

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC.,	§
MANILA INDUSTRIES, INC., and	§
MUNISH KRISHAN,	§
Plaintiffs.	§
	§ Civil Action No. 3-09CV0988-F
v.	§
	§ Motion for Expedited Relief
JEFFREY BARON, and	§
ONDOVA LIMITED COMPANY,	§
Defendants.	§

MOTION FOR LEAVE TO FILE: MOTION PURSUANT TO 28 U.S.C. 144

TO THE HONORABLE JUDGE ROYAL FURGESON:

COMES NOW JEFF BARON, and moves this Court to grant leave to file the following motion pursuant to 28 U.S.C. §144:

Based upon a careful review of the record of the case, and based upon the Court’s ruling with respect to the ‘unfounded’ nature of the statements made with respect to Peter Barrett, the undersigned counsel certifies that Jeff Baron’s affidavit and statements that he cannot receive fair and impartial treatment nor a fair and impartial hearing before Judge Furgeson with respect to attorneys’ claims has been made in good faith.

WHEREFORE, the SECTION 144 AFFIDAVIT OF JEFFREY BARON is presented to this Court, for a determination of whether the facts and reasons set out in the affidavit give fair support to the charge of a bent of mind that *may* prevent or impede impartiality of judgment with respect the claims of attorneys and the respective defenses thereto.

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NETSPHERE, INC.,)	
MANILA INDUSTRIES, INC., and)	
MUNISH KRISHAN,)	
Plaintiffs,)	
)	
vs.)	Civil Action No. 3-09CV0988-F
)	
JEFFREY BARON, and)	
ONDOVA LIMITED COMPANY,)	
Defendants.)	

**SUPPLEMENTAL SECTION 144 AFFIDAVIT OF JEFFREY
BARON**

1. My name is Jeffrey Baron. I am a defendant in the above entitled and numbered cause. I am competent to make this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct. I have personal knowledge of the stated facts, which I learned as the result of being subjected to the facts and events stated herein. This affidavit is made pursuant to Judge Furgeson's order, and supplements my previously filed affidavit with an additional paragraph (13), and redacts some text relating to Judge Furgeson's findings relating to factual allegations with respect to Mr. Barrett.

2. I believe the Hon. Senior Judge William Royal Furgeson has a strong and longstanding personal bias for believing lawyers are good, honest people because they are lawyers. I believe Judge Furgeson has a personal bias against giving credence to allegations of poor conduct by attorneys. Judge Furgeson clearly has held this personal bias for a very long time. I recognize that it is a positive attitude and is probably very helpful in most of the cases being handled by the Judge. It is also probably a good thing to appoint judges who have a positive view and bias for believing all lawyers are good, honest people. It likely brings out the best of many lawyers, in many situations. Unfortunately, in this particular case where my opponents are attorney-parties the Judge's deep-seated bias in favor of attorneys has led to a gross injustice and has empowered dishonest attorneys to victimize me. I cannot receive fair and impartial treatment nor a fair and impartial hearing

before Judge Furgeson with respect to attorneys' claims because of his deep-seated personal bias. The Judge's bias is shown by the following facts:

3. Judge Furgeson said that he has a deep-seated personal view that he believes that lawyers are important to the rule of law and that giving credence to accusations against lawyers would be bad for society. In relation to his personal bias that lawyers must not be found to have acted poorly:

- (A) **Judge Ferguson stated that he would not give credence to assertions of lawyers acting poorly**— that doing so in his view was bad for society.
- (B) With respect to allegations that lawyers have acted poorly, Judge Furgeson expressly said that he never wanted **in any way** to give credence to that kind of assertion.
- (C) Judge Furgeson said that with respect to lawyers, he did not **ever** find lawyers acted improperly and impose sanctions against them (except for one single time). By contrast, the Judge told me, a non-lawyer, that if I failed to comply with his orders it was “punishable by possible jail, death.”

4. I have also heard Judge Furgeson state that he had practiced many years as an attorney, and to my understanding of the Judge's statement, he said that he had a special sympathy for other attorneys and is especially sympathetic to their fees.

