

Affirmation of Marian Lupo

1. Miles Curtiss contacted me in early April 2009 and explained to me he was completing an affirmation for Clifford O. Arnebeck, Jr. In the course of our conversation, I was told that Arnebeck advised Mr. Curtiss that "everyone who was accountable had been held accountable" in the instant case.
2. Mr. Curtiss also told me he needed more time to research the case to understand what was going on; he was under the impression that it was his responsibility to discover what was being done in his name, not the responsibility of his attorney to consult with him.
3. In late March, I spoke with another Named Plaintiff, who, similar to Mr. Curtiss, was unaware of the actions being taken in that Plaintiff's name in this case. In addition, this plaintiff thought the case was over.
4. This Named Plaintiff was very disturbed by the Court's Order and Opinion which named the Plaintiff as having objected to the Proposed Intervenors' Motion for Intervention and the striking of the Motion for Criminal Contempt/Grand Jury Proceedings.
5. This Named Plaintiff was under the impression that they had done something wrong because they knew nothing about their attorney's actions being done in their name.
6. The Named Plaintiff completed an affirmation and asked that their affirmation be filed under seal. This Named Plaintiff was concerned with retaliation. Such a request for filing under seal was submitted to this Court on March 27, 2009 and denied on March 31, 2009.
7. In April 2009, I was contacted by a former client of Clifford O. Arnebeck, Jr.
8. This former client explained to me that Arnebeck had settled a case in their name against their wishes and that Arnebeck then took the settlement proceeds, in addition to the amount the client had paid him, as his attorney fees.
9. Further, this client explained to me that they were not kept timely informed about their case or actions they needed to take, which worked to their extreme prejudice.
10. Finally, this former client explained how they were harassed by Arnebeck.
11. This former client is concerned with retaliation. Given the details this former client shared with me, I share the former client's concerns. Any affirmation submitted by this former client would have to be filed under seal.
12. Following the closing of filings on the motions the Proposed Intervenors filed in this case, I was contacted by a person who had questioned Clifford O. Arnebeck, Jr. about this case.

13. Arnebeck threatened this person with an action for defamation.
14. Arnebeck also stated that this person needed to stop looking into this case or "they would kill" this person (referring not to himself but some other entity).
15. This person, who is African-American, believed Arnebeck was racist in his treatment of several of the Named Plaintiffs and that he was taking advantage of the accepting nature of the Named Plaintiffs.
16. Any affirmation by this person would have to be filed under seal.
17. An affidavit by me was filed with this Court on August 13, 2007 as an exhibit to the Intervenor Plaintiffs' Response in Opposition to Arnebeck's Motion to Strike (Docket Entries #46 & #47).
18. Accompanying that affidavit was a memorandum dated 2/7/07 I sent to Arnebeck, copied to Fitrakis, explaining that I could no longer conduct research for this case because of the failure to perfect service of process.
19. Paragraph 23 of this affidavit details that I was called by Robert Fitrakis not long after I discontinued conducting research for this case; Fitrakis informed me that Arnebeck was threatening to sue me for defamation.
20. In addition to this phone call from Fitrakis, I was informed shortly after I discontinued conducting research for this case that Arnebeck had asked David Hickman to investigate me.
21. Arnebeck procured the unlisted and private cell phone number of one of my immediate family members.
22. On Friday, April 17, 2009, Arnebeck used this number to contact this member of my immediate family while this person was driving.
23. This cell phone is new and was intended for use by other immediate family members only; the number is not publicly available through directory assistance or through a web search.
24. Arnebeck had no legitimate reason for contacting this immediate family member.
25. Mr. Kettler has been the designated contact for the *pro se* group and Arnebeck and Fitrakis since the beginning of the Proposed Intervenor's filings in this case.
26. Both Arnebeck and Fitrakis know Mr. Kettler, know Mr. Kettler's telephone number, and know he has been designated the group contact; further, Mr. Kettler has consistently

communicated with both Arnebeck and Fitrakis about matters related to this case when communication is necessary.

27. Nonetheless, on the same day as the unwarranted contact with my immediate family member, Arnebeck contacted me and asked me for an extension of time to respond to the Proposed Intervenor's Motion for Reconsideration.

28. I explained to Arnebeck that he knew I could not give him an extension of time to respond, that these decisions were made by the *pro se* group collectively, and that since it was late Friday afternoon, I didn't see how the group was going to be able to get back to him right away.

29. Arnebeck told me he was then going to call each *pro se* member.

30. I explained to Arnebeck that was inappropriate.

31. Arnebeck said it was not and hung up on me.

32. Arnebeck then called Paddy Shaffer.

33. Arnebeck did not call the other *pro se* litigants.

34. The *pro se* litigants returned an answer to Arnebeck on Monday, April 20.

35. Mr. Kettler was unavailable that day, so Ms. Barbee called and left a message in response to Arnebeck's request.

36. On April 29, 2009, I received by e-mail a forwarded copy of the e-mail Arnebeck sent to the Plaintiffs in this case. Absent from the list of e-mail addresses on Arnebeck's e-mail was Named Plaintiff Harvey Wasserman and The League of Young Voters.

I affirm, under penalty of perjury, that the foregoing is true and accurate to the best of my knowledge.

Signature:

Date: