

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT, IN AND
FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-2013-CP-028863

ANNEEN NINA GLORIA BAUM,
an individual
Plaintiff,

v.

DAVID A. BAUM, as the Personal
Representative of the Estate
of Seymour Baum, deceased, and
as an individual, et al.

Defendants.

HEARING BEFORE
THE HONORABLE JOHN M. HARRIS

DATE TAKEN: March 18, 2014
TIME: 1:21 p.m.
PLACE: Brevard County Courthouse
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, Florida 32940
REPORTED BY: Jill E. Hastey, RPR and
Notary Public

1 **APPEARANCES:**

2 **TERESA ABOOD HOFFMAN, ESQUIRE**

3 Law Offices of Hoffman & Hoffman, P.A.
4 848 Brickell Avenue
5 Suite 810
6 Miami, Florida 33131
7 teresa@hoffmanpa.com

8 **APPEARING ON BEHALF OF THE PLAINTIFF**

9 **WAYNE M. ALDER, ESQUIRE**

10 Becker & Poliakoff, P.A.
11 625 North Flagler Drive
12 7th Floor
13 West Palm Beach, Florida 33401
14 walder@bplegal.com

15 **APPEARING AS CO-COUNSEL ON BEHALF OF THE**
16 **PLAINTIFF**

17 **WILLIAM T. HENNESSEY, ESQUIRE**

18 Gunster, Yoakley & Stewart, P.A.
19 777 South Flagler Drive
20 Suite 500 East
21 West Palm Beach, Florida 33401
22 whennessey@gunster.com

23 **APPEARING ON BEHALF OF THE DEFENDANT DAVID A.**
24 **BAUM**

25 **WILLIAM E. BOYES, ESQUIRE**

Boyes & Farina, P.A.
3300 PGA Boulevard
Suite 600
Palm Beach Gardens, Florida 33410
bboyes@boyesandfarina.com

APPEARING ON BEHALF OF THE DEFENDANT HADASSAH

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**APPEARANCES:
(CONTINUED)**

DAVID H. JACOBY, ESQUIRE
David H. Jacoby, P.A.
2111 Dairy Road
Melbourne, Florida 32904
d.jacoby@davidhjacobypa.com

**APPEARING (VIA TELEPHONE) ON BEHALF OF THE
DEFENDANT CHABAD OF SPACE COAST, INC.**

1 P R O C E E D I N G S

2 *****

3 THE COURT: Please be seated. Good
4 afternoon.

5 MR. HENNESSEY: Good afternoon, Your Honor.

6 MS. HOFFMAN: Good afternoon.

7 THE COURT: We're trying to get Mr. Jacoby on
8 the line. He's out of town. Because of the length
9 of the hearing, I told him he could listen in today
10 but he can't participate.

11 MR. HENNESSEY: Okay.

12 THE COURT: I don't know if he would want to
13 anyway, but he's not going to be asking any
14 questions. He's just going to be listening in. So
15 give me a minute or two and we'll see if we can
16 track him down and get him on the phone.

17 Hello? Hello?

18 All right. Let's go ahead and get started.
19 Just for the record, let me go ahead and get
20 everybody to identify and introduce themselves on
21 the record, starting with my right, and go across.

22 MR. BOYES: Your Honor, Bill Boyes on behalf
23 of Hadassah.

24 THE COURT: Yes, sir.

25 MR. HENNESSEY: Good afternoon, Your Honor,

1 Bill Hennessey. I represent David Baum in his
2 capacity as personal representative of the estate.

3 THE COURT: Very good. Thank you.

4 MR. BAUM: I'm David Baum.

5 MS. HOFFMAN: Teresa Abood Hoffman and
6 Wayne Alder, and we're here on behalf of
7 petitioner, Anneen Gloria Baum.

8 THE COURT: Outstanding. Very good. All
9 right. Thank you all very much. Mr. Hennessey,
10 what are we doing today?

11 MR. HENNESSEY: Thank you, Your Honor. Your
12 Honor, we have several motions pending before you
13 today. The first ones were the ones that my client
14 filed. They were to drop parties. Those issues
15 were before you previously, and this is a follow-up
16 hearing to that. And there are several other
17 motions that are also going to be before you which
18 I think are dependant, in part, on what you do with
19 these motions to drop parties.

