

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

3 CASE NO. 05-2012-CP-048323-XXXX-XX

4 CASE NO. 05-2013-CP-028863-XXXX-XX

5 IN RE: THE ESTATE OF SEYMOUR BAUM,

6 _____/

7 TRANSCRIPT OF HEARING

8
9 DATE: December 11, 2013

10 PLACE: Moore Justice Center
11 2825 Judge Fran Jamieson Way
12 Viera, FL 32940

13 BEFORE: The Honorable John M. Harris,
14 Circuit Judge

15 These proceedings were digitally
16 recorded and the following was transcribed by:

17 Shirley P. King, RPR, CLVS, FPR
18 Court Reporter

19 King Reporting & Video Conference Center
20 14 Suntree Place, #101
21 Melbourne, FL 32940
22 (321) 242-8080
23
24
25

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1

2

APPEARANCES

3

4

FOR THE PETITIONER:

5

DAVID BAUM, AS PERSONAL REPRESENTATIVE

6

WILLIAM HENNESSEY, III, ESQUIRE

7

RICHARD J. BENNETT, ESQUIRE

ANN SPAULDING, ESQUIRE

8

Gunster, Yoakley & Stewart, P.A.

775 S. Flagler Dr. Ste 500 E

9

West Palm Beach, FL 33401-6121

10

whennessey@gunster.com

11

12

13

FOR THE CREDITOR: ANNEEN NINA BAUM

14

MARK S. GURALNICK, ESQUIRE

15

3208 E. Colonial Drive #270

Orlando, Florida, 32803-5124

16

17

18

FOR THE RESPONDENTS:

19

BRUCE BAUM, LIZA BAUM CIOLKOWSKI, KEVIN P. MARKEY,
CHABAD SPACE COAST, INC.

20

21

DAVID H. JACOBY, ESQUIRE

22 2111 Dairy Road
Melbourne, Florida 32904
23 djacoby@davidhjacobypa.com
24
25

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

3

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1

2 APPEARANCES: CONTINUED

3

4

5 FOR THE RESPONDENTS:

6 CHABAD JEWISH COMMUNITY CENTER
CHABAD SPACE TREASURE COAST
7 WOMANS ZIONIST ORGANIZATION AMERICA INC.

8 WILLIAM E. BOYES, ESQUIRE

9 1601 Forum Place, Ste 900
West Palm Beach, Florida 33401

10

11

12

13

14

15

16

17

18
19
20
21
22
23
24
25

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

4

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1
2
3
4
5
6
7
8
9
10
11
12
13

INDEX OF PROCEEDINGS

PAGE

PROCEEDINGS	5
ISSUE: MOTION FOR EXTENSION OF DEADLINES	6
COURT'S RULING	12
ISSUE: MOTION TO WITHDRAW	13
COURT'S RULING	14
CERTIFICATE OF REPORTER	15

14	EXHIBITS		
15	NO. DESCRIPTION	MARKED	REC'D
16			
17	NONE		
18			
19			
20			
21			
22			
23			
24			
25			

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1

2 VIERA, FLORIDA; December 11, 2013

3 (Whereupon, the following proceedings

4 were had before the Court:)

5

6 MR. HENNESSY: Good morning, your Honor.

7 Bill Hennessy here.

8 MR. GURALNICK: Good morning, Mark

9 Guralnick.

10 THE COURT: Okay, who else we got?
11 MS. SPAULDING: Ann Spalding, your
12 Honor.
13 THE COURT: Good morning.
14 MR. BENNETT: Good morning, your Honor,
15 Richard Bennett.
16 THE COURT: Okay, Mr. Bennett, how are
17 you? How about Mr. Jacoby? We got him?
18 MR. JACOBY: Yes, I'm here, your Honor.
19 Good morning.
20 THE COURT: There we go, good morning.
21 All right, we are here on the Baum Estate,
22 motion to extend deadlines, I believe.
23 Who's motion is that?
24 Mr. Guralnick, is that you?
25

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

6

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 ISSUE: MOTION TO WITHDRAW
2 ISSUE: MOTION FOR EXTENSION OF DEADLINES
3 MR. GURALNICK: Yes, that's mine. Mark
4 Guralnick on behalf of the plaintiffs in both
5 the probate matter and the civil action.

6 I'm making two requests: First is to
7 withdraw as counsel; and then to ask you to
8 grant a brief extension to the other side of
9 the holidays so that Nina Baum has an
10 opportunity get new counsel and get it
11 together, essentially.

