

IN RE: ESTATE OF SEYMOUR BAUM,
Deceased,

IN THE CIRCUIT COURT FOR THE
18TH JUDICIAL CIRCUIT IN AND FOR
BREVARD COUNTY, FLORIDA

ANNEEN NINA GLORIA BAUM,

PROBATE DIVISION

Petitioner,

CASE NO. 05-2012-CP-048323

v.

DAVID A. BAUM, individually and as Personal
Representative of the Estate of Seymour Baum,
BRUCE M. BAUM, LIZA
CIOLKOWSKI BAUM, KEVIN P.
MARKEY, CHABAD OF SPACE, INC.,
a/k/a CHABAD JEWISH COMMUNITY CENTER,
a/k/a CHABAD OF SPACE AND TREASURE COAST,
a Florida not for profit corporation, THE WOMAN'S
ZIONIST ORGANIZATION OF AMERICA, INC. a
foreign not for profit corporation, d/b/a HADASSAH, and
FRIENDS OF ISRAEL DEFENSE FORCES, INC., a
Florida not for profit corporation,

Respondents.

**REPLY TO EMERGENCY MOTION TO
EXTEND DEADLINES AND FOR OTHER RELIEF**

Defendant, David A. Baum, individually and as the Personal Representative of the Estate of Seymour Baum, ("David") by and through his undersigned counsel, files this Reply to Emergency Motion to Extend Deadlines and For Other Relief and in support thereof states as follows:

1. On November 12, 2013, the parties in this action appeared before this Court on various motions to compel discovery and on a motion to withdraw filed by Plaintiff's then counsel- Kenneth Manney and Patrick Roche. New counsel for the Plaintiff, Mark Guralnick, made his first appearance at that hearing.

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2. At that hearing, David's counsel advised the Court that the Plaintiff had engaged in a pattern of delay and obfuscation of the truth relating to the scheduling of hearings in this matter and complying with outstanding discovery requests in the similar civil matter, *Baum v. Baum*, Case Number 05-2013-CP-028863-XXXX-XX (the "Civil Matter"). The email communications between the lawyers were presented to the court to show this history. In addition, the Court was advised that Nina Baum has a history and pattern of engaging in meritless litigation and abusing court process which was playing out in this matter citing to specific court findings in U.S. v. Baum, 380 F. Supp.2d 187 (S.D.N.Y. 2005) among other cases.

3. This court entered several orders following that hearing: (1) an order setting Nina's deposition for December 12, 2013 and directing her to appear; (2) an order compelling her to respond to the outstanding request for production and to produce documents in the Civil Matter on or before December 2, 2013, and (3) an order requiring her to serve any parties who had not been served with process no later than December 13, 2013, in this matter and the Civil Matter. Copies of those Orders are attached hereto as Exhibit "A".

4. Two weeks after granting a motion to withdraw of Kenneth Manney and Patrick Roche (lawyers number 1 and 2) in this matter and giving Plaintiff the extensions set forth above, Plaintiff's new attorney, Mark Guralnick filed his own Emergency Motion to Withdraw. Among the reasons cited in the Emergency Motion to Withdraw, Mr. Guralnick stated that he was fired by the Plaintiff in favor of two new lawyers (numbers 4 and 5). However, when they declined to take the case, she wanted to rehire him, ultimately leading to "an irreparable breakdown in communications and insurmountable difficulties in moving forward on the Plaintiffs behalf" despite Mr. Guralnick's good faith efforts. Mr. Guralnick also reported that

Plaintiff was claiming that she had not received her file from her prior lawyers (Mr. Manney and Mr. Roche) despite her prior lawyers' assurances to the contrary.

5. On November 29, 2013, Mr. Guralnick (on his client's behalf) filed a separate Emergency Motion to Extend Deadline and for Other Relief seeking to postpone all deadlines imposed by the Court orders referenced above and to delay the December 17, 2013 hearings in this matter for an indefinite time frame stretching into 2014.

6. To support this request, Mr. Guralnick cites three distinct reasons for requiring more time: (1) Plaintiff needs time to find new counsel, (2) Plaintiff's prior counsel has allegedly not yet returned her file (according to Plaintiff) frustrating her ability to meet the deadlines, and (3) Plaintiff has undisclosed and undocumented "personal health circumstances" which cause her to be unable to meet the deadlines.

7. Like most of the abusive tactics being displayed by the Plaintiff in this litigation, the allegations in Mr. Guralnick's Emergency Motion to Withdraw and Motion to Extend Deadlines are eerily similar to claims and tactics in other litigation which she has used to delay proceedings. Indeed, it is hard to accept Plaintiff's excuses at face value because the excuses referenced above are all tactics which Plaintiff has used in the past to seek delays.