5. I do not believe the Judge has ill will for me personally, but holds a sincere and deep-seated personal bias (as opposed to bias based on malice or ill-will). Because perceptions are bent by bias, someone who holds a very deep-seated personal bias acts without realizing they are prejudiced. In this case, my attorney-opponents have been dishonest with the Judge, but because of his personal bias, Judge Furgeson may not be cognizant of that. I am under a cloud of accusations, and have been denied the very essence of our system of justice—a jury trial. It is through a jury trial that a party can clear their name, and prove their innocence. This very basic and fundamental right has been denied me. Since the Judge sees the case through the color of biased eyes, he does not see that—and seems to believe a jury trial is not necessary since if the attorneys say I am guilty, I must be.

6. My belief that Judge Furgeson is prejudiced and biased in favor of attorney-claimants is based on the Judge's own statements about his prejudices and beliefs. In case there is any question about whether the statements I have made about the Judge's statements are true, judge's Furgeson's bias can also be seen in the Judge's unwillingness to give credence to the fact that the attorney-parties have been dishonest. For example:

- (A) There is no question the attorney-parties against me have misrepresented material facts in securing the receivership over me. **For example in his motion to appoint a receiver over me Mr. Urbanik materially misrepresented the bankruptcy court's recommendation.** Urbanik represented that the bankruptcy judge recommend placing a receiver over me if I chose to proceed pro se. Examination of the record establishes that the bankruptcy judge threatened to make a recommendation to appoint a receiver in order to perform my settlement obligations for me if I (1) proceeded pro se and (2) failed to perform my settlement obligations. **However, because of his long-standing and deep-seated *personal* bias, Judge Furgeson is unwilling to give credence to the fact that the attorney-parties misrepresented material facts in securing their ex-parte receivership order over me.**
- (B) Similarly, as another example, Sherman/Urbanik were dishonest in representing to Judge Furgeson that I had filed ethics complaints against Martin Thomas, as well as other facts relating to him. Sherman/Urbanik's allegations were totally false fabrications. Urbanik filed an affidavit falsely claiming that he had personal knowledge of certain specific facts. However, Judge Furgeson would not allow my attorney to call Urbanik as a witness to challenge those assertions, and Judge Furgeson would not disqualify Urbanik as an attorney in the case even though he put himself forth as the primary witness with personal knowledge against me.
- (C) Peter Vogel fabricated a story that I created the Cook Islands management company that is the legal management for Novo Point and Quantec. I have nothing to do with the management company and I did not select them to manage the LLCs. Vogel invented and fabricated his story, falsely accusing me of wrongdoing. Judge Furgeson simply accepted at face value that Vogel's fabricated

allegation was true, and Vogel's motion was granted without any hearing and before any response had been filed.

(D) As another example, Vogel and his law partners affirmatively set me up to call into a 'secret' phone meeting so that there would be 'witnesses' that I was harassing him. The receiver sent me multiple emails directing me to call a certain number at a certain time. Then, they filed a motion with Judge Furgeson falsely representing that they did not send me the call information. The receiver set up the 'incident' offered to 'prove' that I was interfering or harassing. It was all fabricated by the receiver. Even though the receiver was caught red handed with the smoking gun emails to me, Judge Furgeson has taken no action against the receiver. Although the matter has been brought to his attention, the Judge to this point allowed the receiver to carry forward as if they had never filed their false representations with the Court – to the extent of allowing the receiver to continue to file new material making the same, knowingly false representations. Specifically: (1) The receiver pre-planned to set me up to 'break in' to a conference call. My calling in was set up in advance by an email sent to me on March 30th directing me to call a certain phone number at a certain time on April 1st concerning my own tax returns. I produced that email. Even in the face of the hard evidence, the receiver claims that they did not pre-plan such an event and decided only on April 1st to arrange a conference call, and only on April 1st sent out the email. (2) In reality, on April 1st, the receiver sent me a second email directing me to call in to a new, second conference number. The receiver denies this occurred.

