

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE: WORLD TRADE CENTER
DISASTER SITE LITIGATION

-----X Docket No.: 21 MC 100 (AKH)

THIS DOCUMENT APPLIES TO ALL
WORLD TRADE CENTER DISASTER SITE
LITIGATION

-----X

**PLAINTIFFS' MEMORANDUM OF LAW AND FACTS IN
REPLY TO THE DEFENDANTS' OPPOSITION OF
PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE
DISMISSAL OF THE COMPLAINTS AGAINST THE BECHTEL
DEFENDANTS FOR FAILURE TO STATE A CLAIM OR
ALTERNATIVELY TO AMEND THE MASTER COMPLAINT
AS TO BECHTEL.**

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STATEMENT OF THE RELEVANT FACTS

Dissembling and evasion have irreparably colored the Bechtel Defendants' motion papers, responses to the Plaintiffs' motion papers and responses to Plaintiffs' discovery demands (including the Core Discovery) throughout this litigation. The Bechtel Defendants ("Bechtel") have claimed in their legal memoranda and Core Discovery responses that they had only a minimal and brief role at Ground Zero, limited to providing "consultation" to the City and its contractors that was largely ignored, precluding any finding of liability against Bechtel pursuant to New York's Labor Law Statutes, Municipal Law and common law.

At the same time, Bechtel *and its counsel* had actual or constructive knowledge that at least from September 12, 2001 through November 7, 2001, Bechtel had been supplying hundreds of industrial hygienists, field engineers, rigging specialists, telecommunications specialists, environmental engineers, industrial and safety engineers, demolition safety experts and high-rise/commercial building safety specialists¹, who were directly and actively involved in directing and controlling the Plaintiffs' work on/in cranes², directing and controlling the Plaintiffs' welding work in scaffolds and other lifting devices³, had been fit testing respirators directly upon the Plaintiffs⁴, had been monitoring the air for contaminants⁵, had been developing and posting

¹ "Front End," Bechtel Briefs, December 2001, p.2, online at <http://www.bechtel.com>, a true copy of which is attached to the Affidavit of W. Steven Berman ["Berman Dec."] annexed to Berman Declaration as Exhibit "1"; Burkhammer, Stuart C., Black, Norman H. & Vincoli, Jeffery W., "SH&E at Ground Zero," ["SH&E"] p.11, online at http://911research.wtc7.net/cache/wtc/analysis/asse_groundzero1.htm, a true copy of which is attached to the Berman Dec. As Exhibit "2".

² Friedman, Donald, After 9/11: An Engineer's Work at the World Trade Center, Aug. 2002, Pub., Xlibris Corporation, ["Friedman"] at pp. 105-106, a true copy annexed to the Berman Affidavit at Exhibit "3"; "World Trade Center – Update," Occupational Safety & Health Administration Advisory Committee on Construction Safety & Health, December 6, 2001, Transcript ["ACCSH Tr.,"] pp. 23, 27, 28, 40-42, a true copy of which is attached to the Berman Dec. as Exhibit "4"; SH&E, Exhibit "2," pp. 4, 6.

³ ACCSH Tr., Exhibit "4," pp. 40-42, 47.

⁴ ACCSH Tr., Exhibit "4," p.44; SH&E, Exhibit "2," p. 6, photo 7.

⁵ ACCSH Tr., Exhibit "4," p.45.

warning posters throughout the worksite⁶, had been stopping the work of various Plaintiffs for health and safety reasons⁷, had been conducting employee orientation and safety training⁸, had been providing health and safety warnings directly to Plaintiffs and others on site⁹, all *in addition* to their role and duties as the prime health and safety contractor, as set forth in this Court's prior findings and as set forth in Plaintiffs' prior motion filings, all of which are incorporated by reference. Yet, incredibly, Bechtel and its counsel never disclosed the scope of Bechtel's true involvement at Ground Zero to this Court nor to the Plaintiffs.

Instead, Bechtel and its counsel repeatedly claimed in discovery responses and legal memoranda that such deep involvement did not exist by their repeated attacks on pleadings that they dubbed inconsequential "boilerplate" and in Core Discovery responses that denied *any* direction and control of the work performed by any Plaintiff, leading this Court to erroneously conclude in its Order of April 30, 2008, that, "Bechtel's role in the World Trade Center clean-up effort was purely advisory to the City, minimal, and inconsistent with any claim against it... ." At all relevant times, Bechtel *and its counsel* knew this to be untrue, but never so advised the Court or Plaintiffs. Instead, Defendants and their counsel improperly continue to attempt to profit from these factual errors in their most recent submission, regardless of their obligations to the contrary.