20 THE COURT: Okay.

21 MR. HENNESSEY: And so, if I can, Your Honor,
22 I put together just a brief timeline in connection
23 with this litigation. May I approach, because I
24 think it will help with our argument nonetheless?

25 THE COURT: Thank you.

1 MR. HENNESSEY: Thank you. Your Honor, we
2 have two separate cases pending before you. We
3 have this estate administration case, which is
4 pending under Case No. 05-2012-CT-48323, and that's
5 the case where the petition for administration was
6 filed, and then where Nina Baum filed her will
7 contest and her action to remove the personal
8 representative of this estate, my client, and Nina
9 initiated that action by filing a petition, which
10 was the proper procedure under Florida law to
11 initiate a will contest.

12 It included a number of counts that we didn't
13 agree with, but it included a petition for
14 revocation of probate alleging undue influence and
15 improper execution, and it sought to remove my
16 client on the basis that the will was invalid.
17 That case was filed initially on June 3rd of 2013,
18 close to ten months ago. The petition itself --
19 did you receive the notebook, Your Honor, that I
20 sent over, the big thick one?

21 THE COURT: Got it.

22 MR. HENNESSEY: The petition is in the
23 notebook. You can see from the electronic stamp at
24 the top that it was filed on June 3rd. The
25 petition, because it's a petition for revocation of

1 probate and a petition to remove the personal
2 representative, is governed by Florida Rule of
3 Civil Procedure 5.025, which is the adversary
4 proceeding rule, and that adversary proceeding rule
5 is in the notebook, if you need to refer to it,
6 behind Tab 24.

7 And the rule lists out certain proceedings
8 which are adversary proceedings in probate, and
9 they include a petition to revoke probate and a
10 petition to remove a personal representative. And
11 the rule goes on to provide, in 5.025(d)(1), that
12 the petition, when it's an adversary proceeding,
13 needs to be served by formal notice.

14 THE COURT: Right.

15 MR. HENNESSEY: Rule 5.040, which is the next
16 tab, 25, describes what needs to happen when you
17 serve by formal notice. It's very similar to the
18 issuance of a summons. A pleading goes out called
19 a formal notice whereby you have 20 days to respond
20 and it needs to get served. It doesn't have to be
21 served in the same formal manner as service of
22 process. It can go by certified mail or a
23 commercial-signed receipt, like FedEx. It could
24 also go by service of process if folks so choose.

25 In this case, what I'll be explaining to you

1 is that Ms. Baum failed to serve the petition for
2 revocation of probate and the petition to remove
3 the personal representative properly in accordance
4 with the rule.

5 We appeared on October 14th of 2013, which
6 was more than 120 days after the petition had been
7 filed. We filed a motion to dismiss and, in the
8 motion to dismiss, we alleged that Nina had never
9 served the petition or her amended petition which
10 she filed. And, by the way, she filed an amended
11 petition on June 28th which also was never served,
12 and we said she hadn't served in accordance with
13 the Florida probate rules, and therefore her
14 petition should be dismissed.

15 We had trouble getting that motion to dismiss
16 set for hearing and you ultimately set a case
17 management conference for us on November 11th, and
18 November 11th was five months after the case was
19 filed, and we had a hearing. And the purpose of
20 that hearing was to facilitate scheduling of
21 discovery to require Ms. Baum to participate in
22 scheduling of things, because we hadn't been able
23 to get that accomplished, and to address the issues
24 relating to failure to serve.

