



Mr. Delibert. In addition I have not been directly involved in many aspects of the litigation I understand to have been conducted outside this Court, such as in Florida. I have had limited dealings with the bankruptcy proceeding *In re North Jersey Trading Corp.* No. 93-31620(SAS) (Bkrcty., D.N.J.).

5. In response to the application that plaintiff Charney and I jointly made for distribution of funds, Herskowitz served a number of cross motions in October 2003. Those cross motions were denominated as seeking: (1) "a stay and/or to abate in deference to preemptive and primary jurisdiction in other proceedings"; (2) "for relief . . . and for referral on application to the administrative judge: (A) upon a showing that judgments herein obtained by default were by fraud, misrepresentation, illegality, unconscionability, and violations of law and (B) requirements of New York law for service of process were not met . . ."; (3) "to compel production of documents"; (4) "The derivative judgment has been fully satisfied . . ."; (5) "no jurisdiction exists to award fees under BCL 626(e)."

6. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
October 21, 2004

  
PAUL WINDELS III