These are not and indeed, *cannot be* innocent errors. First, they are all well known to Bechtel, whose senior employees, including Mr. Burkhammer, Mr. Black and Mr. Vincoli, authored many of the sources cited herein. Second, some of the information is available from

⁶ Symposium: "From Ground Zero – Building in the Aftermath" ["From Ground Zero"], National Building Museum, January 28, 2002, Transcript, p. 9, true copy of which is annexed to the Berman Dec. at Exhibit "5."

⁷ ACCSH Tr., Exhibit "4," p.22, 23, 25-27, 41; SH&E, Exhibit "2," p.11.

⁸ ACCSH Tr., Exhibit "4," p. 42, 44

⁹ ACCSH Tr., Exhibit "4," p. 26, 27, 42, 44.

Bechtel's own website. Third, even a brief investigation by Bechtel's counsel into these and other publicly available sources would have disclosed Bechtel's true role at the Ground Zero site, an inquiry that counsel was obligated to make in responding to discovery and proffering its arguments in good faith.

The failure to disclose relevant facts and information, as well as the deceptive and false information provided in discovery and relied upon by the parties and Court in deciding the present issue, is even more egregious when examined in detail. For example, as stated by Bechtel's senior staff personally familiar with the activities of Bechtel's SH&E group on the Ground Zero site,

The SH&E group's task became one of real-time hazard identification, analysis and control. Team members had to quickly evaluate the hazards and associated risks of a pending task and attempt to determine the safest possible way to perform what was often an unsafe task. This was how the SH&E team operated, 12 to 14 hours per day, six to seven days per week.

SH&E, Exhibit "2," p. 11. Yet, Bechtel's counsel again argues in their most recent submission that "Bechtel did not have authority over the health and safety activities at the Site." (Def.'s Mem., p.6).

Moreover, Bechtel's site activities were not limited to environmental health and safety. For example, Bechtel was intimately involved with directing and controlling the operations of cranes, rigging and other heavy equipment. As Donald Friedman, an engineer with co-defendant Thornton Tomasetti, wrote:

Either the City or one of the construction managers had arranged for Bechtel to be on site at the time that the cranes were first coming in...They had several people on site all the time, and seemed to be dealing exclusively with the cranes. This made sense – Bechtel is famous for huge construction projects and probably had more experience with extremely large movable cranes than everybody else there combined.

Friedman, Exhibit “3,” p. 105. This work with cranes involved the direction and control of crane placement and operations, with the authority to stop work in the interests of site and worker safety. *See*, Affidavit of Joseph DeLuca, the original of which is attached to the Affirmation of Denise Rubin as Exhibit “1” to Plaintiffs’ Opposition to the Motion for Summary Judgment by the Structural and Design Engineer Defendants, and a true copy of which is attached to the Berman Declaration in Reply as Exhibit “5.” Indeed, Bechtel’s employees provide a great deal of anecdotal evidence confirming Bechtel’s direction and control of heavy equipment operations at the site, including the authority to stop work because of unsafe conditions:

Along with the crane inspection team inspecting the equipment, they also spent a great deal of time inspecting the rigging, the chokers and the slings, and the various pieces of equipment that the contractors were using to lift this very heavy debris and steal with...But the first time we put the 1,000-ton crane in use...the whole back of the 1,000-ton crane came off the ground in a heartbeat, just like that. Of course, we set it down, shut it down, reinspected the whole thing... . One of our team was out in the field and they saw [a 16-ton beam] coming, so they went and stopped the rig and took the 14 firemen out of the hole. As the last fireman climbed the ladder and was stepping out onto the ground, the crane started to move... As it got over the hole, it suffered metal fatigue and shear... and the whole beam dropped down in the hole where the 14 firemen were and would have killed every one of them.

ACCSH Tr., Exhibit “4,” p. 41. The speaker said that this incident was one of many on the site where Bechtel personnel were “pulling people out of harm’s way.” *Id.*, p. 42.