25 At that hearing I explained that Ms. Baum had

1 a history and other litigation of delay and the
2 like, and you ultimately, at the end of that
3 hearing, ordered a number of things. You compelled
4 her to appear for her depo. You compelled her to
5 produce documents within two weeks. And we had a
6 hearing that you set for December 17th and you
7 said, "I will give you one more month to get the
8 pleadings in this case served." And so at that
9 point you gave her an additional -- it was 32 days,
10 I believe, or close to it, at least more than 30,
11 to get the petition, or the amended petition, the
12 will contest, served.

13 In the order that you entered in the estate
14 case compelling her to serve is in the pleadings
15 binder. It's behind Tab 9. And in that order you
16 indicated that she needs to serve any respondents
17 not served on or before December 13th, 2013, and
18 you said "shall be dropped as a party."


19 That order was reviewed by Mrs. Baum's new
20 counsel, and what had happened at that hearing was
21 her two prior lawyers had withdrawn as counsel.
22 Mr. Guralnick had appeared as counsel. He reviewed
23 this order before it went in. That's what you said
24 at the hearing. About two weeks later Mr.
25 Guralnick filed a motion to withdraw and Mr.

1 Guralnick alleged that his client was being
2 uncooperative, that Ms. Baum was claiming that her
3 prior counsel had her file. He said they're
4 denying that, I'm not going to get in the middle of
5 it, I want out, and filed a motion to extend all
6 the deadlines.

7 So on December 11th you held an emergency
8 hearing on his motion to withdraw and his extension
9 of the deadlines and, at that hearing, you said,
10 "I'm not going to allow you to withdraw at this
11 point. We have a hearing on December 17th, and I'm
12 denying your request for an extension."

13 He still at that point had time to serve in
14 accordance with the rules and he didn't do it. We
15 had our hearing on December 17th and we appeared
16 before you and, at that point, at that hearing, the
17 main issue we addressed that day was whether Nina
18 Baum's claims, in her separate civil case which she
19 filed relating to alleged promises of support by
20 her father, were timely, and you struck those
21 claims finding that her claims were untimely.

22 At that hearing we also discussed the motion
23 to dismiss and the fact that the parties had never
24 been served, and the transcript of that hearing on
25 those issues is behind Tab 16 in your notebook, and



1 I have an excerpt from the transcript here in the ✓
2 notebook, Your Honor. That was an evidentiary
3 hearing, so the transcript is rather voluminous,
4 but the key language starts at the top of page 130
5 at line 2, where I argue to Your Honor:

6 We have two other motions that were scheduled
7 today. One of them is pretty intensive legally,
8 but the others were fairly simple. They dealt with
9 failure to serve. And I indicate you had directed
10 Nina Baum to serve the remaining parties in both
11 the will contest and the trust contest by last
12 Friday. We have issues here where claims have not
13 been served, and you told Nina that the parties ✓
14 would be dropped and removed if the complaint in
15 the civil case and the will contest were not
16 served.

17 And then at page 135, there are arguments
18 that are made in between by Mr. Guralnick on
19 various issues relating to service and the like.
20 And at page 135, I picked back up at line 20 in my
21 argument, and I say:

22 "You exercised your discretion in this case
23 once already and allowed them additional time.
24 This case has now been pending -- or these cases
25 have been pending since June and still haven't been

1 served. We're well beyond 120 days. When we came
2 before you last time we were already at 157, I
3 believe it was, and you gave them an additional 30
4 days, and we're still to this day not served,
5 including my client as personal representative of
6 the estate, even in the action, this action, the
7 will contest."

8 And so you indicated that if they didn't
9 serve within that time frame that the parties would
10 be dropped, and Your Honor responded, "And that's
11 the order of this case right now, right?" Mr.
12 Hennessey: "Yes, that's where we are." "Okay."

13 And then Mr. Guralnick explains that, "Well,
14 Your Honor, the reason I didn't get him served is
15 I'm trying to get aliases summons issued but" --
16 actually, what he says here is that David's the
17 party, all I need to do is serve David, because
18 David is the representative for all the various
19 entities that are involved and the like, so all I
20 need to do is serve David.

