

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

NETSPHERE, INC.,	§	Civil Action No. 3-09CV0988-F
MANILA INDUSTRIES, INC., and	§	
MUNISH KRISHAN,	§	
Plaintiffs.	§	
	§	
v.	§	MOTION FOR <u>EMERGENCY RELIEF</u>
	§	
JEFFREY BARON, and	§	
ONDOVA LIMITED COMPANY,	§	
Defendants.	§	

**EMERGENCY MOTION TO CLARIFY OR MODIFY JANUARY 7, 2011
ORDER [DOC#219] AND FOR FURTHER EMERGENCY RELIEF**

TO THE HONORABLE ROYAL FURGESON, U.S. DISTRICT JUDGE:

NOW COMES Jeffrey Baron, Appellant, and files this Emergency Motion to Clarify or Modify this Court’s January 7, 2011 Order [Doc#219] and for Further Relief and would raise to the attention of this Court:

I. REQUEST FOR EXPEDITED HEARING

Mr. Baron requests that the Court consider this motion on an expedited basis, at the earliest time available to the Court and within 72 hours from the motion’s filing.

II. SUMMARY

1. Mr. Baron needs immediate access to his money. He is currently living in an apartment with no heat, has no health insurance, and no working car. He needs legal and mental health counsel.

III. REPRESENTATION NEEDED

2. Mr. Baron is in need of legal representation for several matters outside of the appeal of the receivership.

3. For example, Mr. Baron has no heat or air-conditioning in his apartment. It is freezing cold. Mr. Baron has no money to rent another apartment— this Court has seized all his money. Accordingly, Mr. Baron needs **on an immediate and emergency basis** competent and experienced counsel to seek on his behalf relief so that he may immediately rent an apartment with heat and air-conditioning.

4. Mr. Baron would also like to purchase a home in a safe and secure neighborhood. Accordingly, Mr. Baron needs on an immediate basis competent and experienced counsel to seek on his behalf relief so that he may purchase a home in a safe and secure neighborhood.

5. Mr. Baron does not have an operative car. It is a hardship not having a car to drive. Accordingly, Mr. Baron needs **on an emergency basis** competent and experienced counsel to seek on his behalf relief so that he may immediately purchase a car.

6. Mr. Baron now does not have health insurance. Accordingly, Mr. Baron needs **on an emergency basis** competent and experienced counsel to seek on his behalf relief so that he may immediately sign up for coverage.

7. Mr. Baron faces threats to a multitude of his rights, such as right to privacy and protection of the private and attorney client communications and work product for attorneys who may have consulted with him in the past. Currently the receiver has solicited attorney client materials from former counsel, and there appears to be a very real threat that the material will be filed of public record. Mr. Baron needs **on an emergency basis** competent and experienced counsel to protect his rights of privacy and his attorney-client privileges, etc.

8. Mr. Baron needs money for food, utilities, transportation, clothes, and other necessary living expenses. Mr. Baron has not received any of his money released to him this month, and needs **on an emergency basis** competent and experienced counsel to represent him with relationship to these matters.

9. Mr. Baron has been left without medical insurance and funds for food or drugs he needs for his serious medical conditions, literally in a freezing cold apartment without transportation, while the receiver/custodian of Mr. Baron is seeking to be awarded hundreds of thousands of dollars of Mr. Baron's savings for its work as Mr. Baron's 'conservator'.

10. Mr. Baron also needs help securing his rights under the global settlement agreement, including dismissal of district court lawsuit, obtaining the programming code he was quit-claimed, and securing other rights under the settlement contract.

11. This Court seems intent on moving forward with setting up a kangaroo court¹ with Mr. Vogel acting on behalf of this Court as prosecutor and judge. Accordingly, Mr. Baron needs access to his money to hire experienced trial counsel to defend each of the 'claims' solicited by the prosecutor/judge receiver.