8. In particular, as reflected in Mr. Guralnick's Motion to Withdraw, Plaintiff fired him after retaining lawyers number 4 and 5 in this matter and then sought to rehire him after they declined. She then refused to cooperate with Mr. Guralnick despite his good faith efforts. Plaintiff should not be permitted to benefit from her decision to fire or fail to cooperate with her own counsel. In prior litigation, the trial court noted that "**She has . . . fired or alienated close to ten experienced attorneys.**" Brief for the United States of America at 6, *U.S. v. Best*, (2d Cir 2005), 2005 WL 5012318 (quoting the trial court). **Further, the court found that she was**

refusing to hire counsel for the sole purpose of delaying the proceedings. U.S. v. Baum, 380 F. Supp.2d at 206. She also requested her new counsel to seek extension for the sole purpose of delay. Id. at 191-92 (quoting one of her new lawyers after multiple continuances: **“I’ve been directed by my client to say that I am not ready. That is not my position, but she has directed me to say I’m not ready.”**)

9. Mr. Guralnick also reports that Plaintiff claims not to have received her file from lawyers number 1 and 2 in this case – a claim which he acknowledges that her prior counsel disputes. Quoting from the Motion to Withdraw in this case, **“Moreover, Plaintiff’s former counsel indicates that he delivered her file directly to her on October 13, 2013, and Plaintiff denies that she ever received her file from former counsel – a disagreement which the undersigned counsel does not intend to become involved in.”** This is exactly the same allegation which she made in a New York case which the court found to be untrue after the lawyer “flatly denied” the claim and presented proof of receipt by the Plaintiff.¹

10. Finally, Mr. Guralnick requests a continuance based upon undocumented claims of personal medical circumstances by the Plaintiff. David has no knowledge of the Plaintiff’s current condition. However, he is understandably skeptical of undocumented claims of illness because the Plaintiff has a history of feigning illness to avoid proceedings. In a prior case, after having a bench warrant put out for her arrest for failing to appear despite being ordered by the

¹ Once the New York trial court granted her lawyer’s motion to be relieved, the Plaintiff began to tell the court about her troubles hiring new counsel and the need for more time to find replacement counsel. U.S. v. Baum, 380 F.Supp. 2d at 200-02. When the trial court asked why Plaintiff had not retained counsel, her reply was that her former lawyer “had refused to turn the file over to potential successors.” When the former lawyer was called to address this accusation, he represented that no one had requested the file and he agreed to turn over the file immediately. A month later, when the court again asked the Plaintiff if she had retained new counsel to replace the lawyer, she replied by complaining that the lawyer “had not turned over her file or returned the fee he had been paid and that this was interfering with her ability to obtain a lawyer.” Id. at 200-01. Again, the former lawyer was called to address these complaints, this time he “flatly denied” the accusation and offered to produce a signed receipt from the lawyer who had received his file. Id. at 202. The trial court rejected the Plaintiff’s contention.

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court, she claimed to be “highly stressed” and taking medications. *Id.* at 198. Further, while the New York court was advising Plaintiff of her right to counsel, Plaintiff was found to be in criminal contempt as a result of her out bursts in the courtroom claiming a sudden anxiety attack. *Id.* at 201-202. After a court ordered evaluation, the court found that she had no medical condition which prevented her from proceeding. *Id.* at 199.

11. Likewise, in a completely separate eviction proceeding, Plaintiff claimed to be unable to walk and wheelchair bound. In finding that her testimony lacked credibility, the court noted her assertion was “contradicted by the testimony of other witnesses, who stated that Respondent kept the wheelchair outside the apartment in the hallway, and from the inception of her tenancy was observed to be quite agile at walking or evening running when she wanted to or needed to.” *See Broadcom West Development Co. v. Best*, 889 N.Y.S.2d 881, *5 (N.Y. Civ. Ct. 2009) (finding Nina’s testimony not to be credible as a result of “several outrageous claims”).

12. To quote the U.S. District Court, **“She has lied, manipulated, and distorted... She has defied court rulings, missed countless scheduled professional appointments, decided when or when not to be present for court appearances, filed multiple criminal and civil complaints of dubious merit, and fired or alienated close to ten experienced attorneys.”** Brief for the United States of America at 6, *U.S. v. Best*, (2d Cir 2005), 2005 WL 5012318 (quoting the trial court). Further, the US District Court’s Order specifically stated **“Ms. Baum is clear, concise, and rational when it is in her interest to do so, otherwise, she is vague, circumstantial, evasive and circuitous. This is not mental illness; it is her style of combat.”** *U.S. v. Baum*, 380 F.Supp.2d at 199.

13. While the examples cited above are all from prior New York litigation, the same tactics are being used in the current matter. Plaintiff has already once sought, and been granted,

postponement of discovery and extension of deadlines as a result of withdrawal of counsel. *See*, Anneen Nina Gloria Baum's Mot. for a Protective Ord. ¶ 4, Nov. 7, 2013. A copy of this Motion is attached hereto as Exhibit "B."


14. The Plaintiff should be required to comply with deadlines imposed by this Court. Further, the hearings scheduled for December 17, 2013, which required several weeks of correspondence to schedule with Plaintiff, should remain pending. Like the many discovery deadlines, the hearing on Personal Representative's Verified Petition to Strike Creditor Claims has also already been postponed once, the day before the Court was set to hear the motion, at Nina's request. *See*, Order on Motion for Continuance, Oct. 2, 2013. A copy of this Order is attached hereto as Exhibit "C."

WHEREFORE, Defendant David A. Baum, individually and as Personal Representative of the Estate of Seymour Baum, respectfully requests that this Court enter an order Denying Plaintiff's Emergency Motion to Extend Deadlines and for Other Relief, and grant such other and further relief as may be just and appropriate under the circumstances.

Dated this 5th day of December, 2013.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy has been furnished via E-Mail on this
5th day of December, 2013 to all parties on the attached service list.

By:  _____
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