21 And you respond on page 137: "Well, if you
22 need to file them, or whatever comes after, you
23 need to file a motion to address that later on, but
24 I entered a ruling last time, which I think was the
25 17th was the deadline, and it wasn't met, so that

1 order is going to speak for itself at this point.
2 If anybody needs relief from that, they can file a
3 motion for relief from that order. But going back
4 to the question I had at the beginning of this
5 case" -- well, that goes back to when we had the
6 trial, so the rest of the highlighting isn't
7 important. But you indicated that the order would
8 be binding and anybody that wants relief from it
9 needs to come and seek relief from Your Honor.

10 Following that hearing, you granted Mr.
11 Guralnick's motion to withdraw. Mrs. Baum's new
12 counsel appeared on January 24th, 2014, and we
13 filed our motion to drop parties on January 28th,
14 2014, in accordance with your prior order in the
15 estate case. No relief -- no motion for relief has
16 ever been filed. No offering of any excusable
17 neglect or good cause or any other matter has been
18 offered to explain the failure to serve in a case
19 which has now been pending since June.

20 Our civil case is very much the same, Your
21 Honor, and I don't need to run through all of the
22 facts, but the civil case was a claim for a
23 separate independent action. And under Florida
24 law, when you file a claim against an estate and
25 there's an objection to the claim, you know that an

1 independent action gets filed within 30 days of the
2 objection being filed and served, and the
3 independent action is separate from the probate
4 proceeding. It's a separate case that gets filed
5 to enforce a claim.

6 That separate civil case is pending. I call
7 it the civil cause because it was their claim for
8 promissory estoppel essentially saying dad had
9 promised me some money. Now, you struck that claim
10 over in the estate case but it remains pending
11 because we haven't yet appeared before you to deal
12 with what happens next in that case.

13 In any event, Nina's complaint in that case,
14 the separate civil case, was filed on June 28th.
15 It was amended on August 5th. When we appeared
16 before you on November 11th, just like you did in
17 the estate case, you entered an order in the civil
18 case which directed her to serve all parties no
19 later than December 13th.

20 And again it was because we had a hearing
21 coming up on December 13th, you wanted to make sure
22 everybody was served, and the case has been pending
23 for a long time, and it was well beyond 120 days
24 when you entered that order anyway.

25 Rule 1.070(j) is the rule of civil procedure

1 that deals with time for service. And I've
2 neglected to mention rule 5.025 provides that, in
3 adversary proceedings, the rules of civil procedure
4 apply. And under (j) it says that a party has 120
5 days to serve process and if they don't serve
6 within 120 days, the court has a bit of discretion.
7 You can either dismiss the case, you can drop the
8 parties who haven't been served, or you can grant a
9 party additional time. And at that hearing, on
10 November 11th, you granted Ms. Baum additional time
11 to serve. You gave her 30 more days plus to get
12 the parties served, and so you exercised your
13 discretion in her favor at that point.

14 Now, her two lawyers again were permitted to
15 withdraw. Mr. Guralnick comes into that case and
16 he files the motions to withdraw and the motions
17 for extension in that case as well, two weeks
18 later, alleging the exact same issues. The court
19 denies all of those motions and says, essentially,
20 you have to serve. The deadlines are the
21 deadlines.

22 And we went through the transcript where the
23 court discussed what the effect of its order would
24 be, and that order, in that case, is behind Tab 10
25 in the notebook, and it says, "Any defendants not

1 served on or before December 13th will be dropped
2 as a party, just like the other case." And we were
3 before you at that transcript that I was reading in ✓
4 both cases. It was a hearing that was set on the
5 motions to dismiss in both cases as well as the
6 issue striking Ms. Baum's claim.

7 We are now here. It's now March 18th. It's
8 288 days, almost 10 months which have elapsed since
9 the will contest was initially filed, and we still
10 haven't properly been served in this case. You're
11 going to hear in a moment from Ms. Baum's new
12 counsel that a couple of weeks ago they sent out a
13 motion for leave to amend in the civil case under
14 the civil case number, which they attempt to serve
15 by formal notice, but that's the civil case which
16 is governed by the rules of civil procedure and
17 it's well after your time frames anyway. But it
18 wasn't even service of the complaint; it was
19 service of a motion for leave to amend in that
20 case, but it was well after the time frames.