12 THE COURT: Mr. Hennessy.

13 MR. HENNESSY: Good morning, your Honor.

14 If you recall, we appeared before you back on
15 November 12th. At that point in time, Ms.
16 Baum's prior counsel, Kenneth Manny and
17 Patrick Roche, were granted leave to withdraw
18 as counsel, and Mr. Guralnick appeared.

19 We had twice reported at that point in
20 time that we had been attempting to schedule
21 hearings in this matter, as well as Ms. Baum's
22 deposition, all of which have been pending for
23 many, many months.

24 You entered some orders following that
25 hearing compelling Ms. Baum to attend her

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 deposition -- it is actually set for tomorrow

2 -- and to serve certain parties who have never
3 been served in the two cases that are pending
4 before you by this coming Friday.

5 And you compelled her to respond to
6 outstanding requests for production by the
7 12th -- I'm sorry, by last Friday, by December
8 2nd, your Honor.

9 And so those three orders were entered
10 following that hearing, and then obviously we
11 now have this issue with Mr. Guralnick seeking
12 to withdraw.

13 Your Honor, I would ask that you --
14 obviously, we don't object to Mr. Guralnick
15 withdrawing as counsel, but Ms. Baum -- this
16 is just -- as we explained last time, this is
17 unfortunately her game plan.

18 And so if we continue to grant her
19 extensions of time, she will continue. She
20 has abused process up to this point in terms
21 of not cooperating with her own lawyers.

22 At this point she is attempting to say
23 that Mr. Manny and Mr. Roche never delivered
24 her file to her. Indeed, they claim just the
25 opposite, that they have.



IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 And so we are sort of in this situation
2 where she is raising allegations to delay our
3 proceedings for the sole purpose of delay.

4 But the issue, for example, of claiming
5 a lost file is exactly the same thing she did
6 at a prior litigation, which I cited to you in
7 my response to the motion to extend deadlines,
8 where the Court found that she was claiming
9 she didn't have her file for the sole purpose
10 of this type of delay.

11 So I would ask that you not extend our
12 deadlines. We're prepared, obviously, to go
13 forward with the deposition tomorrow, if Ms.
14 Baum appears. If she doesn't, then we will be
15 back before you and we'll have to deal with
16 what happens by virtue of the fact that she
17 doesn't appear tomorrow.

18 Otherwise, you know, we have some issues
19 as to the discovery that she didn't respond
20 to, but that is not set for this morning, so
21 we will also have to deal with those issues in
22 the event that, you know, she doesn't address
23 this thing satisfactorily before our hearing
24 on December 17th.

25 So, I would ask that you not extend the

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

9

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 deadline, but just continue the case in the
2 normal course; and we just see how it plays
3 out. Thank you, your Honor.

4 THE COURT: All right. Thank you, sir.

5 MR. GURALNICK: Judge, Mark Guralnick
6 here with a brief response, if I may.

7 THE COURT: Of course.

8 MR. GURALNICK: I see that there is a
9 history with Nina Baum dating back a decade
10 ago. That is really not relevant to the
11 situation. I feel that there has been some
12 delay in this case before I got involved less
13 than a month ago.

14 But she lives in New York. She
15 apparently was in a taxicab accident where she
16 was a passenger. I don't know the full story,
17 but we reached her at least two or three times
18 in a hospital in New York. So she is having
19 some kind of medical treatment there.

20 Again, I can't reflect the full story,

21 as she hasn't shared it with me. But I do
22 know she is under treatment for some injuries
23 from a taxicab accident of some sort.
24 And that contributes -- it's not the
25 driving force, but it contributes to the

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

10

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 breakdown in communication I have had with
2 her.

3 I would respectfully suggest that -- we
4 are around the holidays now, where no real
5 prejudice is going to be suffered to the
6 defendant -- notwithstanding the delay, but
7 there is no real prejudice that's going to be
8 suffered if the Court is gracious enough to
9 give us a few more weeks for Ms. Baum.

10 Let her complete her treatment, whatever
11 she is doing, if she can. Let her get past
12 the holidays and just get past these difficult
13 times for her in New York and give her time to
14 get new counsel.

15 And I think if you do that make it a --
16 and I will write her a concluding letter to

17 state that this is the Court's last extension.

18 And I think that would be the better exercise

19 of discretion under the circumstances.

20 THE COURT: All right, does anybody else

21 want to be heard on the motion today?

22 MR. HENNESSY: Your Honor, in light of

23 that, may I just give a very brief response?

