues, and enforce civility and decorum in the courts. I fear that if Mr. Meschino's behavior goes unchecked, it will only get worse and only end when somebody gets injured.

Very truly yours,



Joel A. Brodsky

JAB/re

JOEL A. BRODSKY

Attorney At Law
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 COPY

February 4, 2013

Hon. Timothy C. Evans
Chief Judge, Circuit Court of Cook County
50 W. Washington St.; Suite 2600
Richard J. Daley Center
Chicago IL 60602
Fax: 312-603-5366

Re: Motion To Enforce Decorum
Fahred Salem et. al. vs. Rabi Nesheiwat et al, 11 L 1348
Attorney Michael A. Meschino

Dear Judge Evans,

Because I know that you are interesting in decorum in the courts in the Circuit Court of Cook County, I am bringing this matter to your attention. I am the attorney for the Plaintiffs in the above referenced matter. The Defendants are represented by Attorney Michael A. Meschino. In several appearance in court Mr. Meschino has become abusive, insulting, and aggressively threatening toward me, both before the court and after the judge has left the bench. On two (2) occasions he has had to be escorted from the 20th floor of the Daley Center, the last time being January 28, 2013. The case is before the Hon. Raymond W. Mitchell. To address this matter I have filed a "Motion For An Order Enjoining Conduct Of Defendants Attorney And Enforcing Decorum", which I intend to present to Judge Mitchell on February 14, 2013. I have served a copy of the motion to Mr. Meschino by mail, and I have provided Judge Mitchell with a courtesy copy. If you wish I can provide you with a copy of the motion.

Further, I have recently had the chance to speak with attorney Kathryn C. Liss of the law firm of Griffin, McCarthy & Rice (312) 782-4244, who is involved in another case with Mr. Meschino, Kristina Dron v. Wojciech Dron, 07 D3-31241 (Hon. Hyman Reibman, presiding). She informs me that Mr. Meschino has been similarly and aggressively abusive, insulting, and threatening toward her (and the court), in that case. We both agreed that Mr. Meschino has very significant anger control and rage issues that are inapposite to the proper decorum an attorney is required to exhibit in the courtroom and to opposing counsel.

I bring this to your attention because no attorney should have to suffer abuse while representing his or her client before the courts. It is up to the courts to do something about it. "...a trial judge has the inherent authority to maintain decorum and to require civility of not only the parties to the case and their attorneys, but to witnesses as well." *People v. Davilla*, 236 Ill. App. 3d 387, 380 (Ill. App. Ct. 1st Dist. 1992) "For years courts throughout this nation have complained about the loss of civility in the practice of law and wondered what they can do to reverse this trend. This case provides a textbook example of the lack of civility we have complained about, and if we judges in Illinois tolerate conduct like this, then we have lost our moral authority

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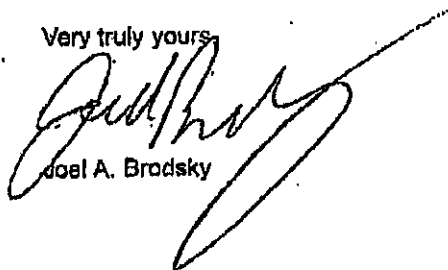
Hon. Timothy C. Evans
February 4, 2013
Page 2

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Very truly yours,



Joel A. Brodsky

JAB/ra

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

Fahred Salem, Mariam Salem, and
Jrough Al-Daoud

Plaintiffs

vs.

Rabi Nesheiwat and George Nesheiwat

Defendant

No. 11 L 1348

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NOTICE OF MOTION

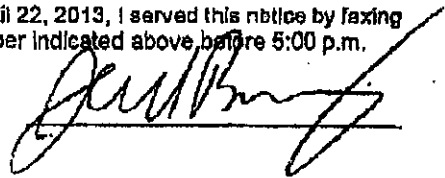
To: Michael A. Meschino
Attorney At Law
800 E. Northwest Highway
Suite 503
Palatine IL 60074
Fax: 847-991-7590

On April 24, 2013, at 10:00 a.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Raymond W. Mitchell, or any judge sitting in his stead, in Courtroom 2004 of the Richard J. Daley Center, Washington and Dearborn Streets, Chicago, Illinois, and present the attached motion.