Further, Bechtel had the authority to shut work down. “If we had a problem with a crane or we thought that the cable needed changing, we’d just shut the crane down...We became the bad guys for shutting cranes down.” *Id.*, at p. 23. Bechtel had the same site authority with other

equipment: “[w]hat they wanted to do is just take a bulldozer in and bulldoze down the scaffolding. We said no, you’re not going to do that.” *Id.*, p. 22.

Bechtel even trained crane operators on site to purportedly meet site safety and health conditions:

This is one of the many toolbox sessions we had. When we first got there, they weren’t having any training or any type of employee orientation, or any type of information flow. We instituted that. On the night shift, they would get groups or people like this together and either the Bechtel or the OSHA safety reps would conduct the training session.

Id., p. 42. Yet, as alleged in the Complaint, crane operators were not warned of the dangers posed by not wearing proper PPE, proper PPE was not provided to crane operators or the operators of other heavy equipment whom Bechtel claims to have trained and inspected. *See* Lippy, Bruce E., “Safety And Health Of Heavy Equipment Operators At Ground Zero,” *AMERICAN JOURNAL OF INDUSTRIAL MEDICINE*, September 6, 2002, a true copy of which is attached to the Berman Dec. as Exhibit “6.”¹⁰

This evidence, of which more will doubtlessly be obtained as the litigation proceeds, plainly dispels Bechtel’s argument that the general allegations against Bechtel in the Complaint are invalid and can be disregarded as “boilerplate.” To the contrary, the allegations that aver liability under various New York statutes, municipal law, industrial code and the common law quite clearly and directly apply to Bechtel.¹¹ More to the point, the fact that Bechtel could make the claims made on its primary motion to dismiss, and now, in opposition to the Plaintiffs’ motion for reconsideration, demonstrates the prejudice Plaintiffs have suffered by the fact that

¹⁰In a colorful anecdote, Mr. Burkhammer told of warning Julia Roberts to leave the site, because she had no PPE, so he “politely explained to her that she was walking into a death trap, and she turned around and left.” ACCSH Tr., Exhibit “4,” p. 27. Would that such care had been taken with thousands of Plaintiffs in this litigation.

¹¹ It would appear that liability also may lay under N.Y. Labor Law §240(1), the “scaffold law,” due to Bechtel’s apparent involvement with “man baskets” and other hoisting devices. ACCSH Tr., Exhibit “4,” p. 27,

they have been denied in their attempts to obtain meaningful and specific discovery of these defendants in the form of depositions and interrogatories.

Despite the clear evidence of Bechtel's direct interaction with, supervision and control over myriad Plaintiffs, Bechtel's Core Discovery response to question "8" denied any direct contact or supervision with any plaintiff, nor did Bechtel identify *any* of its site personnel out of the hundreds who the sources cited herein indicate were present. As this Court noted in its decision at issue on this motion, a reasonable review of Bechtel's Core Discovery responses and its moving and reply papers would be that Bechtel had minimal presence at the WTC worksite, a fact wholly belied by the evidence here. Incredibly, moreover, Bechtel's Opposition Memorandum *repeats* the claim that *full and complete discovery responses* were provided to Plaintiffs. (*See* Defendants' Memorandum In Opposition to Reconsideration, at p. 2). This claim is palpably false. Bechtel has provided only false and misleading information about its activities at Ground Zero to create the false impression that Bechtel had neither direct nor indirect involvement in site safety, nor a direct role in environmental health and safety. Both are clearly false.

Bechtel was directly involved in the health and safety of the worksite and of the workers, thousands of whom were injured due to Bechtel's failure to enforce applicable health safety laws and standards. These failures were held to be adequately plead by this Court's Order of March 21, 2008. This Court's subsequent Order of April 30, 2008 does not supercede that finding, merely the resulting relief. Since the Complaint sufficiently places Bechtel on notice of the claims against it and since the evidence clearly demonstrates that the general allegations of various labor law violations apply to Bechtel, the Court's April 30, 2008 Order of Dismissal must be reversed.

ARGUMENT

POINT I.

THIS COURT SHOULD RECONSIDER AND VACATE ITS APRIL 30, 2008 ORDER DISMISSING BECHTEL FROM THIS LITIGATION.

