

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

**MOTION TO VACATE ORDER ADOPTING UNITED STATES  
BANKRUPTCY JUDGE STACEY G.C. JERNIGAN'S REPORT AND  
RECOMMENDATION [DOC 119] TO CLARIFY RECORD FOR  
HEARING ON STAY PENDING APPEAL & BRIEF IN SUPPORT**

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

COMES NOW, Jeffrey Baron, Appellant, and respectfully requests this Court to clarify the record of proceedings and to vacate the Order Adopting United States Bankruptcy Judge Stacey G.C. Jernigan's Report and Recommendation [DOC 119].

1. The adoption of the bankruptcy court's report was in direct violation of the Federal Rules of Bankruptcy Procedure. Bankruptcy Rule 9033, which governs the procedure for transmittal of reports and recommendations and mandatorily requires that "Within 14 days after being served with a copy of the proposed findings of fact and conclusions of law a party may serve and file with the clerk written objections which identify the specific proposed findings or conclusions

objected to and state the grounds for such objection.” This procedure was circumvented and **less than 14 days after the drafting of the report, the district court adopted the report, circumventing the statutory objection period**

FOR THE FORGOING REASONS, Mr. Baron respectfully requests this Court to vacate the Order Adopting United States Bankruptcy Judge Stacey G.C. Jernigan's Report and Recommendation [DOC 119].

Respectfully submitted,

/s/ Gary N. Schepps  
Gary N. Schepps  
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**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 called conferred with Mr. Raymond J. Urbanik, attorney for DANIEL J. SHERMAN, Trustee for ONDOVA LIMITED COMPANY, and they oppose.

/s/ Gary N. Schepps  
Gary N. Schepps