

EXHIBIT 15

Case No. 11 Civ 5843 (JPO)

DECLARATION OF JAY WARD BROWN IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO DISMISS
DEFENDANTS' COUNTERCLAIM

(Conf. Tr., Dec. 2, 2011)

1C2JGILC Conference

1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 WILLIAM GILMAN,

4 Plaintiff,

5 v.

11 Civ. 5843 JPO

6 ELIOT SPITZER, et al.,

7 Defendants.

8 -----x

10 December 2, 2011
10 10:54 a.m.

13 Before:

14 HON. J. PAUL OETKEN,

15 District Judge

18 APPEARANCES

19 LIDDLE & ROBINSON, LLP
20 Attorneys for plaintiff
20 BY: JEFFREY LEW LIDDLE, Esq.
21 JAMES WILLIAM HALTER, Esq.
21 Of counsel

22 LEVINE SULLIVAN KOCH & SCHULZ, LLP
23 Attorneys for defendants
23 BY: LEE LEVINE, Esq.
24 Of counsel

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Conference

1 I am inclined to at least temporarily put off a
2 discovery schedule and remaining schedule in the case and look
3 at the motions first and try to resolve them fairly quickly, or
4 at least get a better sense of them, an initial sense of them
5 before starting full blown discovery in the case, mainly for
6 the reason that obviously I think it could be much more
7 efficient if there is a way to resolve the case without getting
8 into discovery, which is defendant's position.

9 Also I think an opinion going through some of the
10 issues raised in the motion for judgment on the pleadings could
11 have an effect on the scope of discovery and I think getting
12 that resolved before discovery begins, takes place, I think
13 could be helpful to the parties in terms of the efficiency of
14 discovery.

15 So I am going to hold off on setting a schedule for
16 the case at this point and just proceed on the basis of the
17 current briefing schedule on the two motions, and then I'll let
18 the parties know whether I need argument on the motions and/or
19 whether I am going to call the parties in to set a schedule as
20 if I'm reviewing the motions, okay? I think that is all we
21 need for today unless there is anything else that the parties
22 want to discuss?

23 MR. LIDDLE: Your Honor, the only issue that I wanted
24 to raise, and it has pretty much been preempted by everything
25 you said, but since we were in line longer than the conference,

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1 I might as well say it, is that we do feel fairly strongly that
2 it would be appropriate to have at the earliest possible time
3 the -- and this may not entail any documentary discovery -- the
4 deposition of the defendant Spitzer and deposition of that
5 person from Slate who is in charge of the, whatever
6 fact-checking process did or did not occur.

7 THE COURT: Do you know who the person or people are
8 or is?

9 MR. LIDDLE: Well, I don't know who the person is at
10 Slate. I am of the, say, semi-educated opinion that there was
11 no fact-checking, and that might be an answer that we get at
12 the time that is pursued.

13 In other words, due to the status of the author as a
14 former governor and attorney general himself, there was more
15 latitude given to the facts as he would present them as opposed
16 to what would happen if, say, I wrote a piece in which they
17 probably have 10 people on.

18 THE COURT: I will keep that point in mind.

19 MR. LIDDLE: Thank you.

20 THE COURT: I still think what I've said stands
21 particularly because if, for example, it turns out to be the
22 case that I'm persuaded that the challenged statements were not
23 of and concerning the plaintiff, for example, then those issues
24 aren't relevant, the issues of fact-checking, et cetera, don't
25 become relevant in the case.

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