

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
CONCEPCION CAMPBELL, :
et al., : 10-CV-3800 (JBW)(MLO)
Plaintiff. :
: November 10, 2010
: V. : Brooklyn, New York
:
STEVEN J. BAUM, ESQ., :
et al., :
Defendant. :
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TRANSCRIPT OF CIVIL CAUSE FOR CONFERENCE
BEFORE THE HONORABLE MICHAEL L. ORENSTEIN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: SUSAN CHANA LASK, ESQ.

For the Defendant: BRETT A. SCHER, ESQ.
ROBERT BROCHIN, ESQ.
NAMITA MANI, ESQ.

Audio Operator:

Court Transcriber: ARIA TRANSCRIPTIONS
c/o Elizabeth Barron
375 Salt Point Turnpike, #5D
Poughkeepsie, NY 12603
(215) 767-7700

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transcript produced by transcription service

1 MS. LASK: Yeah. The damage is that these people
2 lose these properties, they get a lis pendens, so they can't
3 sell their property, a lis pendens from a plaintiff that
4 doesn't have a right to file a lis pendens.

5 THE COURT: But she sold the property.

6 MS. LASK: She didn't have to, though. That's the
7 point. It's as if somebody held a gun to your head. The
8 lady didn't have to; the foreclosure was a complete fraud.
9 She didn't have to do anything. They intimidated her into
10 -- she also paid off --

11 THE COURT: I guess if it's raised -- if it's
12 raised, it will be decided in the motion at the time.

13 MS. LASK: Yes, Your Honor. She paid off --

14 THE COURT: I'm just trying to understand your
15 claim but I don't need to rule on anything today.

16 Now let's get to the protective order. Is this
17 agreed to?

18 MS. LASK: Not at all, Your Honor. It's not a
19 proper --

20 THE COURT: Okay. Is there some request that's
21 been made for which there's the need for protection by
22 either defendant?

23 MR. SCHER: Your Honor, I had circulated this in
24 advance of our meet and confer.

25 THE COURT: I understand and --

1 MR. SCHER: The thought process --

2 THE COURT: It's a nullity -- it's a nullity as
3 far as a consent order, so I'm not considering on that
4 ground. Are you making a motion for a protective order?

5 MR. SCHER: I am requesting it based on the
6 grounds that -- normally, obviously, we'd wait for the
7 demands to come out.

8 THE COURT: Sure.

9 MR. SCHER: But because we're on this expedited
10 schedule, what I tried to do is put in a protective order
11 that was form in terms of --

12 THE COURT: What has she asked for that you think
13 is going --

14 MR. SCHER: She hasn't asked for anything yet.
15 That's why I --

16 THE COURT: What makes you think that you're going
17 to need protection?

18 MR. SCHER: Your Honor, based on -- you're dealing
19 with attorney files, where there's going to be -- which is
20 my clients. I can't speak, obviously, for MERS.

21 THE COURT: I take it you're not going to produce
22 anything that's privileged, right?

23 MR. SCHER: Of course, we would produce a
24 privilege log if there was something that was privileged.

25 THE COURT: Right, okay. So if it's privileged,

1 you don't need a protective order because you're going to
2 just produce a log rather than something that's privileged.
3 If it's not privileged and it's properly disclosed, what
4 harm are you worried about?

5 MR. SCHER: Your Honor, if it goes to -- we don't
6 know what the demands are going to be.

7 THE COURT: Exactly.

8 MR. SCHER: But if there's going to be anything
9 into --

10 THE COURT: I noticed in the protective order, at
11 the bottom of page one, it said, "for good cause shown."
12 Has there been a showing of good cause?

13 MR. SCHER: Well, Your Honor, when it was
14 originally drafted, it was supposed to be on consent, and I
15 was waiting for --

16 THE COURT: It's not on consent. But even then,
17 you weren't -- this doesn't purport to show any cause, it
18 just says that you've shown it. I'm just wondering, where
19 did you show it that I missed?

20 MR. SCHER: Well, Your Honor, we didn't actually
21 do a motion, which --

22 THE COURT: No, but the order you wanted me to
23 sign says "for good cause shown." What good cause did you
24 show me?

25 MR. SCHER: Obviously, Your Honor, the intention

1 was to come here today and establish that.

2 THE COURT: Why don't you wait for a request? If
3 it seeks something that you think should not be provided or
4 should be provided under a protective order, Rule 26 works
5 pretty well. Make your motion, I'll get a response and I'll
6 rule on it. And you'll do it very quickly because we are
7 under an expedited schedule.

8 MR. SCHER: Understood, Your Honor.

9 THE COURT: Okay. And before anyone brings a
10 motion for any kind of discovery relief, you will talk to
11 each other, in person or by telephone directly. I won't see
12 a motion based on, well, I tried to call and I didn't get a
13 call back or I didn't get an e-mail back. If I do,
14 obviously, I'm going to take action to make sure we don't
15 have that problem, most likely in the form of daily or every
16 other day meetings here at the courthouse between counsel,
17 just to make sure that (ui), okay? All right.

18 Anything else that we need to resolve so that you
19 can get started and follow Judge Weinstein's order?

20 MS. LASK: No, Your Honor. May I submit a new
21 scheduling order for you to sign?

22 THE COURT: I have a standard scheduling order.
23 I'll plug in the dates that we agreed on.

24 MS. LASK: Thank you.

25 THE COURT: Okay. Anything else for today? Thank

1 you all.

2 MS. LASK: Thank you.

3 MR. SCHER: Thank you, Your Honor.

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18 I certify that the foregoing is a correct transcript
19 from the electronic sound recording of the proceedings in
20 the above-entitled matter.

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25 ELIZABETH BARRON

March 10, 2011