(E) **The emails proving the above facts have been produced, and records proving the authenticity of those emails have been requested from the receiver and the receiver has refused to produce the records.** The court ordered those records be preserved and the receiver has stated they have preserved those records. Yet, **because of the Judge's deeply imbedded personal bias not to give credence to allegations of poor behavior on the part of attorneys, the Judge has supported the receiver's refusal to produce the incriminating records.** Accordingly, the receiver continues to make their knowingly false misrepresentations to the Court, and continues to falsely represent that I broke into the conference call and have threatened and harassed others such as Ms. Schurig. The receiver did

this most recently in their 'work report' (DOC 479) at pages 99-101. **The Judge has expressed his view that the email record proof (proving that the receiver made false statements of fact within their personal knowledge to the Court) is irrelevant.**

7. The receivership, and most aspects of it, such as denying me access to my own money to hire qualified federal trial counsel to defend me are deeply troubling. Nevertheless, I do not think the Judge is acting with some evil intent in denying me access to my own money to hire experienced federal trial counsel and access to my own money to pay expenses to hire expert witnesses to defend myself. Since the Judge sincerely believes that attorneys cannot be found to be dishonest, he clearly believes there is no basis or grounds for an individual to contest or defend against attorneys' claims for fees. **In Judge Furgeson's view-- and he has said so and admitted this-- if a group of attorneys say a client owes them money and has 'abused' them, then it does not matter what the client says: Judge Furgeson believes the attorneys,** and does not need to hear from the client or hear the client's side. This is what the Judge himself said: before hearing from me the matter was decided in the Judge's mind based on a one sided hearing of what the attorneys said. **The Judge said that even if I testified to certain facts he had already decided that he wasn't going to believe me.** In considering evidence from the attorney-parties, the Judge said that he had already decided the matter and had already decided not to believe my testimony—even before he heard it.

8. After three former attorneys testified before Judge Furgeson claiming that they felt I owed them money, **Judge Furgeson told me he had already determined that he was not going to believe me** if I testified that I had paid them in full. This is despite the fact the attorneys produced no contracts, no bills, no statements, and no list of payments. I believe this shows bias.

9. Judge Furgeson has expressed a personal bias in favor of attorney claimants. **Judge Furgeson has already decided—and has said so—that the attorneys who represented me did a good job and acted in good faith.** Since he has seen no evidence presented or hearing held on those issues, his opinion is pre-formed. I believe this shows prejudice.

10. Before I was set to testify at the FRAP 8(a) evidentiary hearing, the Judge said that no matter what I said-- if I offered evidence that I paid the attorneys in full, and performed the contract obligations, etc. that he was not going to believe my evidence-- even though he hadn't heard or seen it yet. I believe this shows bias.

11. The type of personal bias and prejudice held by Judge Furgeson is the most dangerous type-- a sincere personal prejudice. Thus, for example, to the Judge, it is natural for what an attorney party says to be taken as fact and for statements reflecting poorly on an attorney to be disregarded as incorrect and unfounded-- without the necessity of an evidentiary inquiry. If there is any issue about whether the statements I have made about Judge Furgeson's statements of his bias are true, the Judge's bias can also be seen from the Judge's actions. Some examples include the following:

- (A) Judge Furgeson ruled without any hearing that the statement in my response/motion that Peter Barrett was "a state court criminal defense attorney with serious medical issues and **** SEALED BY COURT ORDER ****, that has zero experience in handling civil matters in the federal court" was unfounded and incorrect. Since the Judge has no idea what evidence or upon what facts the motion was founded, there is no objective way for the Judge to have made the findings he made. Rather, since the district judge has a long standing and deep seated bias in favor of attorneys, anything that seems to place an attorney in a bad light, even if true and relevant, is seen by the Judge as "unprofessional", incorrect and unfounded. **Judge Furgeson used no objective basis to determine whether these facts were correct or incorrect, founded or unfounded. His finding about these facts was made based purely on his personal bias and prejudice.**
- (B) Judge Furgeson has engaged in a pattern of granting attorneys' motions for fees without allowing for the response period for my objections or responses to the attorneys' motions requesting money. **The substance of the rulings themselves do not prove bias, but Judge Furgeson's process does. If an attorney says they are entitled to money, the Judge's personal bias leads him to the conclusion--not based on a fair hearing or consideration of both sides-- that the attorney is so entitled. Accordingly, because of his personal bias, Judge Furgeson has not seen the need to allow**