21 So I want to go through the law with you in
22 this case for just a moment. In the estate case, I
23 talked about rule 5.025 --

24 THE COURT: Mr. Hennessey, let me ask you to
25 hold up for just a second.

1 MR. HENNESSEY: Yes, sir.

2 THE COURT: I was just given Mr. Jacoby's
3 cell number. Let's see if this works.

4 (Phone call being made.)

5 MR. JACOBY: Hello.

6 THE COURT: Mr. Jacoby?

7 MR. JACOBY: Hello.

8 THE COURT: David, is that you?

9 MR. JACOBY: Yes.

10 THE COURT: I've got you on speakerphone.
11 We're in the middle of Mr. Hennessey's arguments on
12 his motion to drop parties. I'm going to let you
13 listen in, okay?

14 MR. JACOBY: Yes, Your Honor. Thank you for
15 accommodating me. I just want to let you know that
16 I am on my way to Gainesville to a medical
17 appointment and that's why I'm --

18 (Phone cutting out.)

19 THE COURT: This isn't going to work. Go
20 ahead.

21 MR. HENNESSEY: So, Your Honor, as it relates
22 to the law, I walk through with you rule 5.025.
23 That rule says that a will contest is an adversary
24 proceeding, as is a petition to remove a personal
25 representative. It's required to be served by

1 formal notice. The rules of civil procedure apply.
2 The manner in which a notice is required to be
3 served is delineated in the rules.

4 You entered orders which indicated that she
5 had a deadline within which to serve which she
6 didn't comply with. She's violated your order. ✓
7 This court unquestionably has the ability to
8 control its own docket. You have the ability to
9 enter an order telling parties when they need to
10 complete their service by and, in this case, you
11 exercised your discretion in her favor in the first
12 instance giving her some more time and she
13 continued to violate your order and continued to do
14 so up until today.

15 Two weeks ago they attempted to file
16 something, and you'll hear about that, but again,
17 that in and of itself is deficient. It's well
18 after the time frames and it's filed over in the
19 separate civil case, not in the existing probate
20 case where the will contest and trust contest -- or
21 the will contest, I'm sorry, and petition for
22 removal is pending.

23 We have a strong public policy in Florida
24 relating to the expeditious administration of
25 estates. You've probably heard those cases before.

1 There's a case, an old Florida Supreme Court case
2 from 1956, In Re: Williamson's Estate, which says,
3 "As a matter of public policy in this state, the
4 estates of decedents shall be speedily and finally
5 determined with dispatch."

6 Meaning, again, that you have the ability to
7 control your docket. You can keep cases moving
8 along as appropriate.

9 One of the cases that I've included in the
10 notebook is In Re: Estate of Odza, O-d-z-a. It's a
11 4th DCA case from 1983, and the court held that
12 adversary proceedings filed under 5.025, you're
13 required to strictly comply with the procedural
14 requirements in the statute as it relates to
15 service by formal notice. And, again, that wasn't
16 complied with.

17 As a result of the unserved petition, we are
18 now here, 10 months, close to 10 months after this
19 case was originally filed. There's been no
20 progress made in this case. Not one deposition has
21 been taken. The only things we've been addressing
22 in this will contest and petition for removal are
23 these issues relating to when is Nina ever going to
24 serve people. ✓

25 The rule 1.070, the other rule that's

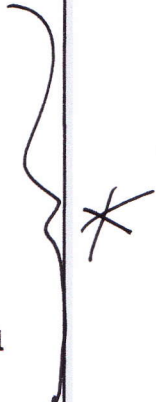
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applicable here, as I said, gives parties 120 days to complete service. And we discussed the fact that if you don't do that, you can either drop the party, you can dismiss a party, or you can exercise discretion and give them some more time.