IV. APPELLATE REPRESENTATION

12. On January 7th the Court entered an order stating in part “Mr. Gary Schepps and Mr. Peter Barrett will serve as Mr. Baron's counsel for all purposes.”

13. In conjunction with the order, the Court stated that money would not be released to Mr. Baron's appellate counsel to pay for attorney's fees and expenses for Mr. Baron.²

14. Failure to stay the receivership to allow money to Mr. Baron to pay his appellate counsel impedes his ability to obtain full representation in his appeal. By restraining Mr. Baron from funding his appeal, counsel for Mr. Baron is unable to

¹ The term is especially appropriate in the context of the proceedings in this case. In modern usage, as noted by wikipedia, “A kangaroo court's proceedings deny due process rights in the name of expediency.” Notably, “The term ‘kangaroo court’ may have been popularized during the California Gold Rush of 1849. The first recorded use is from 1853 in a Texas context.” *Id.* As the United States Supreme Court ruled in *Rideau v. Louisiana*, 373 U.S. 723, 726 (1963), “The case now before us does not involve physical brutality. The kangaroo court proceedings in this case involved a more subtle but no less real deprivation of due process of law.”

² January 4, 2011 hearing, at page 204 "THE COURT: By the way, I misspoke about one thing. I don't think I can do anything about your fees if Mr. Baron doesn't pay you after the receivership is over."

retain and associate additional counsel to assist with multiple aspects of Mr. Baron's appeal. The representation on appeal is therefore handicapped by the inability to bring in additional manpower to assist with the appeal.

15. If the intention of the Court is to sanction appellate counsel for representing Mr. Baron on appeal, and to order counsel to represent Mr. Baron without pay for daring to raise the unconstitutional and unlawful actions taken against Mr. Baron, then counsel respectfully requests reconsideration of such order which acts to chill a party's ability to obtain representation to appeal court orders.

16. Appellate counsel is physically unable to represent Mr. Baron on all of the matters needing representation, because of existing obligations that do not physically allow enough hours in the day to undertake such representation. An initial retainer of \$150,000.00 is necessary for appellate counsel to retain additional counsel to represent Mr. Baron in the matters for which he needs further representation. Notably, each attorney 'claim' is like an independent lawsuit, and will require its own representation to put on a proper defense to the 'claim'.

17. Notably, Mr. Peter Barrett was hired to assist Mr. Schepps for a very narrow purpose and scope at the hearings December 17, 2010 and January 4, 2011. This Court interfered with that employment and directed Mr. Barrett to represent Mr. Baron at that hearing as his counsel for all purposes. Mr. Barrett has zero experience in handling civil matters in the Federal Court, and Mr. Baron has never

agreed to accept Mr. Barrett as his civil counsel. This Court's attempt to foist an inexperienced attorney upon Mr. Baron is inappropriate, and if such was this Court's intention, request is made for reconsideration.

V. PRIVATE COUNSELING NEEDED

18. Mr. Baron needs **private** counseling to assist him emotionally in what is a very difficult and trying circumstance— a federal judge has ex-parte, behind closed doors imposed a severe and harsh punishment not authorized by any statute or case law— and has made Mr. Baron and all his property a ward of a 'receiver'.

19. Where in a democratic society we would expect a judge to be an unbiased arbiter of disputes raised before him, here Mr. Baron is faced with a prosecutor judge that has decided Mr. Baron has acted wrongfully, and has taken it upon himself to take action against Mr. Baron to 'do justice'. Having had all his assets, including his exempt assets such as his Roth IRA, seized by the judge, Mr. Baron has to this date been forced to stay in a freezing apartment with no heat. His health insurance has been cancelled, etc.

20. The emotional weight on any person in such a circumstance would be heavy. Mr. Baron accordingly needs what he is entitled to under the law and Constitution, to private counsel with mental health professionals of his choice. The consultation is entitled to complete privacy, including the privacy as to the identity of the professional and content of the counsel and therapy.

