

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

NETSPHERE, INC., ET. AL.	§	
Plaintiffs	§	
	§	Civil Action No. 3-09CV0988-F
v.	§	
JEFFREY BARON, ET. AL.	§	
Defendants.	§	

SWORN DECLARATION OF GARY SCHEPPS

- “1. My name is Gary Schepps. I am appellate counsel for Jeff Baron in appeals from orders in this case. 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 knowledge of the stated facts, which I learned in my role as appellate counsel in appeals from orders entered in the above entitled and numbered cause.
- “2. I offered to Vogel, through his counsel, to have Vogel provide a check to me in escrow, in order for me to supervise the car purchase and return any unused funds to Vogel. Vogel, however refused.
- “3. Next, based on Vogel's demand to control the purchase transaction, Jeff Baron located a vehicle to purchase, negotiated a price with the owner, and I then provided the owner's name, purchase information, and phone number to Vogel to arrange payment. Vogel refused.
- “4. Vogel instead raised impossible to meet pre-requisites including that Jeff first have the car titled in his name, pay all taxes and insurance, and then, Vogel would pay for the car. Since no seller we could find would agree to transfer title of their car before being paid, the conditions were just sham way of Vogel saying NO.
- “5. Later, I saw that Vogel represented in filings to the Court that he was ready to pay for a new car. Vogel's counsel suggested a dealer must be the seller and not a private person. So, Jeff worked and found a car at a dealer. I secured and then sent to

Vogel, through his counsel, complete information about the car, including the car's tag numbers, sticker, a picture of the car, an appraisal of the car, and the PHONE NUMBER OF THE DEALER, with a request for him to pay for the car. All Vogel or his counsel had to do was pick up the phone and make payment arrangements. Vogel refused.

- “6. Exhibits “A”, “B” and “C” filed with this declaration are true, accurate and authentic copies of email correspondence between myself and Vogel, through his counsel. I sent to Vogel all the information he needed, but Vogel just ignored it. At that point, it was more than clear to me as Baron's still unpaid appellate counsel that Vogel had no intention of allowing the funding for a car or better living conditions. It was clear that Vogel was playing a game to pad his billing at Baron's personal expense.
- “7. Similarly with respect living conditions for Baron, Vogel required that a signed lease be presented to him for his signature. However, Vogel refused to provide for the cost of movers, utility deposits, insurance, and the like. Under those conditions, Baron could not physically move. As it is, Baron has been unable to obtain some medical treatment and testing because after paying for his out of pocket share of his medical needs and medications, Baron was unable to pay the deductible necessary for the medical care he required. I raised this to the attention of both the Court and Vogel, but unless Baron was willing to compromise and waive his fundamental right to privacy as to his medical care, funding for his out of pocket medical costs was refused. In that circumstance, without additional funding to the costs of relocating beyond just the monthly rental agreement, it was not possible for me to facilitate Jeff's relocation. So, once again, the matter was, for Vogel, another billing game at Baron's expense.
- “8. I repeatedly raised the issue of Baron's living conditions to Vogel's attention. My requests were generally ignored. For example, over a year ago on July 25, 2011, I emailed Vogel (through his counsel) that “Jeff has no air-conditioning in his apartment and still needs a car-- that the Court authorized”. Vogel responded by serving a subpoena on my law office trust account to search for non-existent evidence that Baron had paid me any money for representing him. Vogel expended

huge efforts and expense in those efforts—all funneled into his own, and his firm’s pockets—while Baron languished.

- “9. While I took of my time to facilitate resolution of the issues, I have not agreed to undertake representation of Baron on these matters. I have previously filed a motion apprising the Court that Baron was not represented on these issues and requesting funding for an attorney to represent Jeff on the matters. [DOC 264]. Still, I spent literally tens of hours attempting to work with Vogel, fruitlessly. All my efforts were at my expense. While Baron and myself have paid the price for Vogel's games of obstruction, Vogel and his partners clearly have to this point enjoyed the profit. The undersigned appellate counsel for Baron is still unpaid, and has no motive to waste time with obstructions. Every hour wasted is a lost hour. By contrast, Vogel bills and bills. Every hour that Vogel can generate in conflict represents more profit for Vogel.
- “10. As shown clearly by the attached exhibits, contrary to the cock & bull story offered by Vogel to this Court, Baron (1) has repeatedly sought help from the receiver, (2) has selected more than one new car, and (3) more than once has sent Vogel specifics as to a specific car selected to purchase. Each of the cars Baron selected qualified for the \$20,000.00 limit approved by the Court in authorizing the car purchase.
- “11. Repeatedly a specific car and the PHONE NUMBER of the seller was provided to Vogel. Each time, Vogel obstructed the purchase. Vogel's claims to the contrary are flatly untrue.
- “12. Vogel’s story that Baron failed to select a new car or send Vogel the specifics is a load of cock & bull. Vogel's pattern is well worn-- manufacturing fabricated 'wrongdoing' alleged against Baron. The facts, however, are that Vogel has played a game of running up his fees while obstructing Baron's efforts to obtain normalized living conditions.
- “13. For the record, I have personally seen Jeff Baron drive, and state further that my ability to represent him on appeal has been substantially impaired by Baron’s lack of access to an operable vehicle. Many times, effective representation required Baron to meet with me at certain times, and he was unable to do so because he lacks an operable vehicle. I have

experienced the problem first hand with him, and in many instances it has significantly impaired my ability to represent him in the appeal.

- “14. I have known Jeff Fine for more than twenty years. Jeff Fine has my working office number and my cell phone number. I know this because I gave him my cell phone number, and he has called me on it, including about this case. He has also called me at my working office phone number. Moreover, David Schenck, and Peter Vogel also have my cell phone number, and they both have called me on it. David Schenck and Jeff Fine have repeatedly called me at my office number (972-200-0000) and at my cell phone number, when they needed things on this case.
- “15. Jeff Fine knows me, has my current office phone number, and has my cell phone number, and has repeatedly used those numbers every other time he wanted to contact me about this case.
- “16. I personally spoke with David Schenck, and informed him that I was not receiving emails that he sent to me. The issue was raised when counsel for the Trustee mentioned that I was “cc’d” on an email from Schenck that I never received. I called David and informed him of the problem with his email to me. I have requested on my side a technical review of communication from Schenck & Fine’s law firm, and it has been shown to me that their firm uses a ‘spoofing’ email system that is rejected by anti-spam protections of many email servers, including for my law office. In non-technical terms that means that Jeff Fine is sending emails from one email address, but that email address does not really send out emails and in fact, has no email server. The address listed by Fine’s emails as sender is thus ‘fake’, (“spoofed” in computer terminology), and is thus rejected by email servers that prevent such email address forgery.
- “17. Vogel is lying. Contrary to Vogel’s dishonest representations to the Court, on more than one occasion I provided specific information of a car that Baron wanted to purchase—including on each occasion the phone number of the seller for Vogel to call to pay for the car. The truth, as clearly evidenced by the attached exhibits, is that Baron repeatedly

requested a specific car be purchased and provided Vogel with phone number and detailed information. However, Vogel obstructed Baron's repeated efforts—to Baron's continued suffering and Vogel's personal profit.”

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

Signed this 25th day of September, 2012, in Dallas, Texas.

/s/ Gary N. Schepps
Gary N. Schepps