

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

**FORMAL
WRITTEN COMPLAINT**

FRANK M. MORA,

a Judge of the Poughkeepsie City Court,
Dutchess County.

1. Article VI, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon Frank M. Mora (“Respondent”), a Judge of the Poughkeepsie City Court, Dutchess County.
3. The factual allegations set forth in Charges I, II and III state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).
4. Respondent was admitted to the practice of law in New York in 1997. He has been a Judge of the Poughkeepsie City Court, Dutchess County, since 2011. Respondent’s current term expires on December 31, 2030.

CHARGE I

5. On or about December 28, 2021, Respondent engaged in a discourteous verbal confrontation with Stacey Koch, an office manager at Seeta Eye Center (“Seeta”), an ophthalmology practice in Poughkeepsie, over Respondent’s failure to wear a mask in the office. Respondent refused to comply with Ms. Koch’s repeated directives to leave the premises if he would not wear a mask as required by Seeta’s office policy. This led Ms. Koch to call the police, which resulted in additional discourtesy toward her by Respondent, who left only after a police official said he would send an officer to Seeta.

Specifications to Charge I

6. On or about December 28, 2021, Seeta Eye Center in Poughkeepsie had policies in place that had already been instituted to mitigate the risk presented by the COVID-19 pandemic, including a requirement that individuals wear a facemask in the office. At that time, masking requirements were mandated throughout the State of New York due to the pandemic.

7. On or about December 28, 2021, Respondent and his [REDACTED] child entered Seeta, where the child had an appointment for an eye examination. Respondent was wearing a clear plastic face shield which, unlike a mask, was open on the bottom. There were approximately 20 patients in the waiting room, which was full, with all or most of the chairs occupied.

8. A receptionist in the waiting room asked Respondent if he had a face mask. Respondent replied, in words or substance, that he could not medically tolerate masks. The receptionist told Respondent that he was required to wear a face mask inside the waiting room but alternatively could wait outside. When Respondent neither put on a mask nor went outside, another receptionist called Ms. Koch for assistance.

9. Ms. Koch entered the waiting room and asked Respondent to put on a face mask. Respondent said, in words or substance, that he had a disability and was unable to wear a mask. Respondent did not identify his disability or any medical reason that he was unable to wear a mask.

10. At some point during the encounter, Ms. Koch asked Respondent to produce documentation of the medical condition that exempted him from the face masking requirement. Respondent did not produce such documentation.

11. Ms. Koch again asked Respondent to put on a face mask, and he again refused. Ms. Koch then told Respondent that if he would not wear a face mask, he would have to leave the premises. He refused. As their discussion continued, Ms. Koch more than once repeated her request that he leave the premises, and each time Respondent refused.

12. Ms. Koch told Respondent that if he did not leave the premises, she would call the police. Respondent responded, in words or substance, that the

police would not come to remove him because Dutchess County was not enforcing the mask mandate.

13. Ms. Koch called 911 and reported, in part, that Respondent was refusing to leave, that he would not wear a mask and that she had “an office full of people.” The 911 dispatcher transferred Ms. Koch’s call to the Town of Poughkeepsie Police Department, which recorded the call. Ms. Koch reported to the officer or agent who answered that she had “many patients present” in the office and that Respondent was not adhering to the office’s mask requirement. While Ms. Koch was on the phone with the police department, Respondent said, in words or substance, “Go ahead. They’re not coming.”

14. The police official with whom Ms. Koch was speaking briefly placed her on hold, at which point Ms. Koch offered to provide Respondent with a paper mask and repeated that he could not be in the office without a mask. Ms. Koch told Respondent, “I wish you wouldn’t speak if you’re not going to wear a mask. Okay. Don’t talk.” Respondent replied, “I’ll talk.”¹ Ms. Koch said to Respondent, “If you just lived through what I have lived through,² you would know what you are doing. No, don’t speak because we don’t want your air.”

¹ In addition to the conversation between Ms. Koch and the police official, the police recording of the call captured Respondent’s voice in the Seeta waiting room and parts of his conversation with Ms. Koch.

² Ms. Koch was referring to her husband’s medical condition.

Respondent replied to Ms. Koch, in words or substance, that people go to restaurants and nobody wears a mask, and everyone is breathing in each other's air. Ms. Koch said to Respondent, "I do not go to a restaurant. I live with someone who has had [REDACTED] three times, and I really don't want your germs on me."

15. When the police official returned to the call, he advised Ms. Koch that the police department did not enforce the mask mandate, but if Respondent was refusing to leave, an officer could be sent to Seeta. At Ms. Koch's request, the official said that he would send an officer as soon as possible. Respondent then left the premises.

16. Shortly after leaving Seeta, Respondent called his chiropractor, G [REDACTED] M [REDACTED], and asked him to produce a letter. Sometime thereafter, Ms. Koch received an email from Respondent, with a letter forwarded from "M [REDACTED] Chiropractic." The letter, dated December 28, 2021, was signed by G [REDACTED] M [REDACTED] D.C., and read: "Frank Mora is currently under my care. Due to his current health condition, he is medically unable to wear a mask."

17. Ms. Koch then arranged for a doctor to examine Respondent's child that same day. A Seeta employee escorted Respondent and his child through a back door at Seeta to an exam room, where a doctor performed the eye examination on the child.

18. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to so conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so that they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

CHARGE II

19. On or around December 29, 2022, Respondent filed a defamation suit against Stacey Koch – *Frank Mora v Stacey Koch* (Index No. 54141/2022) – in what was and/or appeared to be in retaliation for her having filed a confidential complaint against him with the Commission.

Specifications to Charge II

20. On or around December 28, 2021, following Respondent's conduct at Seeta as described in Charge I, Ms. Koch called the Dutchess County Bar Association seeking information on how to file a complaint against a judge.

21. On or about December 29, 2021, Ms. Koch utilized the electronic complaint form on the Commission's website to file a confidential complaint against Respondent, alleging misconduct stemming from the confrontation at Seeta on December 28, 2021.

22. On or about April 12, 2022, the Commission sent a letter to Respondent asking him to answer a number of questions about his alleged conduct at Seeta. Pursuant to Commission Policy 2.6(D), the letter included a copy of Ms. Koch's December 29, 2021, complaint to the Commission. Respondent, after adjournments, responded to the allegations through counsel by letter dated June 17, 2022.

23. On or around December 21, 2022, Respondent brought a defamation suit against Ms. Koch, entitled *Frank Mora v Stacey Koch* (Index No. 54141/2022), in Supreme Court, Dutchess County, seeking \$425,000 in alleged damages. Respondent made no request to seal or otherwise keep confidential his lawsuit, which was public.

24. Respondent's Verified Complaint alleged that five statements made by Ms. Koch in her December 29, 2021, complaint to the Commission were "false and libelous," and that Ms. Koch "intentionally sought to imperil and jeopardize [Respondent's] ability to practice his profession and has caused [Respondent] substantial emotion [*sic*] distress and humiliation."

25. Respondent sought compensatory and punitive damages in the amount of \$425,000, alleging that Ms. Koch's statements in her complaint caused him "emotional distress, humiliation, shame and embarrassment and required him to answer her false claims before a state commission designed and empowered to investigate judicial misconduct."

26. Respondent's Verified Complaint was public, and he attached a copy of Ms. Koch's complaint, thereby making her complaint public as well. Prior to Respondent's initiation of this public lawsuit, Ms. Koch's complaint had been confidential.

27. Respondent had his Verified Complaint served on Ms. Koch on or around January 3, 2023.

28. In or around early January 2023, after Ms. Koch had been served with his lawsuit, Respondent returned to Seeta for another eye examination for his child.

29. In or around early 2023, Respondent telephoned Janna Whearty, Executive Director of the Dutchess County Bar Association (“DCBA”), and asked in an angry and aggressive tone whether she was aware of the lawsuit and if she had provided Ms. Koch – whom he called in words or substance “that woman” – with the Commission’s contact information.

30. On or about February 2, 2023, Ms. Koch, through counsel, moved to dismiss Respondent’s Verified Complaint as barred by New York Civil Rights Law § 76-a, also known as New York State’s anti-SLAPP (“Strategic Lawsuits Against Public Participation”) statute, and, additionally, as barred by the doctrine of absolute privilege.

31. On or about February 6, 2023, the Commission moved to intervene and to dismiss the matter because the statements in Ms. Koch’s complaint were shielded by absolute privilege, making her (and similarly situated Commission complainants and witnesses) immune from defamation suits in connection with confidential information given to the Commission.

32. On or about March 6, 2023, Respondent filed papers in opposition to Ms. Koch’s and the Commission’s motions to dismiss, arguing, *inter alia*, that Ms. Koch’s complaint to the Commission was a “sham” and that the protection of absolute privilege did not apply.