Joel A. Brodsky
Attorney for Plaintiffs
8 S. Michigan Ave.
Suite 3200
Chicago Illinois 60603
(312) 541-7000
Atty # 50584

PROOF OF SERVICE BY FAX

I, Joel A. Brodsky, the attorney, certify that on April 22, 2013, I served this notice by faxing a copy to each person to whom it is directed at the number indicated above, before 5:00 p.m.



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

Fahred Salem, Mariam Salem, and
Jrough Al-Daoud

Plaintiffs

vs.

Rabi Nesheiwat and George Nesheiwat

Defendant

No. 11 L 1348

 COPY

**PLAINTIFF'S SECOND MOTION
FOR AN ORDER ENJOINING CONDUCT OF
DEFENDANT'S ATTORNEY AND ENFORCING DECORUM**

Now comes the Plaintiffs attorney, Joel A. Brodsky, and for the second time moves his court, pursuant to this Court's inherent authority, to enter an order requiring that Defendant's attorney Michael A. Meschino cease his insulting and threatening behavior and further cease his demeaning of Plaintiffs attorney, and further that he observe proper decorum in this case. In support of this motion the Plaintiffs attorney states:

1. This is the second motion the Plaintiffs attorney has had to bring in this regard. A copy of the first motion is attached hereto as Exhibit "A". We urge the Court to review the attached previous motion it brings into context what the full extent of what can only be described as disturbed and strange behavior by Mr. Meschino.

2. On March 15, 2013, during the deposition of the Plaintiff Mariam Salem, which took place in the courtroom, the transcript reveals that Mr. Meschino made several personal insults toward Mr. Brodsky, assaulted him by grabbing papers out of his hand, and made inappropriate comments directly to Mr. Brodsky's clients:

Pg 70 ln 19 Mr. Brodsky: let the record reflect that Mr. Meschino, the lawyer, is raising his voice.
to Pg 71 ln 3 Mr. Meschino: Have some decorum, sir.
Mr. Brodsky: quit raising your voice, Please.
Mr. Meschino: That's it. Keep talking to her. Let the record reflect that he is constantly whispering to her. He is constantly shaking his head, ~~his bald head~~, so that the light is shining on me. (Emphasis added)

lines 21-22 Mr. Meschino: I understand, Ms. Salem. I know you are an honest person, but your lawyer is not.

Page 72 Mr. Brodsky: I'm going to say if there is one more insult, I'm terminating the deposition. You have called me and said dishonest –
Mr. Meschino: You are.
Mr. Brodsky: – bald. That's the third time you called me dishonest. Are you saying that a third time?

Page 75 Mr. Brodsky: Okay. We are leaving. Let the record show that he just struck me –
Mr. Meschino: I didn't strike you.
Mr. Brodsky: –with a piece of paper that was – (inaudible)
Mr. Meschino: I took the piece of paper out of your hand when you were trying to prep your witness with it. Prep you witness before the deposition. (emphasis added)

Page 76 By: Mr. Meschino:
What, Mrs. Salem? What do you want me to do? Get another attorney, okay? Please. (emphasis added)

Page 79 Mr. Meschino: Let the record reflect that Mr. Brodsky is shuffling papers now trying to disrupt me in my questioning.
Mr. Brodsky: No. I'm not. You are a liar.

Page 81 Mr. Brodsky: (to his client Ms. Salem) If you have a question, you can ask me. If you have a question –
Mr. Meschino: No, you can't. Not during a deposition you can't.

Page 82 Mr. Brodsky: Yes, you can.
Mr. Meschino: No, you can't
Mr. Brodsky: Yes, you can.
Mr. Meschino: You know, you don't know criminal law. You don't know civil law. Stop it. (emphasis added)
Mr. Brodsky: We are done.
The Witness: Please, Mr. Brodsky.
Mr. Brodsky: We are done. We are done with this moron. We are done.
Mr. Meschino: Get another attorney, Mrs. – Ms. Salem. You are a nice lady. He's ruining your case. (emphasis added)

Page 107 Mr. Brodsky: Do not answer the question.
Mr. Meschino: *Let the record reflect Mr. Brodsky is telling her not to answer questions again because he hasn't prepped her on how to answer them.*