You've exercised that discretion previously. It's incumbent upon them to come in and demonstrate to you good cause or excusable neglect as to why they didn't comply with your order and serve within the requisite time frames.

When we were before you, the case had been pending already for over six months and had not been served and you gave them another 30 days and they still didn't comply. My client is the personal representative. He's not ducking or dodging service.

Under the formal notice rules, I, as his resident agent, have to accept service for him, and so it's very simple in this case to have completed service. But Nina Baum, because of all the -- the uncooperative with her lawyers, this case was never served and so we are here now in a situation where my opponent hasn't done anything to try to get relief from the order, as you indicated she would have to do.



1 The case law makes it clear that where we are
2 now, we're at the last step. This case -- this
3 case should be dismissed. The will contest and the
4 petition for removal and/or the personal
5 representative and other folks who haven't been
6 served needs to be dropped as parties.

7 So in connection with the will contest, my
8 understanding is that the following parties have
9 never been served because there's no proof of
10 service in the estate case relating particularly
11 prior to the order. Now, you're going to hear that
12 they filed a motion in the other case, which is in
13 the other case that they served by formal notice
14 two weeks ago, but the following parties were never
15 served in the estate petition case:

16 David Baum, individually and as personal
17 representative; Bruce Baum, who is David's brother;
18 Lisa, or Liza Baum; and the Friends of the Israeli
19 Defense Forces. You'll see in the will, as
20 drafted, the bulk of this estate, in the terms of
21 the will, are going to charities. One of the
22 charities is Friends of the Israeli Defense Forces.

23 Rule 5.040 places the burden on the
24 petitioner to file for proof of service showing
25 that service is made. That's specifically set

1 forth in rule 5.040. You'll see, in the record,
2 there's no proof of service because service was
3 never made.

4 In the will contest case, Your Honor, my
5 client is an indispensable party. He's the
6 personal representative of this estate. Under
7 Florida law he's got a duty to defend the validity
8 of the will. In an estate case, the personal
9 representative is always an indispensable party.

10 And I cited to you a number of cases standing
11 for that proposition, including Smith v. DeParry,
12 behind Tab 33, for the proposition that personal
13 representatives is an indispensable party in a will
14 contest. It makes sense they have a duty to defend
15 the validity of the will. So because she's failed
16 to serve, the dropping of my client as a party
17 causes this case to be dismissed.

18 Now, my opponent is going to argue that you
19 shouldn't dismiss this case, Your Honor, because,
20 if it's dismissed, I might be time barred from
21 re-filing a new will contest. But the law that I
22 provided to you, Your Honor, in the notebook, there
23 are two cases that I focused on in particular. One
24 is Powell v. Madison County, and the other is
25 Pixton v. William Scotsman. And in those cases the

1 parties had failed to serve, and the plaintiff
2 said, "Well, Your Honor, if you dismiss my case for
3 failure to serve, even though it's a without
4 prejudice dismissal, I'm going to be barred from
5 re-filing, and that would be prejudicial to me."

6 And the court in those cases went through the
7 typical analysis and said, "Look, you know, this
8 case has been pending for a long time. You haven't
9 shown me good cause or excusable neglect for the
10 delay, and so the fact that you may not be able to
11 re-file your case is of no consequence at the end
12 of the day if you don't comply with my orders and
13 you don't comply with the rules."

14 And that's ultimately what Powell and Pixton
15 say. Those cases are in your notebook, Your Honor,
16 behind 26 and 27.

17 Finally, Your Honor, my opponent cites, in
18 her response to my motion to drop parties, the case
19 of Aguilar v. Aguilar, and that's a probate case.
20 She cites that case for the proposition that the
21 probate rules don't require that objections to the
22 validity of a will be served within three months,
23 they just have to be filed.

24 So, in that case, what happened in Aguilar
25 was the defending party, the personal

1 representative, said, "Well, you filed your will
2 contest timely but you didn't serve it within three
3 months." And the court in Aguilar said, "Well, you
4 don't have to serve -- there's nothing in the
5 probate rule which requires you to serve within
6 three months, or the probate statute, and so
7 therefore I'm not going to dismiss it on that
8 ground."