Bechtel does not dispute that the standards of Local Civil Rule 6.3 for reconsideration are met where the court has overlooked “controlling decisions or factual matters that were put before it on the underlying motion ... and which, had they been considered, might have reasonably altered the result before the court.” *Greenwald v. Orb Communications, Inc.*, No. 00 Civ. 1939, 2003 WL 660844, at *1 (S.D.N.Y. Feb. 27, 2003) (quoting *Range Road Music, Inc. v. Music Sales Corp.*, 90 F. Supp. 2d 390, 392 (S.D.N.Y. 2000) (ellipsis in original)). Neither does Bechtel dispute that reconsideration is appropriate to permit a district court to “rectify its own mistakes in the period immediately following the entry of judgment.” *Greene v. Town of Blooming Grove*, 935 F.2d 507, 512 (2d Cir. 1991) (citation omitted), nor that “reconsideration should be granted where necessary to correct for ‘clear error’ or to ‘prevent manifest injustice.’” *American Civil Liberties Union v. Department of Defense*, 396 F.Supp.2d 459, 460 (S.D.N.Y. 2005) (citation omitted).

What Bechtel does dispute is that only its own arguments were considered, without explaining how Plaintiffs had the right or ability to respond to Bechtel’s self styled “Reply” brief filed after the Court had ruled on Bechtel’s motion. Plaintiffs have never disputed that they agreed that Bechtel could have additional time to reply to Plaintiffs’ opposition, despite the hue and cry found in Bechtel’s present opposition papers. The procedural muddle was solely attributable to the failure of Bechtel’s counsel to communicate this stipulation to the Court in a timely manner and to seek this Court’s consent. Accordingly, Bechtel’s “Reply” brief

effectively became a motion for reconsideration that materially altered the arguments that had been previously and primarily directed to the sufficiency of the pleadings.

By contrast, Bechtel's "Reply" brief essentially argued, *for the first time*, that the entirety of the Plaintiffs' averments and pleadings had to be ignored in favor of a single paragraph, 1202, because only the latter paragraph specifically pertained to Bechtel. No authority for this reading of Plaintiffs' pleadings was cited by Bechtel nor, outside of the present Motion for Reconsideration, did Plaintiffs have the opportunity to respond to this novel (and erroneous) argument.

Plaintiffs argued that Bechtel's argument (and the resulting holding) offended the well settled rules for the construction of pleadings in general, and on a Fed. R. Civ. P. 12(b)(6) motion in particular. These arguments are incorporated by reference and will not be repeated here. In response, Bechtel argued, once again, that the pleadings that apply to Bechtel and other defendants are "boilerplate" and thus deficient.

Moreover, Bechtel argued that Plaintiffs were not entitled to plead in the alternative because of "inconsistent factual allegations." Both positions, as well as the authority cited in support, are unavailing. Indeed it is well settled that pleading alternative or inconsistent claims is wholly appropriate. Fed. R. Civ. P. 8(d)(2) and (3); *G-I Holdings Inc. v. Baron & Budd*, 238 F. Supp. 2d 521 (S.D.N.Y. 2002). As the *G-I Holdings* Court held, Rule 8 of the Federal Rules of Civil Procedure states, in pertinent part, that:

A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has

regardless of consistency and whether based on legal, equitable, or maritime grounds.

Fed.R.Civ.P. 8(d)(2); *see also Aiena v. Olsen*, 69 F.Supp.2d 521, 531 (S.D.N.Y. 1999)

(permitting alternative pleading for ERISA claim made in the alternative to state law claims because plaintiff not bound by alternative allegations at motion to dismiss stage). New York law is also in accord. CPLR 3014; *see also Raglan Realty Corp. v. Tudor Hotel Corp.*, 149 A.D.2d 373, 374 (1st Dep't 1989) (reversing dismissal in action for specific performance and fraud because plaintiff was allowed to plead alternative theories) (*citing Mitchell v. New York Hosp.*, 61 N.Y.2d 208, 218 (1984)).

