

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.	§
	§
JEFFREY BARON, and	§
ONDOVA LIMITED COMPANY,	§
Defendants.	§

**MOTION FOR LEAVE TO FILE: MOTION TO STRIKE RECEIVER’S  
ERRONEOUS “NOTICE” OF ALLEGEDLY ERRONEOUS STATEMENT  
REGARDING EVIDENCE OF FORMER ATTORNEY CLAIMS [DOC 571]**

TO THE HONORABLE JUDGE ROYAL FURGESON:

COMES NOW JEFF BARON, and moves this Court to grant leave to file the following motion to strike the receiver’s “Notice” [Doc 571].

1. Once again the receiver is fabricating a falsely alleged ‘wrong’ on the part of Jeff Baron and his counsel. The receiver’s “notice” falls well outside any rule of procedure, and is at best materially misleading. The receiver has created a blizzard of billing, and the receiver’s “notice” is just one more example.

2. On March 17, 2011 the receiver filed their motion for an order approving their “assessment” of ‘claims’ [Doc 396].

3. That motion lists Exhibits such as V and W. Exhibit W is listed as the Reyna Hinds & Crandall affidavit. **Exhibit V and Exhibit W were withheld by the receiver from the undersigned counsel.** (Notably, the undersigned counsel formally

requested to be provided very specific material from each attorney. The receiver first promised to produce the material and then refused to produce).

4. Exhibit W, the Reyna Hinds & Crandall material, was **not** provided to the undersigned counsel in the hard copies the receiver delivered, and was **not** provided in the CD the receiver delivered, and was **not** received by the undersigned in any pre-hearing email from the receiver.

5. The absence of the affidavit listed in the receiver's motion on the assessments was noted of the in the post trial briefing, noting simply that the "Receiver did not produce affidavit for the undersigned counsel to review."

6. **If the receiver was concerned about the substance—and not about trying to 'set up' and incident and generate more and more paperwork and billings,** the receiver could have simply informed counsel that there was no information in Exhibit W that was not subsequently provided via email. However, the receiver does not use email communication to resolve issues. For the receiver emails are a tool of 'advocacy' in which the receiver attempts to generate some 'sound bite' in which to file the email as 'proof' of some wrongdoing. The receiver has repeatedly used cut-and-paste email bits from counsel to attempt to show some alleged misdeed or another.

7. The receiver represented in their March 17, 2011 motion that an Exhibit W had been provided with respect to Reyna Hinds & Crandall. The receiver's representation was not correct, and the material was not provided. **It is clear the receiver is aware of that when the filed their latest "NOTICE".** However, the receiver failed to disclose that fact to the Court. Accordingly, instead of filing an agreed

letter or notice to clarify that the receiver did not provide the Exhibit W, but (accepting the receiver's explanation), that Exhibit W contained nothing more than subsequent 'supplemental' material, the receiver contrived a formal "Notice" attempting to paint a picture of some malfeasance on the part of Jeff or his counsel.

8. The filing of this motion should not be necessary. Rule 5(b)(1) clearly requires service "must" be made on the attorney and not the party unless the court orders otherwise. Rule 5(b)(2)(E) similarly clearly requires that service by electronic means is not considered served under the rules if the serving party learns that it didn't reach the person to be served. The receiver was clearly informed of that, and the receiver's "Notice" does not appear to be filed in good faith.

9. The undersigned received the Crandall material only **after** the April 28, 2011 hearing, based on the receiver's subsequent e-mailings about it. The receiver was fully aware of this prior to filing their "Notice". The receiver also knows Jeff is represented by counsel. Notably, the undersigned has never looked to a client to provide notice from opposing counsel in an active litigation.

WHEREFORE motion is made to strike the receiver's "NOTICE" [Doc 571].

Respectfully submitted,

/s/ Gary N. Schepps

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**COURT ORDERED TRIAL  
COUNSEL FOR JEFF BARON**

**CERTIFICATE OF SERVICE**

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

CERTIFIED BY: /s/ Gary N. Schepps  
Gary N. Schepps