9 That's a very different situation that we
10 have here where the rules of civil procedure
11 govern -- first of all, you don't have to serve
12 within three months, but you do have to serve
13 within 120 days. Or even if you don't, you have to
14 serve at least within some reasonable amount of
15 time, and the court here has entered orders
16 directing parties to serve petitions within time
17 certain, and those orders were simply just
18 violated.

19 And so Aguilar, although it discusses issues
20 relating to the time of service, isn't applicable
21 in this particular case because we're not dealing
22 with failure to serve within three months, we're
23 dealing with failure to serve over an extended
24 period of time even after this court directed her
25 to serve.

1 In sum, Your Honor, in the estate case, I ask
2 that you drop David Baum individually as personal
3 representative, Bruce Baum, Liza Baum, Friends of
4 the Israeli Defense Forces as parties, and I
5 request you dismiss the amended petition on the
6 basis that, once those parties are dropped, the
7 case is over because the personal representative is
8 an indispensable party.

9 In connection with the civil case, the
10 following parties were not served in the civil
11 case: David Baum, individually; Pine Ridge Plaza.
12 The only party in that case who, when we appeared
13 in that other case, Your Honor, was David Baum as
14 personal representative, and that was because we
15 needed to get a lis pendens stricken from the
16 property, which you did strike, but that David
17 Baum, as personal representative, appeared, but
18 none of the parties were ever served. And so I'm
19 asking that you drop all the parties who were never
20 served, other than the personal representative, as
21 parties in that separate civil case.

22 And, Your Honor, I have proposed orders for
23 you on that at the conclusion of the hearing if
24 you're interested. Thank you, Your Honor. Your
25 Honor, if I might have one more moment, Your Honor?

1 things. My client would of course tell you that
2 Nina was estranged from her father. I shared with
3 you some of the litigation history of Nina
4 previously. There are all kinds of horrible things
5 that have happened over the years that have
6 resulted in Nina being not part of this family at
7 all, and, ultimately, at the end of the day, what's
8 very telling is that the charities who stand to
9 inherit in this estate are not saying that David
10 stole money. They're not contending that David's
11 done anything wrong. The rabbi that Ms. Hoffman
12 was referring to is represented by Mr. Jacoby. Mr.
13 Jacoby stands with David in this action.

14 We have a will contested, a disgruntled
15 daughter who is looking to take advantage of the
16 estate. But worse, we have a serial litigant who
17 abuses process. And I have stood before you, Your
18 Honor, and I stood before you flabbergasted over
19 the fact that I can't schedule simple hearings with
20 her counsel. And I've had to come before you to
21 try to get things set and I've worked with your
22 judicial assistant to do the same.

23 You set deadlines in this case because we
24 were dealing with a litigant who is being
25 incredibly uncooperative. Notwithstanding the

1 deadlines which you set, she still failed to comply
2 with them.

3 The case law, as it relates to dismissal for
4 failure to serve, makes it clear that the burden is
5 on my opponent to present evidence, evidence in the
6 record, of good cause or excusable neglect for
7 failing to serve process. She didn't do that. She
8 offered you no affidavits, no evidence.

9 Instead, she stood before you and told a
10 sordid tale which we just disagree with. And the
11 charities, we disagree with. At the end of the
12 day, Your Honor, there's been no showing as to why
13 she should be excused from having failed to comply
14 with your orders.

15 The motion, from a procedural perspective, I
16 just want to echo what Mr. Boyes said. I contacted
17 the clerk after speaking with Ms. Hoffman, and you
18 might do the same, but the will contest, and you
19 probably know this, gets filed in the estate
20 proceeding. It's given the same case number. It's
21 not given a separate case number relating to the
22 will contest proceeding. It gets filed in the
23 estate case as a petition for revocation of probate
24 as a probate case number. She's confusing
25 adversary proceedings under 5.025 with independent