Plaintiffs have clearly demonstrated that the allegations against the group of contractor defendants are not “boilerplate” and are applicable to Bechtel. Indeed, it would appear that Bechtel was directly involved in almost every aspect of site safety, including monitoring the air, controlling and directing heavy equipment use, training workers, fit testing PPE, warning those present about on site of hazards, stopping work in hazardous situations, inspecting equipment and removing workers from the site. In addition, as set forth in this Court’s Order and opinion of October 2006 in *In re: World Trade Center Disaster Site Litigation*, 456 F.Supp.2d 520 (S.D.N.Y. 2006), Bechtel was the lead contractor in charge of health and safety concerns at the site, *Id.*, at 532; Bechtel also played an important role in establishing health and safety protocols, *Id.*, at 531; Bechtel began work at the site on September 12, 2001, assisting the City with monitoring compliance with health and safety standards, *Id.*, at 530; part of Bechtel’s responsibilities included enforcing compliance with applicable personal protective equipment (“PPE”) requirements, *Id.*, at 532, including develop the job and site specific PPE requirements, develop and distribute a list of required PPE to all site emergency response and workers, *Id.*, at 531 and Bechtel was also involved and played an important role in periodically issuing

Environmental Health and Safety Bulletins outlining the applicable safety standards in force at the site. *Id.*

Although Bechtel does not dispute this Court's prior findings, they argue that those findings are somehow "off limits" and are to be ignored for all purposes outside of the immunity decision in which they were made. Bechtel's extraordinary argument is based solely and purportedly upon footnote 1 of this Court's *In re: World Trade Center Disaster Site Litigation* opinion, at p. 526. However, footnote 1 does not support Bechtel's position, much less address the issue for which it was cited. To the contrary, footnote 1 merely explains why the Court considered matters outside the pleadings for purposes of the motions to dismiss that were then pending. This Court made no ruling on the use of its factual findings and never precluded consideration of those findings when construing the Plaintiffs' Complaint. There is no legitimate basis for Bechtel's argument.

Bechtel is similarly wrong when it argues that paragraph 1202 of the Complaint is a "factual allegation" that cannot be plead in the alternative as permitted by Fed. R. Civ. P. 8. First, Bechtel is apparently unable to distinguish fact from averment. That Bechtel wrongly and falsely stated that it never supervised any Plaintiff at Ground Zero in response to Core Discovery question 8 is a "fact." That Bechtel falsely stated that it merely provided "consultation" to the City in response to Core Discovery question 9 is another "fact." That Bechtel's advice was ignored by certain contractors who sought to prevent Bechtel from gaining a foothold into the New York construction market is not a "fact" but a claim or averment¹².

As an averment, it is clearly appropriate, if not required, to read paragraph 1202 as a pleading in the alternative. Accordingly, it was error to construe the plaintiff's claim in

¹² Paragraph 1202 of the Complaint is starkly contradicted by Bechtel's own senior site employees, who claimed that "for the most part, they [contractor safety representatives] were very willing. They wanted to do anything we asked them to do." ACCSH, p.46.

paragraph 1202 as an admission against another alternative or inconsistent claim. *Henry v. Daytop Village, Inc.*, 42 F.3d 89 (2d Cir. 1994). Contrary to the inapposite citations relied upon by Bechtel, “Rule 12(b)(6) does not countenance ... dismissals based on a judge's disbelief of a complaint's factual allegations.” *Bell Atlantic v. Twombly*, --- U.S. ---, 127 S.Ct. 1955, 1964 (2007). Rather, Fed. R. Civ. P. 12(b)(6), in connection with Rule 8(a) merely “contemplate[s] the statement of circumstances, occurrences, and events in support of the claim presented” and does not authorize a pleader's ‘bare averment that he wants relief and is entitled to it’.” *Id.*, n. 3. It is only, “[c]onclusory allegations or legal conclusions masquerading as factual conclusions [that] will not suffice to prevent a motion to dismiss.” *Gebhardt v. Allspect, Inc.*, 96 F. Supp. 2d 331, 333 (S.D.N.Y. 2000) (internal citation and quotation marks omitted). This Court correctly held that the Complaint meets this standard in its March 2008 opinion. There is simply no authority to support Bechtel’s argument that all but paragraph 1202 of the Complaint should be ignored.

POINT II.

SHOULD THIS COURT DENY RECONSIDERATION, PLAINTIFFS SHOULD BE PERMITTED TO FILE AN AMENDED COMPLAINT.