33. By Decision and Order dated April 4, 2023, the Supreme Court, Dutchess County (Rosa, J.), after having heard oral argument, granted Ms. Koch's and the Commission's motions to dismiss Respondent's Verified Complaint, and awarded Ms. Koch mandatory costs and attorney's fees. The Court found, *inter alia*, that Ms. Koch's complaint to the Commission involved public petition and participation, and that her statements therein thus were absolutely privileged. In making this finding, the Court stated that "there is a very real fear that others may be deterred from bringing legitimate and serious complaints before the Commission if retribution in the form of a lawsuit is a viable possibility." A copy of the Decision and Order is appended as Exhibit 1.

34. On or about May 22, 2023, Respondent and Ms. Koch entered into a settlement agreement wherein Respondent agreed to pay Ms. Koch \$20,000, to send her a signed letter of apology, and to avoid future contact with Ms. Koch and any Seeta location.

35. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid

impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to so conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so that they do not detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

CHARGE III

36. On or about May 9, 2024, and on or about July 10, 2024, in response to Commission requests for information reasonably related to its investigation of a new complaint against Respondent – *i.e.*, that his defamation lawsuit against Stacey Koch was initiated in retaliation for her having filed a complaint against him with the Commission, as alleged in Point II, *supra* – Respondent withheld and/or redacted material documents, including emails, responsive to the Commission’s requests, without informing the Commission of all the material withheld and without providing a reasonable basis for having done so.

Specifications to Charge III

37. On April 20, 2023, on its own motion, the Commission authorized an Administrator’s Complaint against Respondent for initiating a defamation lawsuit against Stacey Koch in retaliation for her having filed a complaint against him, as

alleged in Point II, *supra*. The Administrator's Complaint is appended as Exhibit 2.

38. By letter dated April 8, 2024, the Commission requested that Respondent provide, *inter alia*, copies of all emails between him and his attorney, Michael H. Sussman, from December 28, 2021, to the present (*i.e.*, April 8, 2024), pertaining to Stacey Koch, the incident at Seeta, the defamation lawsuit and related matters. A copy of the letter is appended as Exhibit 3. The Commission's letter noted that, during its investigation, Respondent had testified voluntarily about his communications with his attorney and, having placed those communications at issue, had waived the attorney-client privilege.

39. By letter dated May 9, 2024, Respondent replied in relevant part that, while he disagreed the attorney-client privilege had been waived, he was providing "all Koch related emails from December 28, 2021, through the date of filing the Koch lawsuit (12/29/22)." A copy of the letter is appended as Exhibit 4. Respondent represented that he had reviewed "all emails from that period, that are being submitted to the Commission (a total of 14), and they are complete and accurate." He further stated that some of the emails had been redacted insofar as "they relate to non-Koch matters." Respondent produced 14 pages of emails with his May 9 letter.

40. By letter dated May 21, 2024, the Commission sent Respondent a letter stating that the information submitted with his May 9 letter was not wholly responsive to its request of April 8. A copy of the letter is appended as Exhibit 5. The Commission required that Respondent fully provide the information requested in the April 8 letter.

41. By letter dated July 10, 2024, Respondent provided the Commission with 127 pages of the “remaining emails” between him and Mr. Sussman from “December 30, 2022, to present” A copy of the letter is appended as Exhibit 6. Respondent again noted that “[s]ome emails have been redacted as they relate to non-Koch matters.”

42. Enclosed with Respondent’s July 10 letter was with a signed “Waiver of Confidential Communications,” waiving the attorney-client privilege of confidentiality between himself and Mr. Sussman and giving Mr. Sussman permission to provide communications, documents, information and testimony to the Commission responsive to the Commission’s request. A copy of the waiver is appended as Exhibit 7.

43. Respondent withheld emails and/or redacted text from emails that he produced in response to the Commission’s requests, including the following:

- A. Respondent withheld two emails that he sent to Michael H. Sussman, Esq., dated November 23, 2022, at 4:02 PM and 8:09 PM, stating respectively, in part, “Please let me know if we can proceed against Seeta,” and “When looking at it, are we able to

just sue Stacey Koch, the manager of Seeta?” Copies of the emails are appended as Exhibit 8.

- B. In an email that Respondent sent to Mr. Sussman, dated February 2, 2023, at 7:41 PM, Respondent redacted the following text: “Since she knew almost a year before the confrontation that I did not medically tolerate the mask, I believe she had this all planned.” A copy of the email is appended as Exhibit 9.
- C. Respondent withheld an attachment to an email that he sent to Mr. Sussman, dated February 7, 2023, at 8:55 AM, with his “thoughts” on a draft response to the motion to dismiss in *Mora v Koch*. In the attachments, Respondent stated, in pertinent part:
 - i. It does not seem right that Koch can use the judicial commission as a sword, then use the SLAPP statute as a shield. Regarding SLAPP, it should be stressed that it was Koch who caused the behavior.
 - ii. I think we should focus on Koch creating the entire scene, then reporting me for the scene that she created. I think the police call recordings are essential. If she acknowledges that she knows I was a judge on the police call, it shows that she was lying about contacting the bar association. We can then show she that she had no intention of following the mask regulation, even though she knew well ahead of the Dec visit that I did not tolerate masks.
 - iii. Koch was determined not the [sic] let anyone in without a mask. She basically stated so when I asked her Jan 29, 2021 what they do for people who do not medically tolerate a mask. She advised that only one other patient could not wear a mask. I asked her how they handled it, and she said that patient decided to leave the practice. When you read between the lines, you see that Koch made her leave the practice.
 - iv. This lawsuit was not brought to harass or intimidate Koch from testifying before the commission. It was specifically

brought after I found out she testified before the commission, and then bragged to her former co-worker Michael Brown that she told the commission she felt threatened by me, and that she was going to get me removed from the bench.

Copies of the email and attachment are appended as Exhibit 10.

- D. Respondent withheld emails that he sent to Mr. Sussman, dated February 8, 2023, at 8:49 AM and 9:34 PM, in which he stated that the Commission will not turn over transcripts of testimony taken from Ms. Koch or Michael Brown, and in response to Mr. Sussman, stated, “The corruption doesn’t end!” Copies of the emails are appended as Exhibit 11.
- E. Respondent withheld an email that he sent to Mr. Sussman, dated February 8, 2023, at 9:51 PM, in which he made the following statement regarding the Commission’s motion to dismiss in *Mora v Koch*: “You are correct. Even now that DiFiore is no longer a judge, they still will not reveal that there was an investigation against her. So, how are they giving all of the details of my investigation? They are not even supposed to acknowledge that I am under investigation.” A copy of the email is appended as Exhibit 12.
- F. In an email that Respondent sent to Mr. Sussman, dated February 13, 2023, at 10:10 AM, Respondent redacted the following text: “If I thought the process was going to be fair, I would not have brought the suit. Even though I am stipulating to taking medicine/medical procedures, they still want 12 years of my medical records. They think I am making up homeschooling my children. They think I forged my kids’ doctor’s letter. This is a proverbial witch hunt. They are on a fishing expedition to see if there is anything that will stick to say, ‘look, he doesn’t really believe the stuff he is saying!’” A copy of the email is appended as Exhibit 13.
- G. Respondent withheld an email that he sent to Mr. Sussman, dated March 6, 2023, at 3:15 PM, in which he stated, “Maybe you can use Tembeckjian’s own words against him at oral argument. When I asked for them to postpone the matter because I had a

human rights case pending, they denied me saying their jurisdiction is independent from the division of human rights and the civil courts. See attached letter.” A copy of the email is appended as Exhibit 14.

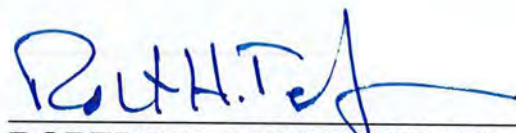
- H. Respondent withheld an email that he sent to Mr. Sussman, dated April 3, 2023, at 10:44 AM, in which he stated, “I find it very interesting that the attorney for the commission, in open court, on the record, stated that I am being investigated for other matters. It is my understanding that this is a violation of their duty to keep it confidential. Judiciary Law Secs 44-46. I understand that I opened the door regarding the proceeding with Koch, but nothing else.” A copy of the email is appended as Exhibit 15.
- I. In an email that Respondent sent to Mr. Sussman, dated May 12, 2023, at 7:14 PM, Respondent redacted the following text: “It is readily apparent that the commission is trying to remove me as judge due to my religious beliefs. Since they seem to have hit a brick wall, they are trying to figure out how to get me out based on my inability to mask.” A copy of the email is appended as Exhibit 16.

44. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to so conduct his extra-judicial activities as to minimize

the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so that they do not detract from the dignity of judicial office and are not incompatible with judicial office, in violation of Sections 100.4(A)(2) and (3) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: January 14, 2025
New York, New York



ROBERT H. TEMBECKJIAN

Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

VERIFICATION

FRANK M. MORA,

a Judge of the Poughkeepsie City Court,
Dutchess County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

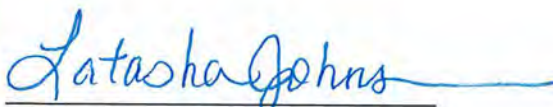
ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon
information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of
the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
14th day of January 2025



Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No.01JO6235579
Qualified in New York County
Commission Expires February 14, 2027

EXHIBIT 1SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

Present:

Hon. Maria G. Rosa, Justice

FRANK MORA,

Plaintiff,

DECISION AND ORDER

-against-

Index No. 2022-54141

STACEY KOCH,

Motion Sequences: 1, 2

Defendant,

NEW YORK STATE COMMISSION ON JUDICIAL
CONDUCT,

Intervenor-Defendant.

The following papers were read and considered on the motion of Defendant seeking dismissal of the complaint and for an award of attorney's fees and costs (Seq. #1); and the motion of Intervenor-Defendant New York State Commission on Judicial Conduct (the "Commission") seeking dismissal of the complaint. (Seq. #2):

Document:NYSCEF Doc. No(s):

SUMMONS & VERIFIED COMPLAINT and EXHIBIT 11

NOTICE OF MOTION – Seq. #15

MEMORANDUM OF LAW6

AFFIRMATION IN SUPPORT and EXHIBITS A–B7–9

MEMORANDUM OF LAW IN OPPOSITION26¹

REPLY MEMORANDUM OF LAW31

NOTICE OF MOTION – Seq. #215

¹ Plaintiff filed a single memorandum of law in opposition, addressing arguments made in both pending motions.

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REPLY MEMORANDUM OF LAW	32
<u>BACKGROUND</u>	

This is an action for defamation. The following facts are taken from the complaint and presumed to be true for purposes of deciding both motions.

The events giving rise to this action commenced on December 28, 2021. That day, Plaintiff, a Judge of the Poughkeepsie City Court, brought his son to an ophthalmology office where a dispute arose between Plaintiff and the office manager, Defendant, regarding Plaintiff's unwillingness to wear a face mask while in the office. The following day, December 29, 2021, Defendant wrote certain "statements concerning [Plaintiff] . . . to the New York State Commission on Judicial Conduct" (Complaint at "Preliminary Statement"). The written statements were submitted via a complaint form provided by the New York State Office [sic] of Judicial Conduct" (*id.* at ¶24).²

Plaintiff alleges that Defendant's statements were false, libelous, professionally damaging to him as a jurist and calculated to subject him to personal ridicule and shame (*id.* at ¶¶ 23–24). Plaintiff further alleges that Defendant's statements caused him "emotional distress, humiliation, shame and embarrassment and required him to answer [Defendant's] false claims before a state commission designed and empowered to investigate judicial misconduct" (*id.* at ¶27). As a result of these events, Plaintiff seeks compensatory and punitive damages of \$425,000.00 on a single cause of action for defamation *per se*.

Oral argument on these motions was held March 27, 2023, at which time all parties were heard. The first branch of the Commission's motion seeking leave to intervene in this matter was granted on the record as unopposed, and the caption has been amended accordingly. Defendant moves to dismiss the complaint pursuant to the defense of absolute privilege and pursuant to New York's "anti-SLAPP" statutes. The Commission moves for dismissal based on absolute privilege.

DISCUSSION

In order to decide the pending motions, the Court must make an initial determination of whether this is "an action involving public petition and participation." As recently discussed by the Second Department:

In 1992, legislation was enacted to address "a rising concern about the use of civil litigation, primarily defamation suits,

² For reasons discussed below, the substance of Defendant's statements is not relevant to the determination of the issues raised herein, and the Court will not republish them as part of this opinion.

to intimidate or silence those who speak out at public meetings against proposed land use development and other activities requiring approval of public boards. Termed SLAPP suits—strategic lawsuits against public participation—such actions are characterized as having little legal merit but are filed nonetheless to burden opponents with legal defense costs and the threat of liability and to discourage those who might wish to speak out in the future.” The legislation was specifically aimed at broadening the protection of citizens facing litigation arising from their public petition and participation.

[In 2020,] the Legislature amended the relevant statutes to broaden the scope of the law and afford greater protections to citizens facing litigation arising from their public petition and participation (see L 2020, ch 250).

(*Mable Assets, LLC v Rachmanov*, 192 AD3d 998, 998 [2d Dept 2021] (quoting *600 W. 115th St. Corp. v Von Gutfeld*, 80 NY2d 130 [1992])).

New York’s “anti-SLAPP” statutes are codified at Civil Rights Law §§ 70-a and 76-a. As part of the 2020 amendments to these statutes, the Legislature enacted heightened pleading standards when a defendant moves to dismiss for failure to state a cause of action (CPLR 3211[a][7]), where the “[defendant] has demonstrated that the action . . . subject to the motion is an action involving public petition and participation as defined in [Civil Rights Law §76-a(1)(a)]” (CPLR 3211[g][1]).

An “action involving public petition and participation” is defined as lawsuit based upon: (1) any communication in a place open to the public or a public forum in connection with an issue of public interest; or (2) any other lawful conduct in furtherance of the exercise of the constitutional right of free speech in connection with an issue of public interest, or in furtherance of the exercise of the constitutional right of petition” (Civil Rights Law §76-a[1][a]). The court is to construe the term “public interest” broadly to include any subject other than a purely private matter (Civil Rights Law §76-a[1][d]).

A court is required to grant a preference to hearing a motion to dismiss a SLAPP action, and the motion “shall be granted unless the [plaintiff] demonstrates that the cause of action has a substantial basis in law or is supported by a substantial argument for an extension, modification or reversal of existing law” (CPLR §3211[g][1]). In adjudicating a motion to dismiss a SLAPP action, the court must consider the pleadings and supporting and opposing affidavits (CPLR §3211[g][2]).

Here, the Court readily finds that Defendant’s conduct, as alleged in the complaint and discussed in Defendant’s motion papers, falls within the broad definition of “public petition and participation.” Her statements about Plaintiff concerned his status as a public official and his fitness for that role and were made to a governmental body charged with overseeing his conduct,

i.e., the Commission. Moreover, the statements were admittedly furnished through an online form provided by the Commission, the purpose of which is to invite members of the public to submit complaints about specific judges. Defendant's complaint about Plaintiff to the Commission may therefore be viewed as a public petition³ and participation in furtherance of the right of free speech in connection with an issue of public interest, particularly in the broad sense the Court is required to apply.

As a result, the stricter pleading standards of CPLR 3211(g) apply, and to avoid dismissal Plaintiff is required to show that the single cause of action for defamation *per se* in the complaint "has a substantial basis in law or is supported by a substantial argument for an extension, modification or a reversal of existing law." That is not the case here.

A cause of action for defamation *per se* is based upon a false statement, published *without privilege* or authorization to a third party, and so offensive that malice is presumed, i.e. claiming that a person committed a crime of moral turpitude or suffers from a loathsome disease; To recover damages for defamation, a plaintiff must prove the defendant's publication to a third party of a false statement about the plaintiff, without privilege or authorization (*Knut v. Metro Intern S.A.*, 91 A.D. 3d 915 [2nd Dept. 2012] citing *Epifani v. Johnson*, 65 A.D.3d 224, 233). A defamatory statement is one which "tends to expose a person to hatred, contempt or aversion, or to induce an evil or unsavory opinion of him *in the minds of a substantial number of the community*" (*Golub v. Enquirer/Star Group*, 89 N.Y.2d 1074, 1076, quoting *Mencher v. Chesley*, 297 N.Y. 94, 100, emphasis added). Imputing a serious crime to the plaintiff constitutes defamation *per se* (see *Geraci v. Probst*, 15 N.Y.3d 336, 344; *Lieberman v. Gelstein*, 80 N.Y.2d 429, 435). In the context of a defamation action, "[a] privileged communication is one which, but for the occasion on which it is uttered, would be defamatory and actionable." *Park Knoll Assoc. v Schmidt*, 59 NY2d 205, 208 [1983].

The only defamatory conduct alleged in the complaint is Defendant's submission of her statements concerning Plaintiff to the Commission. It was further admitted during oral argument on this matter, and as supported by the affirmation of counsel for the Commission, that Defendant did not publish the statements to anyone else; and until Plaintiff filed this lawsuit, Defendant's statements and the Commission's proceedings with respect thereto were confidential and non-public.