my attorney the opportunity to respond, to present argument, or to present evidence. Judge Furgeson has granted multiple motions for fee requests in this manner-- without allowing me the opportunity to respond as provided by the rules and the law. Some of those orders include docket document numbers 464, 463, 462, 461, 427, 387, 384, 386, 371, 370, 369, 368, 367, 366, 365, 364, 363, 295, 294, 292, and others.

- (C) On many occasions, when an attorney-party has made an allegation, Judge Furgeson has treated the allegation as fact. One clear example where the results of this bias can be seen is in the Judge's findings in denying my FRAP 8(a) motion. In his opinion, Judge Furgeson based his ruling on things he was 'informed' of by Mr. Urbanik and Mr. Sherman. An unbiased perspective would be that Mr. Urbanik and Sherman's allegations, which were not offered from the witness stand, are allegations and not facts. An unbiased judge would look to the evidence, not to an attorney's accusations. A biased judge, whose internal personal view of the world is that attorneys always tell the truth, does not need evidence when an attorney-witness makes an allegation. To the biased judge's perspective, attorneys' allegations are facts that he is informed of by the attorney. Judge Furgeson repeatedly stated that he was informed of facts from attorney parties that were actually merely allegation. An objective Judge would see that those were allegations and not facts.
- (D) Judge Furgeson has appeared to ignore that fact that attorney-parties have repeatedly filed motions based on false and fabricated allegations. For example, the Urbanik/Sherman' motion for receivership materially and substantially misrepresented the bankruptcy court's recommendation and other facts. This was pointed out to Judge Furgeson but he took no action other than to approve ever-increasing fees and penalties on the receivership.

12. Prior to this lawsuit, I had shared private and confidential information in the context of an attorney-client or prospective attorney-client relationship with Urbanik's firm. Now, not only is that law firm adverse to me in this case, but they have also filed as 'evidence' a chart that looks almost exactly in form like a chart I provided them in confidence in seeking their legal services. Similarly, I had consulted with Peter Vogel and within the scope

of attorney-client confidentiality shared personally with him secret and confidential information about the registration of domain names for companies I owned. Peter Vogel's firm then sued me for wrongful registration of domain names, and I filed formal papers complaining of that breach of ethical duty toward me. Vogel's firm represented the plaintiff in the "servers.com" lawsuit. That lawsuit was active at the same time Judge Furgeson was appointing Vogel to be a special master in this lawsuit. Urbanik and his firm are now suing on the servers.com lawsuit in the Ondova bankruptcy case, while Vogel is the receiver in this case—even as the servers.com defendant is Vogel's firm's former client when they were suing Ondova. I was not aware of the legal duties and significance of the interconnections at the time, but I am now. Judge Furgeson has been made aware of the conflicts of interests regarding Vogel, but because of the Judge's bias, does not see anything wrong or even any appearance of impropriety. Urbanik requested Vogel be appointed receiver (after this case settled and a stipulated dismissal was entered by all parties). Vogel then withdrew the objection to Urbanik's fee in the bankruptcy court. Vogel has also refused to even examine Urbanik's fee requests in the bankruptcy court subsequent to the receivership. Urbanik and Vogel have worked hand in hand— Urbanik moved for Vogel to be appointed receiver, Vogel withdrew the objection to Urbanik's fees, etc. Those attorney's firms have billed hundreds of thousands of dollars (in fact, almost **three million dollars**) essentially from me. An unbiased judge might find many of these issues troubling. None of these facts has even been acknowledged to be an issue by Judge Furgeson.