3. Mr. Meschino's bizarre behavior toward opposing counsel in this case started a year earlier, on April 13, 2013, when he left a very angry voice mail message for Plaintiff's attorney (a CD-ROM recording was attached to the prior motion, and is available upon request), in which Mr. Meschino, in a menacing and totally inappropriate voice, left the following message (not only is the message bizarre, but you have to listen to the recording to get the full understanding of how strange the message is):

"Mr. Brodsky this is Michael Meschino or maybe I should call myself Fielding Mellish, as long as we are playing little games like this first of all I don't know what kind of equipment your using to fax this over but its been over half an hour now that you have tied up my machine. So you either get a new machine that's in the 21st century or you either mail this to me or you can email this to me at Mike@ameritech.net. Join the 21st century Mr. Brodsky, its really interesting when you use up to date office equipment. But I am not going to have my office equipment tied up by you're silliness in faxing a 58 page Motion for Judgement on a Pleading that is taken over a half hour to just get out 16 pages. Get a new fax machine Mr. Brodsky this is Fielding Mellish calling you my number is 847-991-7090"

4. Then, three (3) days later Mr. Meschino sent an e-mail to Plaintiff's attorney Joel Brodsky which stated in part "Who do you think you are Moe Greene?"¹ (Exhibit "C" to attached prior motion) Despite the obvious threatening nature of this characterization, the true extent of Mr. Meschino's meaning was not made clear until just recently on January 28, 2013.

5. The on January 28, 2013, this case was before the Court on the Plaintiffs Third Motion For Discovery Sanctions. The court is aware of what happened when we were before the bench (which included a reference to betting Plaintiffs counsel all of the money he made in the "Peterson

¹ Moe Greene is a fictional mafioso character in the movie the *Godfather* who is brutally assassinated at the end of the movie with a gunshot through his eye.

case")². However, after the Court left the bench, the following occurred.

A. Mr. Meschino started calling Plaintiffs counsel "little man", and kept repeating this over phrase and over until the deputy ordered him to stop and leave the room. He then ignored the deputy and kept taunting the Plaintiffs counsel with the phrase "little man". He then made a reference to Plaintiffs counsel's brother (who is an associate judge in Lake County, Illinois) and connected Plaintiffs counsel's brother to the "little man" comments. At this point the deputy kept telling Mr. Meschino to leave, but he ignored her so the deputy called for backup.

B. Then, Mr. Meschino told Plaintiffs counsel "he should get a shave" and that "he needed a shave" (Plaintiffs counsel has a beard), and further said that calling him Moe Green was a compliment because Moe Green was not like Plaintiffs attorney, because Plaintiffs counsel was "fat, bald and short".

C. At this point Mr. Meschino stated that Plaintiffs counsel was a 'Moron' for not being able to finish this case in two (2) years, (forgetting that we were there on Plaintiffs 3rd motion to compel Defendants to answer discovery), and stated that he was looking forward to "kicking your (Plaintiffs attorney) ass" in this case".

D. At this point, Plaintiffs attorney lost his cool (after several minutes of continuous taunting from Mr. Meschino), and told Mr. Meschino that he was a "low life piece of garbage" and that he should leave the room like deputy was telling him to do.

E. Then, after Mr. Meschino heard that retort from Plaintiffs counsel, his face turned beet red, he was spilling his words like a man out of control, and Meschino stated to Plaintiffs counsel "you sound like a tough guy, lets go outside so I can beat the crap out of you" and then Mr. Meschino started ranting and raving about recent news events concerning post-trial motions in the Drew Peterson murder case. At this point the back up arrived and Mr. Meschino was escorted off the floor.

6. It is clear from his year long conduct of this case by insult, threat, and total lack of civility, Mr. Meschino is unable to voluntarily control himself, has serious anger issues, and suffers from a mental illness that causes him to act in a manner unworthy of the license that he holds. In short, Mr. Meschino is a very sick man.

7. Plaintiff's attorney should not be required to suffer insults and abuse from opposing counsel when representing his clients who are seeking relief before this Court. The eventual

² This is not the first time that Mr. Meschino has made reference to Plaintiff's counsel's representation of a client in a high profile murder case, and perhaps he is obsessed with the fact that his opposing attorney represented a client in a high profile murder case and believes that this gives him licence to act toward Plaintiff's counsel in a demeaning manner.

reorts by Plaintiff's attorney, made long after Mr. Meschino begins to insulted him and goad him, are only the expected reaction of a reasonable person to the rude, abusive and ill-bred insults being hurled at him by Mr. Meschino.

