

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

_____	x	
ELLEN AGUIAR,	:	
	:	
Plaintiff	:	<b>10 CV 6531 (PGG)</b>
	:	
v.	:	
	:	
WILLIAM NATBONY, individually and as	:	
trustee of the THOMAS S. KAPLAN 2004	:	
QUALIFIED TEN YEAR ANNUITY	:	
TRUST AGREEMENT and the DAFNA	:	
KAPLAN 2003 EIGHT YEAR ANNUITY	:	
TRUST AGREEMENT, THOMAS	:	
KAPLAN and	:	
DAFNA KAPLAN,	:	
	:	
Defendants.	x	
_____		

**DECLARATION OF SIGRID STONE McCAWLEY**

I, Sigrid Stone McCawley, declare under penalty of perjury that the foregoing is true and correct as follows:

1. I am over the age of eighteen, and I have personal knowledge of the facts contained in this declaration. I am a partner at the law firm of Boies, Schiller & Flexner LLP and am counsel for Plaintiff Ellen Aguiar.


2. I submit this declaration pursuant to the Court’s directive at the pre-motion telephonic conference held on October 27, 2010, in response to the statement in Defendants’ Pre-Motion Conference correspondence dated October 6, 2010, that “Plaintiff and her counsel have almost certainly received confidential information taken from Kaplan’s e-mail account by Guma Aguiar, through conversations with her son and

counsel who are parties to a joint defense agreement in the Florida Actions.”<sup>1</sup> (See Harley Tropin’s October 6, 2010, Correspondence to The Honorable Paul G. Gardephe at p. 3).

3. I have not read any e-mails between Thomas Kaplan and his lawyers (other than e-mail provided in discovery in the Florida Actions) nor have I been made aware of the contents of any such privileged e-mails by anyone, including Guma Aguiar, the lawyers to the joint defense agreement, my clients Ellen Aguiar, Justin Corey Drew or Angelika Aguiar.

4. I am a party to the joint defense agreement in the Florida Actions as a result of my representation of Ellen Aguiar who was a fact witness in an action filed by Thomas Kaplan against the Lillian Jean Kaplan Foundation. The lawyers that are parties to the joint defense agreement in the Florida Actions have not disclosed to me the contents of any of Thomas Kaplan’s allegedly privileged e-mails. In fact, Mr. Tropin (counsel for Mr. Kaplan) represented in Federal Court in the Florida Actions that he did not contend that any of the lawyers in the Florida Actions had reviewed the allegedly privileged e-mails. (See October 2, 2009 Hearing Tr. 8:17-19.)

Executed this 2nd day of November, 2010.

  
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Sigrid S. McCawley

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<sup>1</sup> The “Florida Actions” include *Leor Exploration & Production LLC, Pardus Petroleum L.P., et al. v. Guma Aguiar*, Case No. 09-60136-CIV-Seitz/O’Sullivan (S.D. Fla.); *Guma Aguiar v. William Natbony, Thomas Kaplan, and Katten Muchin Rosenman, LLP* Case No. 09-60683 (S.D. Fla.); and *Thomas Kaplan v. Guma Aguiar and The Lillian Jean Kaplan Foundation, Inc.*, Case No. 09-001509 (Fla. Cir. Ct., 17th Jud. Cir). The case of *Leor Exploration & Production LLC and Leor Energy, L.P. v. Angelika Aguiar and Justin Corey Drew*, Case No. 09-014890 (Fla. Cir. Ct., 17th Jud. Cir.) was voluntarily dismissed by Leor on April 7, 2010.