13. The statements Judge Furgeson made about his personal bias in favor of attorneys detailed in this affidavit were made during the time period that my case has been pending before Judge Furgeson. My opinion of his bias was formed after consideration of the statements the Judge himself made about his personal bent of mind. Some of these include, for example:

- (A) On or about February 10, 2011 after the hearing on my case had terminated, Judge Furgeson made statements including "I think lawyers are the guardians of civilization" and "We face over and over again claims about ... lawyers acting poorly. We never want in any way to give credence to that kind of assertion in our society." I became aware of those statements only on or about April 20 or 21st, 2011, because the statements were made after the hearing on my case had terminated and I was not present when the statements were

made. I became aware of those statements reviewing official court transcripts for statements by the Judge with regard to his views against giving credence to assertions of lawyer misconduct.

- (B) On or about June 17, 2009 Judge Furgeson said "I'm not here to reproach hard working lawyers".
- (C) On or about January 29, 2010 Judge Furgeson said "I love lawyers".
- (D) On or about February 10, 2011, during the hearing of a motion in my case, Judge Furgeson made a statement to the effect that he refused to ever sanction attorneys (except one single time).
- (E) By contrast, on or about June 19, 2009, Judge Furgeson told me, a non-lawyer, that failure to comply with his orders was "punishable by possible jail, death."
- (F) On or about January 4, before any hearing was held on the issue, Judge Furgeson stated that I abused a dozen lawyers. The Judge also stated— before any hearing was held on the issue— "I have been a lawyer before. You know, I was a lawyer for twenty-four years, and the abuse that was visited on these lawyers is amazing to me."
- (G) On or about February 10, 2011, Judge Furgeson said —before any hearing was held on attorneys' fee claims— "Mr. Baron has run up enormous amounts of fees to lawyers, and those lawyers as far as I can tell took that work in good faith Those lawyers are going to have to be given in some way their just recompense. And all of this goes back to Mr. Baron. And you know, you say I've already got my mind made up."

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

Signed this 4th day of May 2011, in Dallas, Texas.



Jeffrey Baron

CERTIFICATE OF GOOD FAITH

DATED: May 4, 2011.

Based upon a careful review of the record of the case, and based upon the Court's ruling with respect to the 'unfounded' nature of the statements made with respect to Peter Barrett, the undersigned counsel certifies that Jeff Baron's affidavit and statements that he cannot receive fair and impartial treatment nor a fair and impartial hearing before Judge Furgeson with respect to attorneys' claims has been made in good faith.

/s/ Gary N. Schepps
Gary N. Schepps

Respectfully submitted,

/s/ Gary N. Schepps

Gary N. Schepps
Texas State Bar No. 00791608
5400 LBJ Freeway, Suite 1200
Dallas, Texas 75240
(214) 210-5940 - Telephone
(214) 347-4031 - Facsimile
E-mail: legal@schepps.net
**COURT ORDERED TRIAL
COUNSEL FOR JEFF BARON**

CERTIFICATE OF SERVICE

This is to certify that this brief was served this day on all parties who receive notification through the Court's electronic filing system.

CERTIFICATE OF GOOD FAITH

DATED: April 27, 2011.

Based upon a careful review of the record of the case, and based upon the Court's ruling with respect to the 'unfounded' nature of the statements made with respect to Peter Barrett, the undersigned counsel certifies that Jeff Baron's affidavit and statements that he cannot receive fair and impartial treatment nor a fair and impartial hearing before Judge Furgeson with respect to attorneys' claims has been made in good faith.

I am a solo practitioner and this motion was presented as quickly as I was able after the Court's ruling with respect to the Barrett issues. I carefully reviewed the material to provide this certificate and present this motion and there was delay due to 5 intervening days for which I have a firm religious commitment not to work (4 days of Passover and a Sabbath). The prior two business days have been religious holidays, and that is why this motion is filed now and not on Monday. This motion has been made in good faith and is not intended as a surprise or as a procedural maneuver.

/s/ Gary N. Schepps
Gary N. Schepps