Accordingly, this matter is subject to the controlling precedent of *Wiener v Weintraub* (22 NY2d 330 [1968]), wherein the Court of Appeals held that a written complaint about an attorney submitted to the local Grievance Committee and pertaining to potential misconduct by the attorney is "absolutely privileged," based upon overriding public interests:

If a complainant were to be subject to a libel action by the accused attorney, the effect in many instances might well be to deter the filing of legitimate charges. We may assume that on occasion false and malicious complaints will be made. But, whatever the hardship on a particular attorney, the

³ See Merriam-Webster.com Dictionary (<https://www.merriam-webster.com/>), *Petition*: "a formal written request made to an authority or organized body (such as a court)."

necessity of maintaining the high standards of our bar—indeed, the proper administration of justice—requires that there be a forum in which clients or other persons, unlearned in the law, may state their complaints, have them examined and, if necessary, judicially determined.

(*Wiener v Weintraub*, 22 NY2d 330, 331–332 [1968]; *see also Bisogno v Borsa*, 31 Misc 3d 1203(A) [Sup Ct, Richmond County 2011], *affd*, 101 AD3d 780 [2d Dept 2012]).

The process followed with respect to judicial conduct complaints is very similar to the process followed with respect to complaints against attorneys, including the quasi-judicial and confidential nature of the proceedings (*see* Affirmation of Robert H. Tembeckjian, Esq., dated February 6, 2023 (NYSCEF Doc. No. 16) at ¶¶ 14–19, 24–29; Judiciary Law §§ 44, 45). Moreover, the same public concerns regarding the “necessity of maintaining high standards [and] the proper administration of justice” obviously apply to sitting judges at least as forcefully as to practicing attorneys. Thus, the defense of absolute privilege applies in this matter; and if Defendant’s complaint is deemed to be absolutely privileged, this Court is required to dismiss the complaint at the pre-answer stage (*Wiener*, 22 NY2d at 332–333; CPLR 3211[g][1]), and the substance of the complaint to the commission is not relevant to this determination.

Plaintiff opposes the absolute privilege argument, raised by both Defendant and the Commission, on the basis that it does not apply where the underlying complaint is a “sham.” For this argument, Plaintiff relies on a line of cases in the First Department, which in turn rely upon the Court of Appeals case of *Youmans v. Smith*:

... If counsel, through an excess of zeal to serve their clients, or in order to gratify their own vindictive feelings, go beyond the bounds of reason, and by main force bring into a lawsuit matters so obviously impertinent as not to admit of discussion, and so needlessly defamatory as to warrant the inference of express malice, they lose their privilege, and must take the consequences. In other words, if the privilege is abused, protection is withdrawn.

(*Youmans v Smith*, 153 NY 214, 219–220 [1897] [internal quotations omitted]). This “common law privilege afforded to words spoken and written in the course of judicial proceedings . . . is lost if abused, and is limited to statements which are pertinent to the subject matter of the lawsuit, made in good faith and without malice” (*Halperin v Salvan*, 117 AD2d 544, 548 [1st Dept 1986]).

The theory underlying the “sham action” exception or “sham litigation”, *Flomenhaft v. Finkelstein*, 127 AD3d 634, 638 [1st Dept 2015], is inapplicable here as it is inconsistent with the policy and breadth of the absolute privilege expressed by the Court of Appeals in *Weiner*, which specifically applies even to “false and malicious complaints” (*Wiener*, 22 NY2d at 332). The critical distinction in the cases relied upon by Plaintiff is that “sham actions” are filed publicly before the attorney or judge has an opportunity to respond, while complaints made to governing

bodies overseeing attorneys and judges, and the quasi-judicial proceedings that follow, are “private and confidential” (*id.*).

In other words, there can be no abuse of the absolute privilege in the submission of a confidential complaint to the Commission, because the only persons to whom the complaint is published are public officials (Judiciary Law §41) charged with “receiv[ing], initiat[ing], investigat[ing] and hear[ing] complaints with respect to the conduct, qualifications, fitness to perform, or performance of official duties of any judge” (Judiciary Law §44), and who are bound by law to keep such complaints and related proceedings confidential (Judiciary Law §§ 45–46; *Wiener*, 22 NY2d at 332). Such circumstances are among the few, but well-recognized, reasons for application of an absolute privilege:

Because the perceived social benefit in...he discharge of governmental responsibility sometimes outweighs the individual's underlying right to a good reputation, the individual's right may have to yield to a privilege granted the speaker barring recovery of damages for the defamatory statements...If the privilege is absolute, it confers immunity from liability regardless of motive.

...The public interest requires that such statements be absolutely privileged so that those discharging a public function may speak freely in doing so, insulated from harassment and fear of financial hazard...

Park Knoll Assoc. v Schmidt, 59 NY2d 205, 208–209 [1983] [emphasis added; internal quotations and citations omitted].

By contrast, each of the cases on which Plaintiff relies for his argument that the “sham action” exception precludes dismissal of this case involved written statements used in a *public, civil action*, where the allegedly defamatory statements appeared in a civil pleading filed by an attorney. In each such case, the plaintiff was an attorney; and the allegedly defamatory statements were made to the public generally, before the plaintiff attorney had any opportunity to respond to the allegations confidentially in the context of a Grievance Committee investigation. Those cases present the opposite factual scenario of what has occurred here. Until Plaintiff commenced this action via a publicly-viewable complaint, to which he attached a full copy of Defendant’s non-public statements to the Commission, the statements and the Commission’s proceedings were confidential. Pursuant to *Wiener v. Weintraub*, Defendant’s statements could not be deemed abusive of any privilege. Accordingly, the “sham action” exception to the absolute privilege does not apply here as a matter of law.

In fact, as the Commission’s counsel asserted, there is a very real fear that others may be deterred from bringing legitimate and serious complaints before the Commission if retribution in the form of a lawsuit is a viable possibility. The purpose of keeping the Commission’s proceedings confidential is to protect not only the Judge involved but to protect the public by providing a safe forum in which to have complaints addressed. As counsel for the Commission stated, the absolute

privilege and confidentiality of the proceedings before it are critical to the Commission's investigation and to maintaining public confidence in the integrity of the judiciary.

Given that the subject-matter of this lawsuit squarely falls within the precedent of *Wiener v. Weintraub* and its progeny, and that Plaintiff has not furnished any "substantial argument" or precedent which warrant consideration of "an extension, modification or reversal of existing law" (CPLR 3211[g][1]), Defendant's statements must be deemed absolutely privileged and the complaint must be dismissed. As a statutory consequence, Defendant is entitled to an award of "costs and attorney's fees" (Civil Rights Law §70-a(1)(a)), as such an award is mandatory.

Based on the foregoing, it is hereby

ORDERED that Defendant's motion to dismiss is GRANTED; and it is further

ORDERED that the motion to dismiss of Intervenor-Defendant Commission is GRANTED; and it is further

ORDERED that the complaint is DISMISSED with prejudice; and it is further

ORDERED that a hearing on the amount of attorney's fees and costs to be awarded to Defendant shall be held in person on April 27, 2023 at 10:00 a.m.

The foregoing constitutes the decision and order of the Court.

Dated: April 4, 2023
Poughkeepsie, New York

ENTER:



MARIA G. ROSA, J.S.C.

Scanned to the E-File System only

Pursuant to CPLR §5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.

Michael H. Sussman, Esq.
1 Railroad Avenue, Suite 3
PO Box 1005
Goshen, NY 10924

Davis Wright Tremaine LLP
1251 Avenue of the Americas, 21st Floor
New York, NY 10020

New York State Commission on Judicial Conduct
Corning Tower, Suite 230, Empire State Plaza
Albany, NY 12223

ADMINISTRATOR'S COMPLAINT

EXHIBIT 2

In the Matter of: Frank M. Mora
Poughkeepsie City Court Judge
Dutchess County

Complaint # 2023/N-0369

Statutory Authorization

This complaint is filed at the direction of the State Commission on Judicial Conduct in compliance with Section 44, subdivision 2, of the Judiciary Law and is intended to serve as the basis for an investigation. In accordance with Section 44, subdivision 3, in the event that the above-named judge is required to appear before the Commission or any of its members or staff, this complaint will be served at the time the judge is notified in writing of the required appearance.

This complaint is not an accusatory instrument. It provides a basis to commence an investigation. Thus, a judge under investigation may be required to reply to other allegations in addition to those set forth below.

Complaint

Judge Mora brought a defamation lawsuit against Stacey Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), in the Supreme Court, Dutchess County, in retaliation for Ms. Koch's having filed a complaint against him with the New York State Commission on Judicial Conduct.

