

SUPREME COURT : STATE OF NEW YORK
COUNTY OF NEW YORK

Index No. 24517/88

SUSAN CHARNEY,

Plaintiff,

-against-

NORTH JERSEY TRADING CORPORATION,
ALEXANDER FRIED, JUDITH HERSKOWITZ,
XXXXHERSKOWITZ and XXX
HERSKOWITZ,

Defendants.

**NOTICE OF MOTION
TO VACATE
ORDERS AND JUDGMENTS**

Oral Argument Requested

PLEASE TAKE NOTICE, that upon the annexed Affidavit of Judith Herskowitz sworn to on September 1, 2004, with Exhibits in support, the Memorandum of Law and upon the prior proceedings herein, the undersigned will move this Court at the courthouse thereof, at the Motion Submission Part, 60 Centre Street, Room 130, New York, New York, on October 28, 2004 at 9:30 o'clock in the forenoon as soon thereafter as counsel may be heard, for an Order Pursuant to CPLR § 2221(a) and §5015 vacating and setting aside as follows:

The January 19, 1993 contempt order entered by default for alleged discovery violation, not provided under the rules and awarding fees of \$23,500.00 to Steven Delibert; the related February 19, 1993 Order of Commitment; the January 19, 1993 order entering declaratory judgment by default without the required proof; and the January 21, 1994 derivative judgment entered by default in excess of \$4.2 million, void on its face for having been entered without the required proof of service of the summons and complaint.

The motion is based on the ground, that the above noted orders and judgments are void and a nullity ab initio for having been entered without subject matter jurisdiction; without statutory authority; in noncompliance with essential prerequisites and were procured through

intrinsic and extrinsic fraud.

Please take further notice that pursuant to CPLR §2214 all answering papers must be served so as to be received at least seven days before the return date of this motion.

Furthermore, should you use an overnight service such as Express Mail please note that the signature of the recipient also referred to as addressee is required to be waived.

Dated: Miami Beach, Fl.
September 29, 2004

Yours etc.,

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