8. "...a trial judge has the inherent authority to maintain decorum and to require civility of not only the parties to the case and their attorneys, but to witnesses as well." People v. Davilla, 236 Ill. App. 3d 367, 380 (Ill. App. Ct. 1st Dist. 1992)

9. A court has the authority to issue an order which requires that the attorneys in a case act with the appropriate decorum. People v. Kelly, 397 Ill. App. 3d 232 (Ill. App. Ct. 1st Dist. 2009)

"It is certainly true that trial attorneys should not engage in personal vituperation however long, however arduous and however close the character of the litigation, 'Abuse of opposing counsel . . . has no proper place in a trial.'" Johnson v. Cunningham, 104 Ill. App. 2d 406, 410-411 (Ill. App. Ct. 2d Dist. 1969) (emphasis added)

10. In a case in which certain assistant attorney general office failed to give appropriate notice in a case the appellate court stated:

"For years courts throughout this nation have complained about the loss of civility in the practice of law and wondered what they can do to reverse this trend. This case provides a textbook example of the lack of civility we have complained about, and if we judges in Illinois tolerate conduct like this, then we have lost our moral authority to complain." People v. Confall Corp., 251 Ill. App. 3d 560, 563 (Ill. App. Ct. 4th Dist. 1993) Presiding Justice Steigmann specially concurring

11. In a case where the court reversed because of improper behavior of the defendant's attorney during the trial, the appellate court stated that sanctions (in that case reversal of a judgment), are appropriate even if it affects the lawyer's client:

"While the adversary system of litigation is alive and well, it does not require that counsel become gladiators prepared to fight to the death. It is not enough for courts of review, bar association leaders and others to decry the lack of civility and fairness in our judicial system. *When counsel goes beyond the rules, her client must bear some of the responsibility for her inexcusable conduct.*" Rutledge v. St. Anne's Hosp., 230 Ill. App. 3d 788 (Ill. App. Ct. 1st Dist. 1992) (emphasis added)

12. This Court should enter an appropriate order prohibiting Mr. Meschino from acting inappropriately or abusing either opposing counsel or the Plaintiffs, and imposing such other restrictions at the Court deems fit:

"A trial properly conducted is a dignified procedure. Counsel in the case are officers of the court and owe a duty to the court, to opposing counsel, to the cause of justice and to themselves. Often in the heat and fervor of a sharply contested trial these standards are forgotten. Too often they are not only forgotten but completely disregarded and dragged in the mire. Objections properly made are addressed to the court and counsel is entitled to state his reasons for his objections, but an inflammatory statement accompanying each objection, apparently made solely for the purpose of prejudicing the jury, is improper. Abuse of opposing counsel and of the court has no proper place in a trial. All of these matters rest within the control of the trial court, and the trial court has the power and duty to preserve decorum. The trial court can and should institute contempt proceedings against recalcitrant counsel and impose either a fine or jail sentence." Elzerman v. Behn, 9 Ill. App. 2d 263, 286-287 (Ill. App. Ct. 1st Dist. 1956)

WHEREFORE, Plaintiffs pray that this Court enter an appropriate order sanctioning Mr. Meschino, having him taken by the sheriff for a mental health examination, prohibiting Mr. Meschino from continuing his threatening behavior and further cease his demeaning of Plaintiffs attorney, and from acting inappropriately or abusing either opposing counsel or the Plaintiffs, and imposing such other restrictions at the Court deems fit.

Plaintiffs Fahred Salem, Mariam Salem, and Jrough Al-Daoud

By: 
Joel A. Brodsky their Attorney

Joel A. Brodsky
Attorney for Plaintiffs
8 S. Michigan Ave.
Suite 3200
Chicago Illinois 60603
(312) 541-7000
Atty # 50564

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION.

Fahred Salem, Mariam Salem, and
Jrough Al-Daoud

Plaintiffs

vs.