VI. PRAYER

Wherefore, Mr. Baron prays that this Honorable Court grant this motion, and clarify or modify the January 7, 2001 Order so that Mr. Baron may obtain counsel to represent him on the many areas for which representation is needed, and jointly order further relief to allow Mr. Baron to rent an apartment with heat, purchase a car, seek private therapy, etc.

Respectfully submitted,

/s/ Gary N. Schepps _____
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State Bar No. 00791608
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(214) 210-5940
(214) 347-4031 Facsimile

**APPELLATE COUNSEL FOR
JEFFREY BARON**

CERTIFICATE OF SERVICE

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

/s/ Gary N. Schepps _____
Gary N. Schepps

CERTIFICATE OF CONFERENCE

This is to certify that the undersigned repeatedly attempted to confer with Mr. Raymond J. Urbanik, and other counsel for for DANIEL J. SHERMAN, Trustee for ONDOVA LIMITED COMPANY, but, likely due to the weather conditions, no conference has been possible.

/s/ Gary N. Schepps _____
Gary N. Schepps

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

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
FEB 11 2011
CLERK, U.S. DISTRICT COURT
By M. Z.
Deputy 9:11 A.M.

NETSPHERE, INC.,
MANILA INDUSTRIES., INC., AND
MUNISH KRISHAN

PLAINTIFFS,

V.

CIVIL ACTION NO. 3:09-CV-0988-F

JEFFREY BARON AND
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DEFENDANTS.

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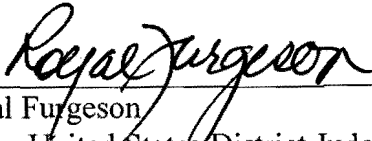
**ORDER DENYING EMERGENCY MOTION TO CLARIFY OR MODIFY JANUARY 7,
2011 ORDER AND FOR FURTHER EMERGENCY RELIEF**

The Court reviewed Defendant Jeffrey Baron’s Emergency Motion to Clarify or Modify January 7, 2011 Order [Doc#219] and for Further Emergency Relief (Docket No. 264). The Court, having considered the motion, the Receiver’s response (Docket No. 301) and the appendix in support thereof (Docket No. 299), the Receiver’s Notice of Supplemental Evidence Relating to Mr. Baron’s Emergency Since Entry of the Receivership (Docket No. 307), the Trustee Daniel J. Sherman’s response and exhibits thereto (Docket No. 308),the arguments of counsel, and the pleadings and evidence on file, is of the opinion that the motion should be DENIED.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that Mr. Baron’s Emergency Motion to Clarify or Modify January 7, 2011 Order [Doc#219] and for Further Emergency Relief (Docket No. 264) is DENIED.

It is so ORDERED.

SIGNED the 10th day of February, 2011



Royal Furgeson
Senior United States District Judge

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**MOTION FOR EMERGENCY RULING ON MOTION TO STAY
PENDING APPEAL**

TO THE HONORABLE ROYAL FURGESON, U.S. DISTRICT COURT JUDGE:

COMES NOW, Jeffrey Baron, Appellant, and in light of Mr. Urbanik’s motion filed Friday [Doc. 151] moving this Court to consider evidence and adjudicate newly raised claims and factual issues, requests the Court to rule today on [Doc. 137] Mr. Baron’s Motion to Stay.

Appellate Counsel for Mr. Baron has been retained strictly with respect to appeal of the order appointing receiver entered by this Court now on appeal to the Fifth Circuit. Mr. Baron is in need of an attorney to file proper legal objections to the timing and form of the relief requested by Mr. Urbanik, to object to the standing of Mr. Urbanik to request such relief, as well as seek a more definite statement of the relief sought.

Mr. Baron needs experienced and specialized counsel to conduct discovery and prepare to defend the very serious new charges Mr. Urbanik brings in his motion. As Mr. Urbanik has maneuvered his motion to be a part of the hearing set only 4 days from now, Mr. Baron needs an attorney to represent him on these matters *immediately*.