24 THE COURT: Sure.

25 MR. HENNESSY: All right. Your Honor,

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

11

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 again, what I'm going ask that you do, in

2 light of what Mr. Guralnick just said, is, you

3 know, I don't believe it is appropriate to

4 just take what Ms. Baum says at face value on

5 this issue. There has been no affidavits or

6 evidence presented.

7 If Ms. Baum does give good reason for an

8 extension, which you find later to be a good

9 reason why she needed to miss her deposition,

10 et cetera, then you can obviously deal with it

11 appropriately at that time.

12 But granting her broad extensions on the

13 front end without any proof or evidence of the
14 reasons why she needs an extension, I think is
15 inappropriate. So I would ask that the
16 exercise of discretion be given on the back
17 end, if you indeed find it is appropriate.

18 So thank you, your Honor.

19 THE COURT: Thank you. And Mr. Jacoby,
20 anything from you?

21 MR. JACOBY: I tend to agree with Mr.
22 Hennessy. I think that Ms. Baum has
23 repeatedly used the rules of court to her
24 advantage. And I think it is more appropriate
25 for her to give a reason on the back end as to

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

12

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 why, so she shouldn't have any extension for
2 missing her deposition.

3 THE COURT: Ms. Spaulding, how about
4 you?

5 MR. BOYES: This is Bill Boyes. I
6 represent --

7 THE COURT: Okay.

8 MR. BOYES: I just wanted to state for

9 the record that we are appearing today at this
10 hearing and I echo the positions of Mr.
11 Hennessy.

12 THE COURT: All right, thank you Mr.
13 Boyes.


14 Ms. Spaulding, do you have a position
15 on this one?

16 MR. HENNESSY: Your Honor, Ms. Spaulding
17 is with my office, so there's really nothing
18 further on our side.

19 COURT'S RULING: EXTENSION OF DEADLINES

20 THE COURT: Very good. All right, I am
21 not going to extend any deadlines at this
22 time.

23 The deposition is going to stay set for
24 tomorrow. The other deadlines that I set at
25 the last hearing, I thought I made it pretty




King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

13

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1 clear at the last hearing that that was going
2 to be the only delay or continuance that I was
3 going to grant. And now I'm being asked to do
4 it again, which I am not inclined to do. So



5 I'm going to leave the deadlines as they were
6 set last time.

7 If she does not appear at a deposition
8 tomorrow, I'm sure there will be motions filed
9 by Mr. Hennessy and others; and at that point,
10 she can present whatever proof she would like
11 as to why she wasn't here and I'll consider it
12 at the time, whether it was a valid reason or
13 not. But barring that, she needs to be here
14 for a deposition tomorrow.

15 Because I am not extending the
16 deadlines, Mr. Guralnick, do you still want me
17 to address your motion to withdraw today?

18 ISSUE: MOTION TO WITHDRAW

19 MR. GURALNICK: Yes, I do, your Honor.
20 It's -- exactly nothing is happening between
21 my client and I. There is no communication.
22 There is no capacity whatsoever for me to
23 continue representing her. And I have no
24 belief, frankly, that she will be at this
25 deposition tomorrow.

King Reporting & Video Conference Center
321-242-8080 www.kingreporting.com

1 I, for one, am already rescheduled for a
2 trial tomorrow elsewhere; so I just don't
3 believe it is going to happen.

4 You know, with all due respect to the
5 Court's decision concerning the deadlines, it
6 can serve no purpose to keep me in the case
7 any longer. I simply cannot do anything for
8 her -- or with her.

9 COURT'S RULING: MOTION TO WITHDRAW

10 THE COURT: I'm not going to grant your
11 motion to withdraw today. I don't want her to
12 show up at the deposition tomorrow or refuse
13 to come to the deposition because she is
14 unrepresented.

15 I'm going to reserve ruling on your
16 motion to withdraw and I will enter a ruling
17 on that at some point in the next couple of
18 weeks.

19 Anything else we can do on this case
20 today?

21 MR. HENNESSY: No, sir, your Honor.

22 THE COURT: All right, you guys have a
23 good day.

24 (Whereupon, this proceeding was concluded.)

25

IN RE: ESTATE OF SEYMOUR BAUM; 12/11/2013

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

CERTIFICATE OF REPORTER

STATE OF FLORIDA]
]
COUNTY OF BREVARD]

I, SHIRLEY P. KING, RPR, CLVS, FPR, do hereby certify that I was authorized to and did transcribe the foregoing proceeding, and that the transcript is a true and correct transcript from the digital record of the proceeding to the best of my ability.

Done and dated August 15, 2014 at Melbourne, Brevard County, Florida.

SHIRLEY P. KING, RPR, CLVS, FPR
Court Reporter