Bechtel’s only cavil with permitting Plaintiffs to amend the Complaint is that the allegations purportedly remain “boilerplate.” Bechtel’s argument has been shown to be frivolous, as the proposed amended allegations expressly deal with Bechtel and are clearly applicable.

As set forth in Plaintiffs’ prior submission, such amendment furthers the interests of justice, which requires the full participation of all culpable defendants. Allowing defendants to exit this litigation because of any pleading errors confounds the interests of justice. Given that

discovery is in its infancy and the lack of any appreciable prejudice to any Defendant, Plaintiffs again respectfully request that, in the event that this Court denies the reconsideration that Plaintiffs now seek, that Plaintiffs be permitted to file an amended Complaint.

POINT III.

**IF THIS COURT STILL DETERMINES TO DISMISS
PLAINTIFFS' CLAIMS AGAINST BECHTEL, IT SHOULD
GRANT LEAVE FOR THE PLAINTIFFS TO TAKE AN
INTERLOCUTORY APPEAL OF THAT DECISION.**

Bechtel objects to the Plaintiffs' alternative request that the Court grant leave for the Plaintiffs to take an interlocutory appeal in the event that the Court denies reconsideration and the filing of an amended Complaint. Other than recite the general considerations applicable to such a request, Bechtel has failed to articulate any reasonable or compelling argument to counter Plaintiffs request and the authority upon which it rests. Such relief would be warranted should the conditions precedent, upon which it is made, occur.

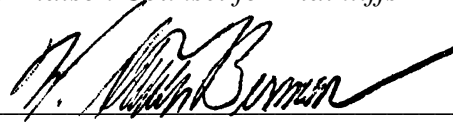
CONCLUSION

For all of the reasons set forth in both this submission and in Plaintiffs' moving papers, this Court should vacate its April 30, 2008 decision and should allow the plaintiffs' claims against the Bechtel defendants to proceed under the existing Amended Master Complaint as to the Contractors, or, in the alternative, upon the proposed Second Amended Master Complaint as to the Bechtel Defendants, and in the alternative, should grant leave to take an interlocutory appeal of the April 30 2008 Order.

Further, given the gravity of the discovery malfeasance and frivolous argument raised by Bechtel and its counsel, it is respectfully submitted that the Court should impose sanctions against them.

Dated: New York, New York
June 30, 2008

Respectfully submitted,
WORBY GRONER EDELMAN & NAPOLI BERN, LLP
Co-Liaison Counsel for Plaintiffs



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**ATTORNEY'S DECLARATION/AFFIRMATION OF
SERVICE**

Denise A. Rubin, an Attorney duly licensed to practice before the Courts of the State of New York, hereby affirms/declares the following under penalty of perjury:

I am associated with the law firm WORBY GRONER EDELMAN & NAPOLI BERN, LLP and as such represent the plaintiffs in the within action. On June 30, 2008, I duly served a true copy of the within **PLAINTIFFS' MEMORANDUM OF LAW AND FACTS IN REPLY TO DEFENDANT BECHTEL'S OPPOSITION OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE DISMISSAL OF PLAINTIFFS' CLAIMS AS TO THE BECHTEL DEFENDANTS** upon the following persons via e-mail delivery and through this Court ECF filing system.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE: WORLD TRADE CENTER
DISASTER SITE LITIGATION
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Docket No.: 21 MC 100 (AKH)

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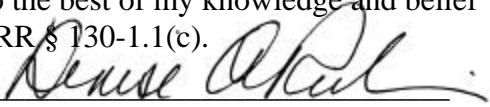
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The undersigned attorney hereby certifies, pursuant to Fed. R. Civ. P. 11 and/or 22 NYCRR §130-1.1-a, that I have read the within papers and that to the best of my knowledge and belief they are not frivolous as that term is defined in 22 NYCRR § 130-1.1(c).



Attorney name:

=====

PLEASE TAKE NOTICE:

NOTICE OF ENTRY

that the within is a (certified) true copy of an _____ duly entered in the
office of the clerk of the within named court on _____ 200__.

NOTICE OF SETTLEMENT

that an order _____ of which the within is a true copy, will
be presented for settlement to the HON. _____ one of the judges of the
within named Court, at _____ on 200__ at _____ O'clock __.M.

Dated, _____

Yours, etc.

WORBY GRONER EDELMAN & NAPOLI BERN, LLP

