

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 STRIKE SHERMAN RESPONSE TO MOTION TO
DISQUALIFY [DOC 172]**

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

COMES NOW, Jeffrey Baron, Appellant, and respectfully requests this Court to strike the response to Motion to Disqualify Mr. Urbanik filed by Mr. Sherman [DOC 172] and award costs to Mr. Baron because Mr. Sherman's motion was filed in multifarious violation of Rule 11(c)(2).

Mr. Sherman's response [DOC 172] includes in the same instrument a "Motion for Sanctions". Mr. Sherman's motion directly violates Rule 11(c)(2) in that:

1. The motion for sanctions was not filed separately.
2. The motion for sanctions was not first served under Rule 5 prior to filing and presentment to the Court.

Appellate counsel for Mr. Baron has raised substantive legal issues to the attention of the Court. In response counsel has been faced with a serious of personally directed charges and accusations, brought both by Mr. Sherman and on behalf of the receiver.

The Rules of Procedure are specifically designed so that accusations of sanctionable conduct will be not be used as a tool of advocacy. Firstly, such accusations must be made separately, so as not to taint the issues raised in another matter. Secondly, a party must first attempt to confer with counsel weeks prior to presenting the accusations to the Court.

Mr. Sherman's conduct in attempting to bypass the rules and improperly inject allegations of sanctionable conduct is clearly in violation of Rule 11. Pursuant to Rule 11(c)(2) an award of reasonable expenses including attorney's fees incurred on behalf of Mr. Baron in responding to the motion are proper.

Accordingly, Mr. Baron respectfully requests this Court to strike the response filed by Mr. Sherman to the Motion to Disqualify Mr. Urbanik [DOC 172] and award costs to Mr. Baron.

Respectfully submitted,

/s/ 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 and left messages for Mr. Raymond J. Urbanik, attorney for DANIEL J. SHERMAN, Trustee for ONDOVA LIMITED COMPANY, and they did not return the calls.

/s/ Gary N. Schepps
Gary N. Schepps