New York, New York

Date Signed: April 27, 2023



Robert H. Tembeckjian, Administrator

Authorized on April 20, 2023



EXHIBIT 3

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

JOSEPH W. BELLUCK, CHAIR
TAA GRAYS, VICE CHAIR
HON. FERNANDO M. CAMACHO
BRIAN C. DOYLE
HON. JOHN A. FALK
HON. ROBERT J. MILLER
NINA M. MOORE
MARVIN RAY RASKIN
GRAHAM B. SEITER
HON. ANIL C. SINGH
AKOSUA GARCIA YEBOAH
MEMBERS
CELIA A. ZAHNER, CLERK

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006
646-386-4800 518-299-1757
TELEPHONE FACSIMILE
www.cjc.ny.gov

CONFIDENTIAL

April 8, 2024

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL
MARK LEVINE
DEPUTY ADMINISTRATOR
BRENDA CORREA
JENNIFER L. LOWRY
MELISSA DIPALO
PRINCIPAL ATTORNEYS
VICKIE MA
ERIC ARNONE
SENIOR ATTORNEYS
KELVIN S. DAVIS
STELLA E. GILLILAND
ADAM B. KAHAN
STAFF ATTORNEYS
ALAN W. FRIEDBERG
SPECIAL COUNSEL

Via Email: [REDACTED]@yoderlaveglia.com; [REDACTED]@cjllaw.org

Hon. Frank M. Mora
c/o Chad J. LaVeglia, Esq.
Yoder Laveglia LLP
626 RXR Plaza, Suite #613
Uniondale, New York 11566

Re: File Nos. 2021/N-1120 and 2023/N-0369

Dear Judge Mora:

In connection with its investigation into allegations that you refused to wear a face mask at Seeta Eye Center on December 28, 2021 (2021/N-1120) and brought a defamation lawsuit against Stacey Koch, *Frank Mora v Stacey Koch*, in retaliation for Ms. Koch filing a complaint against you with the Commission (2023/N-0369), the Commission requests the following information:

1. A list of any and all email addresses that you used between December 28, 2021, to the present, including but not limited to [REDACTED]@nycourts.gov and [REDACTED]@yahoo.com.
2. Copies of any and all emails between you and Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on

Hon. Frank M. Mora

April 8, 2024

Page 2

December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

3. Copies of any and all text messages between you Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

4. Copies of any and all letters between you Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

5. Copies of any and all voice recordings made by and between you and Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

In addition to your responses to the foregoing, during your February 27, 2024, appearance at the Commission, you voluntarily testified about communications with your attorney, Michael H. Sussman, Esq., regarding the defamation lawsuit that you brought against Stacey Koch. In addition, in your letter dated March 12, 2024, supplementing the testimony that you gave at your appearance, you represented that you initiated the lawsuit against Ms. Koch “based on [Mr. Sussman]’s legal advice” and that Mr. Sussman “advised” you it “was a viable lawsuit.” Having voluntarily testified about your communications with your attorney and having placed those communications at issue, you have waived the attorney-client privilege. See

Hon. Frank M. Mora

April 8, 2024

Page 3

e.g. Jakobleff v. Cerrato, Sweeney and Cohn, 97 AD2d 834, 835 (2d Dept 1983); *see also People v Patrick*, 182 NY 131, 175 (1905).

Please sign and return the enclosed Waiver of Confidential Communications permitting Michael H. Sussman, Esq., to provide communications, documents, information and testimony to the New York State Commission on Judicial Conduct related to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

Please respond in writing to this inquiry and sign and date the enclosed waiver and return it to the Commission on or before April 26, 2024.

Thank you for your continued attention to this matter.

Very truly yours,



MARK LEVINE

Deputy Administrator

Encl.

cc: Melissa DiPalo, Esq. – [REDACTED]@cjc.ny.gov

WAIVER OF CONFIDENTIAL COMMUNICATIONS

File Nos. 2021/N-1120, 2023/N-0369

I, FRANK M. MORA, a Judge of the Poughkeepsie City Court, Dutchess County, hereby waive the attorney-client privilege of confidentiality and give my attorney in *Frank Mora v Stacey Koch* (Index No. 2022-54141), Michael H. Sussman, Esq., permission to provide communications, documents, information and testimony to the New York State Commission on Judicial Conduct related to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

Dated:

Hon. Frank M. Mora
Judge of the Poughkeepsie City Court

May 9, 2024

Via Electronic Mail

██████████@cjc.ny.gov, ██████████@cjc.ny.gov

PERSONAL & CONFIDENTIAL

Mark Levine, Esq.
Deputy Administrator
Melissa DiPalo, Esq.
Senior Attorney
New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Re: File Nos. 2021/N-1120 and 2023/N-0369
Hon. Frank M. Mora

Dear Deputy Administrator Levine and Ms. DiPalo:

Thank you for the extension for Judge Mora to respond to your letter dated April 8, 2024, alleging that Judge Mora waived his attorney-client privilege. The following is provided to the best of Judge Mora's recollection. Judge Mora respectfully reserves the right to file supplemental information if necessary. Judge Mora has signed below, acknowledging that he has read this letter and adopts its contents.

Judge Mora disputes that he waived the attorney-client privilege when he testified in front of the Commission on February 27, 2024. Judge Mora's testimony was required per your letter dated October 13, 2023, in accordance with Section 44, subdivision 3, of the Judiciary Law. There is nothing voluntary about a Judge testifying before the Commission. In fact, if a Judge does not answer the Commission's questions, that Judge would be subject to a complaint for failing to cooperate with the Commission. Per the transcript, Page 2, Lines 13-16, Referee Goldstock advised Judge Mora that the rules of evidence do not apply. In addition, no warning was given to Judge Mora about possibly waiving the attorney-client privilege regarding his testimony about Mr. Sussman, as it was given to him on Page 85, Line 25 through Page 86, Line 6, when he was testifying about Michael Brown.

Notwithstanding the above, attached please find an Affirmation from Michael H. Sussman, Esq., and all Koch related emails from December 28, 2021, through the date of filing the Koch lawsuit (12/29/22).

Judge Mora only communicated with Mr. Sussman from ██████████@yahoo.com.

The first email communication between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference is dated December 8, 2022. Judge Mora has reviewed that email, and all emails from that period, that are being submitted to the Commission (a total of 14), and they are complete and accurate. Some emails have been redacted as they relate to non-Koch matters.

There are no text messages between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

There are no letters between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

There are no voice recordings between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

Mr. Sussman's affirmation, and the emails provided, corroborate Judge Mora's testimony that the Koch defamation lawsuit was not brought in retaliation for Ms. Koch having filed a complaint against him with the Commission.

Thank you.



Chad J. LaVeglia Esq.



Hon. Frank Mora

AFFIRMATION OF MICHAEL H. SUSSMAN, ESQ.

STATE OF NEW YORK)
)
COUNTY OF ORANGE) ss.:

Michael H. Sussman, Esq. states:

1. I am a 1978 honors graduate of Harvard Law School and have worked as a public interest lawyer for the last 46 years, first for the United States Department of Justice Civil Rights Division, then for the NAACP National Office and starting on January 1, 1986 in my own practice in this state. I focus on civil rights and constitutional and criminal law. I am duly licensed attorney in the State of New York, having been admitted on February 5, 1986. My office is now located at 1 Railroad Avenue, Goshen, New York.
2. I first met Judge Mora in or about 2019, as he was one of the plaintiffs in a class-action lawsuit regarding the State of New York's repeal of religious exemptions for school vaccinations.
3. I currently represent Judge Mora in his lawsuit against the New York State Unified Court System, et al, regarding his religious discrimination claims for denying him a religious exemption to the Covid-19 vaccination policy. Mr. Mora signed a retainer in that matter on November 12, 2022. We are currently awaiting argument in the Second Circuit on our appeal of the district's court's order granting defendants' motion to dismiss.
4. I have advised and counseled Judge Mora *pro-bono* regarding his pending matters before the New York State Commission on Judicial Conduct (hereafter "Commission") from on or about March 30, 2022, to present though I understand he has had his own primary counsel in that matter.
5. I represented Judge Mora in a defamation lawsuit against Stacey Koch which I filed in late 2022.
6. Although I was apprised of Ms. Koch's complaint and the Commission's proceedings from on or about April 12, 2022, through the present day, the first time Judge Mora and I spoke about taking legal action against Ms. Koch, was after Michael Brown appeared before the Commission in or about September 2022.
7. Sometime after September 2022, Judge Mora contacted me by telephone, relayed what Michael Brown told him, and asked if he had any legal recourse, specifically tortious interference with business. In this time period, I was working on preparing

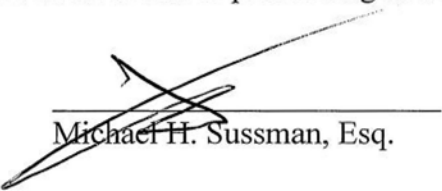
the federal Complaint. In mid-November 2022, Mr. Mora requested that I work on the SEETA matter and I did prepare a complaint by mid-December and provided it to him with a retainer agreement.