Rabi Neshelwat and George Neshelwat

Defendant

No. 11 L 1348

FILED
2013 FEB -4 AM 11:56
CIRCUIT COURT OF COOK
COUNTY ILLINOIS
LAW DIVISION
OFFICE OF THE CLERK

**MOTION FOR AN ORDER ENJOINING CONDUCT OF
DEFENDANT'S ATTORNEY AND ENFORCING DECORUM**

Now comes the Plaintiffs attorney, Joel A. Brodsky, and pursuant to this Court's inherent authority, moves this Court to enter an order requiring that Defendant's attorney Michael A. Meschino cease his threatening behavior and further cease his demeaning of Plaintiffs attorney, and further that he observe proper decorum in this case. In support of this motion the Plaintiffs attorney states:

1. "...a trial judge has the inherent authority to maintain decorum and to require civility of not only the parties to the case and their attorneys, but to witnesses as well." People v. Davilla, 236 Ill. App. 3d 367, 380 (Ill. App. Ct. 1st Dist. 1992)

2. On January 28, 2013, for the second time in the last four (4) months, the Defendants attorney, Mr. Michael A. Meschino, had to be escorted from the Courtroom of this Court, and the 20th floor of the Courthouse, by sheriffs deputies, after he had lost control of himself and engaged in threatening behavior.

3. The first time was on October 2, 2012, when after Mr. Meschino made demeaning comments about the Plaintiffs attorney, Joel A. Brodsky, in front of the bench, this court ordered that the matter held this case until the end of the call. Then, after Plaintiffs attorney complained

PLAINTIFF'S
EXHIBIT
A

to the courtroom deputy that he should not have to be demeaned like that in a courtroom, the deputy asked Mr. Meschino to step into the hallway so that she could admonish him to control his behavior. Mr. Meschino went into the hallway and responded to the deputies admonishments by yelling and becoming so aggressive to the deputy that the Court heard the commotion through the closed courtroom doors and ruled that the matter before the court was taken under advisement and would not be recalled. The deputy (or deputies) then had to escort Mr. Meschino off the 20th Floor of the Daley Center Courthouse.

4. The forgoing behavior by Mr. Meschino was so alarming to Plaintiff's attorney that he became fearful of the safety of his clients should they have to attend any deposition taken by Mr. Meschino in this case. (Exhibit "A")

5. Mr. Meschino's bizarre behavior toward opposing counsel in this case started earlier, on April 13, 2013, when he left a very angry voice mail message for Plaintiff's attorney (a CD-ROM is attached hereto as Exhibit "B", with the .wav file playable on any computer); in which Mr. Meschino, in a menacing and totally inappropriate voice, left the following message (not only is the message bizarre, but you have to listen to the recording to get the full understanding of how strange the message is):-

"Mr. Brodsky this is Michael Meschino or maybe I should call myself Fielding Mellish, as long as we are playing little games like this first of all I don't know what kind of equipment your using to fax this over but its been over half an hour now that you have tied up my machine. So you either get a new machine that's in the 21st century or you either mail this to me or you can email this to me at Mikedsl@ameritech.net. Join the 21st century Mr. Brodsky, its really interesting when you use up to date office equipment. But I am not going to have my office equipment tied up by you're silliness in faxing a 58 page Motion for Judgement on a Pleading that is taken over a half hour to just get out 16 pages. Get a new fax machine Mr. Brodsky this is Fielding Mellish calling you my number is 847-991-7990"

6. Then, three (3) days later, Mr. Meschino sent an e-mail to Plaintiff's attorney Joel Brodsky

which stated in part "Who do you think you are Moe Greene?".¹ (Exhibit "C") Despite the obvious threatening nature of this characterization, the true extent of Mr. Meschino's meaning was not made clear until just recently on January 28, 2013.

8. The on January 28, 2013, this case was before the Court on the Plaintiffs Third Motion For Discovery Sanctions. The court is aware of what happened when we were before the bench (which included a reference to betting Plaintiffs counsel all of the money he made in the "Peterson case")². However, after the Court left the bench, the following occurred:

A. Mr. Meschino started calling Plaintiffs counsel "little man", and kept repeating this over phrase and over until the deputy ordered him to stop and leave the room. He then ignored the deputy and kept taunting the Plaintiffs counsel with the phrase "little man". He then made a reference to Plaintiffs counsel's brother (who is an associate judge in Lake County, Illinois) and connected Plaintiffs counsels brother to the "little man" comments. At this point the deputy kept telling Mr. Meschino to leave, but he ignored her so the deputy called for backup.