The limited scope of Appellate Counsel's representation is strictly limited to matters of appeal and does not cover defense of Mr. Urbanik's newly raised claims, nor any other matter in the district court beyond staying the order appointing receiver pending appeal, or declaring that order void.

Mr. Urbanik's motion seeks determination of matters including whether:

1. Mr. Baron is in breach of an injunction order,
2. Mr. Baron is violation of Federal Rule of 13 (sic),
3. Mr. Baron engaged in a bad faith bankruptcy filing,
4. Mr. Baron refused to testify, and
5. Mr. Baron is the owner of Ondova.

Mr. Urbanik also seeks the determination of substantive rights between Mr. Baron and former attorneys and judicial determination:

6. Declaring Mr. Baron a vexatious litigant,
7. Finding Mr. Baron in breach of the settlement agreement,
8. Determining Mr. Baron's liability to attorneys for fees.

Mr. Urbanik further seeks adjudication on serious allegations including:

9. Whether Mr. Urbanik's attorneys fees in the bankruptcy court are legitimate and attributable to Mr. Baron's obstructive tactics, (or conversely, if not, were unreasonable, improper, unjustified, and excessive),
10. That Mr. Baron has acted with contempt for the court,
11. Whether Mr. Baron has incurred debts without regard to the financial implication of doing so,
12. Whether Mr. Baron has engaged in fraud and is attempted to fraudulently insulate himself from judgment,

These allegations were not made in the motion to appoint receiver, and by their timing appear clearly to be in retaliation for Mr. Baron's objection to Mr. Urbanik's fees in the bankruptcy court.

Mr. Baron is currently unable to retain counsel to defend or even object to the motion raised by Mr. Urbanik because his money has been seized and this Court has ordered him not to retain any counsel to represent him in this Court. Moreover, Mr. Baron's personal papers have been seized as well as **the materials of his prior counsel**. Unless the receivership is stayed and his money, right to retain and consult with counsel, and his and his lawyer's papers are immediately

returned to him, Mr. Baron will be irreparably harmed in his defense of Mr. Urbanik's motions set only 4 days from now.

Accordingly Mr. Baron seeks an immediate stay of the receivership so that he may retain counsel to properly object and defend the very serious motion filed by Mr. Urbanik.

Mr. Urbanik has refused to withdraw his motion. Short of an order from this Court striking Mr. Urbanik's motion or expressly removing it from the docket Friday, his motion necessitates immediate stay of the receivership order.

Respectfully submitted,

/s/ Gary N. Schepps _____
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(214) 347-4031 Facsimile

**APPELLATE COUNSEL FOR
JEFFREY BARON**

CERTIFICATE OF SERVICE

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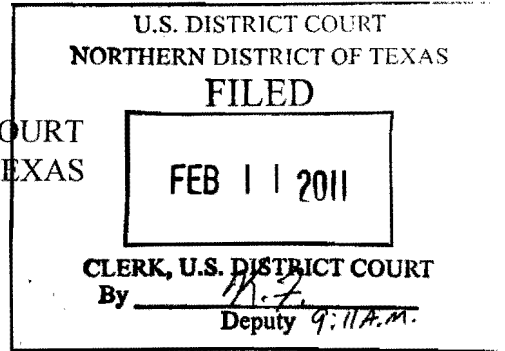
/s/ Gary N. Schepps _____
Gary N. Schepps

CERTIFICATE OF CONFERENCE

This is to certify that the undersigned conferred with Mr. Raymond J. Urbanik, attorney for DANIEL J. SHERMAN, Trustee for ONDOVA LIMITED COMPANY, and they opposed the motion.

/s/ Gary N. Schepps _____
Gary N. Schepps

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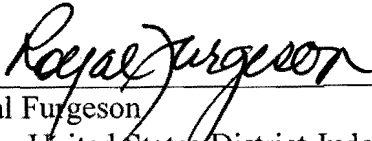
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SIGNED the 10th day of February, 2011



Royal Furgeson
Senior United States District Judge