

**Judith Herskowitz**  
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November 13, 2003

Hon. Sherry Klein Heitler  
Supreme Court  
60 Centre Street,  
Room 438  
New York, N.Y. 10007

Re: Charney v. North Jersey et al.,  
Index No. 24517/88

Dear Judge Heitler:

In view of the fact that Steven Delibert's and Paul Windels' III Reply and Response and Windels' paper in support of the Charney case are not verified and/or sworn to and even if they were the issues here are disputed in which case they would have to be resolved in an evidentiary hearing thereby, entitling me to evidentiary hearing and no evidentiary hearing has yet been set, I most respectfully have to appear by telephone at the November 18, 2003 hearing. At any rate this case has to be stayed first because, the fee dispute here centers around fees that arose prior to and subsequent to the filing of the bankruptcy petition these fees are preempted by bankruptcy law and are barred and so I am compelled to move to reopen the bankruptcy case for a hearing, a copy of which motion is being sent to this Court. I have very limited funds and I simply cannot afford to keep on flying up from Florida at a cost of well in excess of \$500.00 and to litigate in three courts. In fact I have not left Florida for years. Moreover, an evidentiary hearing on the New York judgments had been set in the Florida court, in a case commenced by Charney to domesticate her judgments that would have disposed of the issues in the New York court as well. To prevent that hearing from taking place it has been cancelled by the most outrageous, brazen *ex parte* manipulation of immune judicial officers culminating in an *ex parte* order of the Florida court dated September 23, 2003 (Copy attached).

Needless, to say it is very disturbing and stressful that both this case and the Florida case have been attempted to be comprised with that September 23, 2003 *ex parte* order. This illegal and unlawful *ex parteing* has been the history of this and the Florida case depriving us of a fair and impartial court. Whereupon, Delibert brazenly mocks that the Herskowitzes failed to prevail and wants fees for it. As shown in the Reply and Responses of Steven Delibert and Paul Windels III, that *ex parte* order was procured not only to claim in the Florida court that the case was "dismissed" but to obstruct a hearing in this court as well, with false claims that the Florida determination disposed of the issues in this court as well, when in truth nothing was determined. That *ex parte* order procured by *ex parte* manipulations was then prepared by Florida counsel Eric Christu, even leaving his secretary's name on it, without motion, notice and hearing and without holding that status conference claimed in that order. In an involuntary dismissal Rule 1.420 Fla.R.Civ.P. mandates that "notice of hearing on the motion shall be served" a requirement to any hearing. That collusive *ex parte* order is thereby void under Florida law. So, there are numerous motions pending the Florida court, rightfully filed, requesting the judge to recuse himself and to vacate the void orders and to determine the issues on the merits in an evidentiary hearing, for which this case has to be stayed.

That *ex parte* October 23, 2003 order purports to strike a Verified Motion to Strike as Sham the pleading and defenses of Susan Charney, disregarding that Rule 1.150 Fla.R.Civ.P. mandates that an evidentiary hearing shall be held when a party moves to strike a pleading for sham. Another motion stricken was Motion for Constitutionally Mandated Inquiry into Whether the Jurisdictional Issues were Fully and Fairly Litigated and Finally Decided in the New York court. Even though no evidentiary hearing was ever held in the Florida case and even the Administrative Judge in the Florida court directed to set that hearing (Copy of letter attached) it was denied by that *ex parte* October 23<sup>rd</sup> order. Thereby, preventing me from introducing into evidence over 50 documents showing that the claims made by Delibert and Charney in this and the Florida cases were false.

What is further upsetting is that Judge Harold Tompkins is named in a November 11, 2003 article that appeared in the New York Times titled "Cozying up to Judges and Reaping Opportunity". (Copy attached) It is noted that it is "whom you know in courthouse circles can be just as valuable as what you know". It describes attorney Ravi Batra who does favors for judges for the return of favors by the judges "Few times, Mr. Batra said, he made calls on judges' behalf when they sought promotions, but only because they were worthy. In 1998, for example, Mr. Batra said he tried to help an acting Supreme Court judge, Harold Tompkins, win a permanent spot by calling the Manhattan Democratic leader, Assemblyman Herman D. Farrell Jr. For that in the preceding 18 months, Justice Tompkins had given Mr. Batra 10 appointments worth more than \$85,000." It should be noted that these receiverships go on a rotating basis and are not supposed to end up ten times with the same attorney.

In this case it was Justice Harold Tompkins, dubiously assigned to this case, who made that illegal, unlawful appointment of Paul Windels III in 1995 to pretend that he was receiver of our corporate property which was sold a year and half before his appointment, to be used as a conduit for syphoning out funds, now close to \$700,000.00 from the New Jersey Bankruptcy Court to this Court. That entire sum is now attempted to be divvied up by agreement for fees for an entourage of attorneys for harassing us for fourteen years now. It was Justice Harold Tompkins who victimized me and my family with his illegal, unlawful *ex parte* orders when he could not find jurisdiction over us Florida citizens, by making the fictional ruling that we withdrew our objection to jurisdiction. Although Delibert conceded in sworn testimony that this was unsupported by the record and Justice Tompkins was also aware that this was pure fiction, Justice Tompkins simply prohibited us from raising the jurisdictional issue and sanctioned and fined us and upon which this whole case is predicated in this Court.

In view of all this *ex parteing*, false claims and illegal and unlawful orders entered by Justice Tompkins reputed to do favors for favors that evidentiary hearing cannot be *ex partied* away in the Florida court and because of the Bankruptcy Court Case, this case has to be stayed.

Sincerely,

Judy Herskowitz

cc: Steven Delibert  
Paul Windels  
Justice Jaquiline Silbermann  
Chief Justice Jonathan Lippman