B. Then, Mr. Meschino told Plaintiffs counsel "he should get a shave" and that "he needed a shave" (Plaintiffs counsel has a beard), and further said that calling him Moe Green was a compliment because Moe Green was not like Plaintiffs attorney, because Plaintiffs counsel was "fat, bald and short".

C. At this point Mr. Meschino stated that Plaintiffs counsel was a "Moron" for not being able to finish this case in two (2) years, (forgetting that we were there on Plaintiffs 3rd motion to compel Defendants to answer discovery), and stated that he was looking forward to "kicking your (Plaintiffs attorney) ass" in this case".

D. At this point, Plaintiffs attorney lost his cool (after several minutes of continuous taunting from Mr. Meschino), and told Mr. Meschino that he was a "low life piece of garbage" and that he should leave the room like deputy was telling him to do.

E. Then, after Mr. Meschino heard that retort from Plaintiffs counsel, his face turned beat red, he was spitting his words like a man out of control, and Meschino stated to Plaintiffs counsel "you sound like a tough guy, lets go out side so I can beat the crap out of you" and then Mr. Meschino started ranting and raving about

¹ Moe Greene is a fictional mafioso character in the movie the *Godfather* who is brutally assassinated at the end of the movie with a gunshot through his eye.

² This is not the first time that Mr. Meschino has made reference to Plaintiff's counsels representation of a client in a high profile murder case, and perhaps he is obsessed with the fact that his opposing attorney represented a client in a high profile murder case and believes that this gives him licence to act toward Plaintiff's counsel in a demeaning manner.

recent news events concerning post-trial motions in the Drew Peterson murder case. At this point the back up arrived and Mr. Meschino was escorted off the floor.

9. Plaintiff's attorney should not be required to suffer abuse from opposing counsel when representing his clients who are seeking relief before this Court.

10. A court has the authority to issue an order which requires that the attorneys in a case act with the appropriate decorum. People v. Kelly, 397 Ill. App. 3d 232 (Ill. App. Ct. 1st Dist. 2009)

"It is certainly true that trial attorneys should not engage in personal vituperation however long, however arduous and however close the character of the litigation. 'Abuse of opposing counsel . . . has no proper place in a trial.'" Johnson v. Cunningham, 104 Ill. App. 2d 406, 410-411 (Ill. App. Ct. 2d Dist. 1969) (emphasis added)

11. In a case in which certain assistant attorney general office failed to give appropriate notice in a case the appellate court stated:

"For years courts throughout this nation have complained about the loss of civility in the practice of law and wondered what they can do to reverse this trend. This case provides a textbook example of the lack of civility we have complained about, and if we judges in Illinois tolerate conduct like this, then we have lost our moral authority to complain." People v. Conralt Corp., 251 Ill. App. 3d 550, 563 (Ill. App. Ct. 4th Dist. 1993) Presiding Justice Steigmann specially concurring

12. In a case where the court reversed because of improper behavior of the defendants attorney during the trial, the appellate court stated that sanctions (in that case reversal of a judgment), are appropriate even if it effects the lawyers client:

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13. This Court should enter an appropriate order prohibiting Mr. Meschino from acting inappropriately or abusing either opposing counsel or the Plaintiffs, and imposing such other restrictions as the Court deems fit:

"A trial properly conducted is a dignified procedure. Counsel in the case are officers of the court and owe a duty to the court, to opposing counsel, to the cause of justice and to themselves. Often in the heat and fervor of a sharply contested trial these standards are forgotten. Too often they are not only forgotten but completely disregarded and dragged in the mire. Objections properly made are addressed to the court and counsel is entitled to state his reasons for his objections, but an inflammatory statement accompanying each objection, apparently made solely for the purpose of prejudicing the jury, is improper. Abuse of opposing counsel and of the court has no proper place in a trial. All of these matters rest within the control of the trial court, and the trial court has the power and duty to preserve decorum. The trial court can and should institute contempt proceedings against recalcitrant counsel and impose either a fine or jail sentence." *Eizerman v. Behn*, 9 Ill. App. 2d 263, 266-267 (Ill. App. Ct. 1st Dist. 1956)

WHEREFORE, Plaintiffs pray that this Court enter an appropriate order prohibiting Mr. Meschino from continuing his threatening behavior and further cease his demeaning of Plaintiffs attorney, and from acting inappropriately or abusing either opposing counsel or the Plaintiffs, and imposing such other restrictions at the Court deems fit.

Plaintiffs Fahred Salem, Mariam Salem, and
Jraugh Al-Daoud

By: 
Joel A. Brodsky their Attorney

Joel A. Brodsky
Attorney for Plaintiffs
8 S. Michigan Ave.
Suite 3200
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(312) 541-7000
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JOEL A. BRODSKY



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FAX (312) 541-7211
joelbrodsky@sbcglobal.net

November 16, 2012

Michael A. Meschino
Attorney At Law
800 E. Northwest Highway
Suite 509
Palatine IL 60074

Re: Fahred Salem, Mariam Salem and Jrough Al-Doud v. Rabi Neshelwat and George Neshelwat, No. 11 L 1348;

Dear Mr. Meschino,

Pursuant to Supreme Court Rule 201(k), be advised that Plaintiffs Fahred Salem and Mariam Salem will be available to give their depositions in Cook County, Illinois starting at 12:00 noon on any of the following dates: December 17, 2012, December 20, 2012, December 21, 2012, December 27, 2012, December 28, 2012, January 2, 2013, January 3, 2014, or January 4, 2014.

However, given your behavior in Court, which was witnessed by the courtroom deputy and the Judge, (who on October 2, 2012, had to take a motion under advisement rather than allow you step up before the bench), I am concerned for my clients safety due to your inability to control your emotions. Therefore, pursuant to Supreme Court Rule 201(k), the deposition of Plaintiffs Fahred Salem and Mariam Salem must take place in a neutral locations such as the court reporters office. Most reporters will provide a conference room at their office at no additional cost. Therefore designate a court reporters office as the location for the deposition.

Very truly yours,

Joel A. Brodsky

JAB/mg



EXHIBIT
Voice Mail 4/13/12
Ex 5 "B"

Joel A. Brodsky

From: Michael Meschino <mikedsl@ameritech.net>
Sent: Monday, April 16, 2012 3:36 PM
To: jbrodsky@joelbrodskylaw.com
Subject: Re: Salem v. Neshiwat

Mr. Brodsky; When did you say anything the first time? Who do you think you are Moe Greene?

Michael A. Meschino

From: Joel A. Brodsky <jbrodsky@joelbrodskylaw.com>
To: Michael Meschino <mikedsl@ameritech.net>
Sent: Mon, April 16, 2012 3:07:50 PM
Subject: RE: Salem v. Neshiwat

Mr. Meschino,

Just so I am clear, let me say this again. While I do not agree to your request, I will inform the Court of your conflict and your request. What the Court does is up to the Court.

Joel A. Brodsky
Attorney at Law
(312) 541-7000
jbrodsky@joelbrodskylaw.com
www.joelbrodskylaw.com

From: Michael Meschino (mailto:mikedsl@ameritech.net)
Sent: Monday, April 16, 2012 2:56 PM
To: jbrodsky@joelbrodskylaw.com
Subject: Re: Salem v. Neshiwat

Mr. Brodsky;
I need 28 days to respond to your Motions. I will be in Kane County at 9:00 a.m. on the 17th. Do you mind getting a briefing schedule?
When can you produce Jrough al-Douad for his deposition?

Michael A. Meschino

From: Joel A. Brodsky <jbrodsky@joelbrodskylaw.com>
To: mikedsl@ameritech.net
Sent: Fri, April 13, 2012 2:29:07 PM
Subject: Salem v. Neshiwat



CERTIFICATE OF SERVICE

I, Andrew C. Murphy, the undersigned attorney, hereby certify that on the August 3, 2017, I caused a true and correct copy of the foregoing RESPONSE TO JOEL A. BRODSKY'S REQUEST FOR JUDICIAL NOTICE OF CERTAIN DOCUMENTS to be served all counsel of record via the Court's CM/ECF System

/s/ Andrew C. Murphy