8. I did this after researching the matter, and concluding Judge Mora did not meet all the elements for tortious interference with business but did meet the elements of defamation.
9. To my knowledge, Judge Mora did not file his lawsuit because Ms. Koch complained about him to the Commission; rather the nature and false content of her complaint and her words and actions related by Michael Brown triggered the lawsuit.
10. At no point did I advise Judge Mora that this was a SLAPP suit, or that it could be a SLAPP suit. It was my professional opinion prior to suit, and still to this day, that it was not a SLAPP suit. SLAPP was not discussed until after Ms. Koch filed her motion to dismiss. Supreme Court granted Ms. Koch's absolute immunity argument. I wished to appeal and believed then, and I still do, that Supreme Court's decision was erroneous. Judge Mora declined to appeal and wished to resolve the matter as we eventually did.
11. I never advised Judge Mora that this suit was not viable. It was my professional opinion then, and continues to be, that the suit was viable and that absolute immunity should not apply to false statements made in bad faith, as I believe were the facts here.
12. The only email address that I communicated with Judge Mora was and is [REDACTED]@yahoo.com.
13. The first email communication between Judge Mora and myself from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference is dated December 8, 2022. I have reviewed that email, and all emails from that period, that are being submitted to the Commission by Mr. LaVeglia (a total of 14), and they are complete and accurate. Some emails have been redacted as they relate to non-Koch matters.
14. I have no text messages between Judge Mora and myself from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference. I know of no such text messages and rarely engage in text messages

about work-related issues with anyone.

15. Other than the retainer agreement, I know of no letters between Judge Mora and myself from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference. Likewise, I made no voice recordings of any conversation with Judge Mora at any time.

I affirm this day of May, 2024, under the penalties of perjury under the laws of the State of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.


Michael H. Sussman, Esq.


NOTARY PUBLIC

My commission expires:

CAITLYN M HIGGINS NOTARY PUBLIC, STATE OF NEW YORK Registration No. 01H10021694 Qualified in Orange County Commission Expires 03/28

Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al
Complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 8, 2022 at 10:40 AM EST

Would you please represent me against Seeta Eye/Stacey Koch? We only have until 12/28/22 to file.

On Tuesday, December 6, 2022 at 10:23:21 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

of course.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, December 6, 2022 4:45 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

To see what is there, I have to access PACER. Is it OK if I set up my own private account to do so?

On Tuesday, December 6, 2022 at 04:41:56 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

FYI

Michael Sussman

From: NYSD_ECF_Pool@nysd.uscourts.gov <NYSD_ECF_Pool@nysd.uscourts.gov>

Sent: Tuesday, December 6, 2022 4:22 PM

To: CourtMail@nysd.uscourts.gov <CourtMail@nysd.uscourts.gov>

Subject: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

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U.S. District Court
Southern District of New York

Notice of Electronic Filing

The following transaction was entered by Sussman, Michael on 12/6/2022 at 4:22 PM EST and filed on 12/6/2022

Re: Demand for correction/retraction

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Cc: [REDACTED]@sussman.law

Date: Wednesday, December 14, 2022 at 01:24 PM EST

I am enclosing for your review the Koch complaint. Please review and make any suggestions so we may file this week. I will send you a retainer to cover this. Ms

Michael Sussman

Re: Demand for correction/retraction

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, December 14, 2022 at 03:30 PM EST

I will review...the elements of tortious interference do not exactly fit:

- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...
- The defendant's knowledge of the contract - yes..as she wrote knowing you were a judge.
- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
- Actual breach of the contract - no, an investigation is not a breach of any contract you have with OCA and you remain employed...

I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:23 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

I made some suggested changes and asked some questions in red.

We are not adding in a tortious interference claim?

How much are we suing for and are you doing this one on a contingency basis?

On Wednesday, December 14, 2022 at 01:24:57 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I am enclosing for your review the Koch complaint. Please review and make any suggestions so we may file this week. I will send you a retainer to cover this. Ms

Michael Sussman

Re: Demand for correction/retraction

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, December 14, 2022 at 03:47 PM EST

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

On Wednesday, December 14, 2022 at 03:30:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I will review...the elements of tortious interference do not exactly fit:

- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...
- The defendant's knowledge of the contract - yes..as she wrote knowing you were a judge.
- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
- Actual breach of the contract - no, an investigation is not a breach of any contract you have with OCA and you remain employed...

I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:23 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

I made some suggested changes and asked some questions in red.

We are not adding in a tortious interference claim?

How much are we suing for and are you doing this one on a contingency basis?

Re: Demand for correction/retraction

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, December 14, 2022 at 04:41 PM EST

There is no private right of action under HIPAA; there is a state law invasion of privacy claim developed in my case, Juric v. Bergenstrasser which might be possible...but i am not sure we gain much from it.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:47 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

On Wednesday, December 14, 2022 at 03:30:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I will review...the elements of tortious interference do not exactly fit:

- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...
- The defendant's knowledge of the contract - yes..as she wrote knowing you were a judge.
- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
- Actual breach of the contract - no, an investigation is not a breach of any contract you have with OCA and you remain employed...

I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:23 PM

retainer and revised complaint in Mora v. Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, December 14, 2022 at 05:28 PM EST

Per your request. Best to you -

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



DOC121422-006.pdf
586.5kB

Re: Demand for correction/retraction

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, December 14, 2022 at 10:21 PM EST

Should I file a HIPAA complaint with the government?

On Wednesday, December 14, 2022 at 04:41:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

There is no private right of action under HIPAA; there is a state law invasion of privacy claim developed in my case, Juric v. Bergenstrasser which might be possible...but i am not sure we gain much from it.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:47 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

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- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...
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- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
- Actual breach of the contract - no, an investigation is not a breach of any contract you have with OCA and you remain employed...

I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Re: retainer and revised complaint in Mora v. Koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 15, 2022 at 08:17 AM EST

It looks good, but needs a few changes.

Retainer

- it is Stacey not Tracey

Complaint

5. change "he" to "the"

25. quotes are needed before huge scene" on 2nd line; remove County before Judge on 2nd to last line

26. change "Ceeta" to "Seeta"

On Wednesday, December 14, 2022 at 05:28:07 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Per your request. Best to you -

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: Demand for correction/retraction

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 15, 2022 at 09:28 AM EST

I see you are wishy-washy on that one. 🤔

On Thursday, December 15, 2022 at 09:15:03 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

No

[Get Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 10:21:37 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Should I file a HIPAA complaint with the government?

On Wednesday, December 14, 2022 at 04:41:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

There is no private right of action under HIPAA; there is a state law invasion of privacy claim developed in my case, Juric v. Bergenstrasser which might be possible...but i am not sure we gain much from it.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:47 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

On Wednesday, December 14, 2022 at 03:30:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I will review...the elements of tortious interference do not exactly fit:

- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...

Re: retainer and revised complaint in Mora v. Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, December 15, 2022 at 05:06 PM EST

Ok changes made-please change name in retainer, sign and return and we file this Monday.

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, December 15, 2022 8:17:37 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: retainer and revised complaint in Mora v. Koch

It looks good, but needs a few changes.

Retainer

- it is Stacey not Tracey

Complaint

5. change "he" to "the"

25. quotes are needed before "huge scene" on 2nd line; remove County before Judge on 2nd to last line

26. change "Ceeta" to "Seeta"

On Wednesday, December 14, 2022 at 05:28:07 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Per your request. Best to you -

Michael Sussman

Sussman & Associates

1 Railroad Ave., 3rd Floor

PO Box 1005

Goshen, NY 10924

[REDACTED]

edits to final complaint

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, December 15, 2022 at 05:08 PM EST

I made the three spelling charges you noted...we will file the attached upon receipt of the retainer agreement and costs check, hopefully on or before Monday. Best to you.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



mora complaint re Seeta final 121522.docx
20.8kB

Re: edits to final complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 15, 2022 at 09:21 PM EST

Michael,

Attached please find the signed retainer agreement, along with confirmation from TD Bank for issuance of the \$500 retainer payment. This is through TD Bank Bill Pay and goes directly from the bank to you. As they say, the check is in the mail. As it has been issued, I hope you will file before you receive it. I think you know I'm good for it. 🙏

The word "County" still needs to be removed from the 2nd to last sentence in #25. Also in 25 (a), "caused" should be "cause."

Thank you.

Frank

On Thursday, December 15, 2022 at 05:08:51 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I made the three spelling charges you noted...we will file the attached upon receipt of the retainer agreement and costs check, hopefully on or before Monday. Best to you.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



Koch lawsuit retainer agreement.pdf

2.2MB



Koch lawsuit retainer TD Bank check confirmation.pdf

57.9kB

Re: edits to final complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, December 19, 2022 at 03:59 PM EST

Good afternoon.

Did you file the complaint against Koch?

[REDACTED]

[REDACTED]

On Thursday, December 15, 2022 at 09:21:42 PM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Michael,

Attached please find the signed retainer agreement, along with confirmation from TD Bank for issuance of the \$500 retainer payment. This is through TD Bank Bill Pay and goes directly from the bank to you. As they say, the check is in the mail. As it has been issued, I hope you will file before you receive it. I think you know I'm good for it. 🙄

The word "County" still needs to be removed from the 2nd to last sentence in #25. Also in 25 (a), "caused" should be "cause."

Thank you.

Frank

On Thursday, December 15, 2022 at 05:08:51 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I made the three spelling charges you noted...we will file the attached upon receipt of the retainer agreement and costs check, hopefully on or before Monday. Best to you.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

RE: status

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, December 22, 2022 at 08:25 AM EST

It is fine, just wanted you to know we had filed and met the deadline of concern to you.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, December 22, 2022 8:20 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: status

I just checked on TD Bank's website and it shows the check should be there by today. Sorry for the delay, but they are competing with Christmas mailings.

Thanks for the update.

On Thursday, December 22, 2022 at 07:23:07 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

We did not receive your check for costs for the second case but, regardless, did file it yesterday.

[REDACTED]

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924



EXHIBIT 5

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

JOSEPH W. BELLUCK, CHAIR
TAA GRAYS, VICE CHAIR
HON. FERNANDO M. CAMACHO
BRIAN C. DOYLE
HON. JOHN A. FALK
HON. ROBERT J. MILLER
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HON. ANIL C. SINGH
AKOSUA GARCIA YEBOAH
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61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006
646-386-4800 518-299-1757
TELEPHONE FACSIMILE
www.cjc.ny.gov

CONFIDENTIAL

May 21, 2024

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL
MARK LEVINE
DEPUTY ADMINISTRATOR
BRENDA CORREA
JENNIFER L. LOWRY
MELISSA DIPALO
PRINCIPAL ATTORNEYS
VICKIE MA
ERIC ARNONE
SENIOR ATTORNEYS
KELVIN S. DAVIS
STELLA E. GILLILAND
ADAM B. KAHAN
STAFF ATTORNEYS
ALAN W. FRIEDBERG
SPECIAL COUNSEL

Via Email: [REDACTED] **@cjllaw.org**

Hon. Frank M. Mora
c/o Chad J. LaVeglia, Esq.
Yoder Laveglia LLP
626 RXR Plaza, Suite #613
Uniondale, New York 11566

Re: File Nos. 2021/N-1120 and 2023/N-0369

Dear Mr. LaVeglia:

I write in response to your letter dated May 9, 2024, in response to mine of April 8, 2024. Copies of both letters are attached as Exhibit 1 and Exhibit 2, respectively.

I. Request for Copies of Emails, Text Messages, etc.

At the outset, the information that you submitted with your letter was not wholly responsive to the requests made in Commission's letter of April 8. The Commission requested that you produce copies of any and all emails, text messages, letters and voice recordings between you and Mr. Sussman **from December 28, 2021, to present** (Exhibit 2, Questions 2 through 5). As you stated in your letter of May 9, you provided only "all Koch related emails from December 28, 2021, through the date of filing the Koch lawsuit (12/29/2022)" (Exhibit 1, p. 1).

*Chad J. LaVeglia, Esq.**May 21, 2024**Page 2*

The Commission requires that the judge provide the requested information for the time period specified in Questions 2 through 5 of the Commission's April 8th letter. As we previously advised in our letter dated October 13, 2023, the judge's failure to respond to the Commission's requests may be found to be a failure to cooperate with the Commission's investigation. *See Matter of O'Connor*, 2019 Ann Rep of NY Commn on Jud Conduct at 182, *removal accepted*, 32 NY3d 121 (2018); *Matter of McAndrews*, 2014 Ann Rep of NY Commn on Jud Conduct at 157.

II. Waiver of Attorney-Client Privilege

In your letter, you write that Judge Mora "disputes that he waived the attorney-client privilege when he testified in front of the Commission" because he was required to testify, would have been subject to a failure-to-cooperate charge had he "failed to answer the Commission's questions," and was not "warn[ed] . . . about possibly waiving the attorney-client privilege regarding his testimony about Mr. Sussman" (Exhibit 1, p. 1). You failed to provide a single citation for any authority in support for your position. In fact, case law firmly establishes the waiver.

Pursuant to statute, the attorney-client privilege protects "confidential communication[s] made between the attorney or his employee and the client in the course of professional employment" from compelled disclosure "in any action, disciplinary trial or hearing, or administrative action, proceeding or hearing conducted by or on behalf of any state, municipal or local governmental agency" CPLR 4503(a). However, the privilege may be waived by a number of circumstances, and "[e]xpress waiver of the privilege is rare," such that "cases are usually concerned with waiver by implication." Prince, Richardson on Evidence § 5-209. One common waiver scenario is the "at issue" waiver, which occurs "where a party affirmatively places the subject matter of its own privileged communication at issue in litigation" by "assert[ing] a claim or defense that he intends to prove by use of the privileged materials," such that "invasion of the privilege is required to determine the validity of a claim or defense of the party

Chad J. LaVeglia, Esq.
May 21, 2024
Page 3

asserting the privilege, and application of the privilege would deprive the adversary of vital information.” *Deutsche Bank Trust Company of Americas v Tri-Links Inv. Trust*, 43 AD3d 56, 63-64 (1st Dept 2007) (internal citations omitted); see *Melcher v Apollo Medical Fund Management LLC*, 37 AD3d 217 (1st Dept 2007) (attorney-client privilege waived where the client “testif[ied] that he replied only upon the advice of [his attorney] in setting up [an offshore corporation] as he did”); see generally *US Bank National Association v Lightstone Holdings LLC*, 196 AD3d 445 (1st Dept 2021).

Here, the plain language of the statutory privilege made it applicable to the Commission’s investigation as an “administrative action” or “proceeding” conducted by a state agency, such that no “warning” was necessary – especially for a client-attorney represented by his own counsel. CPLR 4503(a). While Judge Mora certainly was required to appear before the Commission to testify, a judge so situated may attempt to invoke a federal or state law privilege where applicable. Here, of course, your own opening statement made clear that Judge Mora “relied exclusively on his attorney’s advice” in filing the lawsuit underlying the misconduct charge against him (IA, p. 10),¹ and Judge Mora subsequently gave extensive testimony about his reliance on his attorney’s advice with regard to the commencement and continuation of the suit and the merits of an appeal. There is simply no question that he “asserted a claim or defense that he intend[ed] to prove by use of the privileged materials,” thus causing the privilege to be waived. See *Deutsche Bank Trust Company*, 43 AD3d at 64.

In view of the forgoing, the Commission reiterates its request that Judge Mora sign, date and return the Waiver of Confidential Communications that was previously provided with the Commission’s letter of April 8, and a copy of which is attached hereto. Should Judge Mora decline to execute the waiver for the reasons proffered in your May 9 letter, **please provide whatever legal authority you have in support of the position that Judge Mora has not waived the attorney-client privilege.**

¹ “IA” refers to transcript of Judge Mora’s testimony at his investigative appearance on February 27, 2024, which was provided to the judge by letter dated April 10, 2024.

Chad J. LaVeglia, Esq.

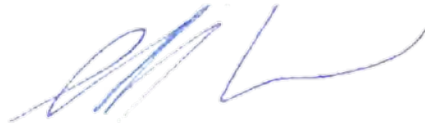
May 21, 2024

Page 4

Kindly submit (1) the information requested in Questions 2 through 5 of the Commission's letter of April 8, 2024, and (2) an execute Waiver of Confidential Communications on or before June 12, 2024.

Thank you for your prompt attention to this matter.

Very truly yours,



MARK LEVINE
Deputy Administrator

cc: Melissa DiPalo, Principal Attorney
Via Email: [REDACTED]@cjc.ny.gov

WAIVER OF CONFIDENTIAL COMMUNICATIONS

File Nos. 2021/N-1120, 2023/N-0369

I, FRANK M. MORA, a Judge of the Poughkeepsie City Court, Dutchess County, hereby waive the attorney-client privilege of confidentiality and give my attorney in *Frank Mora v Stacey Koch* (Index No. 2022-54141), Michael H. Sussman, Esq., permission to provide communications, documents, information and testimony to the New York State Commission on Judicial Conduct related to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

Dated:

Hon. Frank M. Mora
Judge of the Poughkeepsie City Court

EXHIBIT 1

May 9, 2024

Via Electronic Mail

██████████@cjc.ny.gov, ██████████@cjc.ny.gov

PERSONAL & CONFIDENTIAL

Mark Levine, Esq.
Deputy Administrator
Melissa DiPalo, Esq.
Senior Attorney
New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Re: File Nos. 2021/N-1120 and 2023/N-0369
Hon. Frank M. Mora

Dear Deputy Administrator Levine and Ms. DiPalo:

Thank you for the extension for Judge Mora to respond to your letter dated April 8, 2024, alleging that Judge Mora waived his attorney-client privilege. The following is provided to the best of Judge Mora's recollection. Judge Mora respectfully reserves the right to file supplemental information if necessary. Judge Mora has signed below, acknowledging that he has read this letter and adopts its contents.

Judge Mora disputes that he waived the attorney-client privilege when he testified in front of the Commission on February 27, 2024. Judge Mora's testimony was required per your letter dated October 13, 2023, in accordance with Section 44, subdivision 3, of the Judiciary Law. There is nothing voluntary about a Judge testifying before the Commission. In fact, if a Judge does not answer the Commission's questions, that Judge would be subject to a complaint for failing to cooperate with the Commission. Per the transcript, Page 2, Lines 13-16, Referee Goldstock advised Judge Mora that the rules of evidence do not apply. In addition, no warning was given to Judge Mora about possibly waiving the attorney-client privilege regarding his testimony about Mr. Sussman, as it was given to him on Page 85, Line 25 through Page 86, Line 6, when he was testifying about Michael Brown.

Notwithstanding the above, attached please find an Affirmation from Michael H. Sussman, Esq., and all Koch related emails from December 28, 2021, through the date of filing the Koch lawsuit (12/29/22).

Judge Mora only communicated with Mr. Sussman from ██████████@yahoo.com.

The first email communication between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference is dated December 8, 2022. Judge Mora has reviewed that email, and all emails from that period, that are being submitted to the Commission (a total of 14), and they are complete and accurate. Some emails have been redacted as they relate to non-Koch matters.

There are no text messages between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

There are no letters between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

There are no voice recordings between Judge Mora and Mr. Sussman from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

Mr. Sussman's affirmation, and the emails provided, corroborate Judge Mora's testimony that the Koch defamation lawsuit was not brought in retaliation for Ms. Koch having filed a complaint against him with the Commission.

Thank you.



Chad J. LaVeglia Esq.



Hon. Frank Mora

AFFIRMATION OF MICHAEL H. SUSSMAN, ESQ.

STATE OF NEW YORK)
)
COUNTY OF ORANGE) ss.:

Michael H. Sussman, Esq. states:

1. I am a 1978 honors graduate of Harvard Law School and have worked as a public interest lawyer for the last 46 years, first for the United States Department of Justice Civil Rights Division, then for the NAACP National Office and starting on January 1, 1986 in my own practice in this state. I focus on civil rights and constitutional and criminal law. I am duly licensed attorney in the State of New York, having been admitted on February 5, 1986. My office is now located at 1 Railroad Avenue, Goshen, New York.
2. I first met Judge Mora in or about 2019, as he was one of the plaintiffs in a class-action lawsuit regarding the State of New York's repeal of religious exemptions for school vaccinations.
3. I currently represent Judge Mora in his lawsuit against the New York State Unified Court System, et al, regarding his religious discrimination claims for denying him a religious exemption to the Covid-19 vaccination policy. Mr. Mora signed a retainer in that matter on November 12, 2022. We are currently awaiting argument in the Second Circuit on our appeal of the district's court's order granting defendants' motion to dismiss.
4. I have advised and counseled Judge Mora *pro-bono* regarding his pending matters before the New York State Commission on Judicial Conduct (hereafter "Commission") from on or about March 30, 2022, to present though I understand he has had his own primary counsel in that matter.
5. I represented Judge Mora in a defamation lawsuit against Stacey Koch which I filed in late 2022.
6. Although I was apprised of Ms. Koch's complaint and the Commission's proceedings from on or about April 12, 2022, through the present day, the first time Judge Mora and I spoke about taking legal action against Ms. Koch, was after Michael Brown appeared before the Commission in or about September 2022.
7. Sometime after September 2022, Judge Mora contacted me by telephone, relayed what Michael Brown told him, and asked if he had any legal recourse, specifically tortious interference with business. In this time period, I was working on preparing

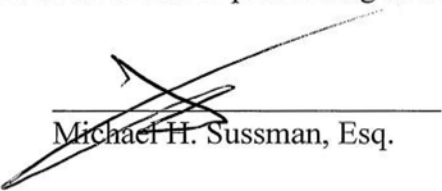
the federal Complaint. In mid-November 2022, Mr. Mora requested that I work on the SEETA matter and I did prepare a complaint by mid-December and provided it to him with a retainer agreement.

8. I did this after researching the matter, and concluding Judge Mora did not meet all the elements for tortious interference with business but did meet the elements of defamation.
9. To my knowledge, Judge Mora did not file his lawsuit because Ms. Koch complained about him to the Commission; rather the nature and false content of her complaint and her words and actions related by Michael Brown triggered the lawsuit.
10. At no point did I advise Judge Mora that this was a SLAPP suit, or that it could be a SLAPP suit. It was my professional opinion prior to suit, and still to this day, that it was not a SLAPP suit. SLAPP was not discussed until after Ms. Koch filed her motion to dismiss. Supreme Court granted Ms. Koch's absolute immunity argument. I wished to appeal and believed then, and I still do, that Supreme Court's decision was erroneous. Judge Mora declined to appeal and wished to resolve the matter as we eventually did.
11. I never advised Judge Mora that this suit was not viable. It was my professional opinion then, and continues to be, that the suit was viable and that absolute immunity should not apply to false statements made in bad faith, as I believe were the facts here.
12. The only email address that I communicated with Judge Mora was and is [REDACTED]@yahoo.com.
13. The first email communication between Judge Mora and myself from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference is dated December 8, 2022. I have reviewed that email, and all emails from that period, that are being submitted to the Commission by Mr. LaVeglia (a total of 14), and they are complete and accurate. Some emails have been redacted as they relate to non-Koch matters.
14. I have no text messages between Judge Mora and myself from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference. I know of no such text messages and rarely engage in text messages

about work-related issues with anyone.

15. Other than the retainer agreement, I know of no letters between Judge Mora and myself from December 28, 2021, to the date of the *Koch* suit filing (12/29/22), that was exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference. Likewise, I made no voice recordings of any conversation with Judge Mora at any time.

I affirm this day of May, 2024, under the penalties of perjury under the laws of the State of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.


Michael H. Sussman, Esq.


NOTARY PUBLIC

My commission expires:

CAITLYN M HIGGINS NOTARY PUBLIC, STATE OF NEW YORK Registration No. 01H10021694 Qualified in Orange County Commission Expires 03/28

Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al
Complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 8, 2022 at 10:40 AM EST

Would you please represent me against Seeta Eye/Stacey Koch? We only have until 12/28/22 to file.

On Tuesday, December 6, 2022 at 10:23:21 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

of course.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, December 6, 2022 4:45 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

To see what is there, I have to access PACER. Is it OK if I set up my own private account to do so?

On Tuesday, December 6, 2022 at 04:41:56 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

FYI

Michael Sussman

From: NYSD_ECF_Pool@nysd.uscourts.gov <NYSD_ECF_Pool@nysd.uscourts.gov>

Sent: Tuesday, December 6, 2022 4:22 PM

To: CourtMail@nysd.uscourts.gov <CourtMail@nysd.uscourts.gov>

Subject: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court
Southern District of New York

Notice of Electronic Filing

The following transaction was entered by Sussman, Michael on 12/6/2022 at 4:22 PM EST and filed on 12/6/2022

Re: Demand for correction/retraction

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Cc: [REDACTED]@sussman.law

Date: Wednesday, December 14, 2022 at 01:24 PM EST

I am enclosing for your review the Koch complaint. Please review and make any suggestions so we may file this week. I will send you a retainer to cover this. Ms

Michael Sussman

Re: Demand for correction/retraction

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, December 14, 2022 at 03:30 PM EST

I will review...the elements of tortious interference do not exactly fit:

- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...
- The defendant's knowledge of the contract - yes..as she wrote knowing you were a judge.
- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
- Actual breach of the contract - no, an investigation is not a breach of any contract you have with OCA and you remain employed...

I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:23 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

I made some suggested changes and asked some questions in red.

We are not adding in a tortious interference claim?

How much are we suing for and are you doing this one on a contingency basis?

On Wednesday, December 14, 2022 at 01:24:57 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I am enclosing for your review the Koch complaint. Please review and make any suggestions so we may file this week. I will send you a retainer to cover this. Ms

Michael Sussman

Re: Demand for correction/retraction

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, December 14, 2022 at 03:47 PM EST

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

On Wednesday, December 14, 2022 at 03:30:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I will review...the elements of tortious interference do not exactly fit:

- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...
- The defendant's knowledge of the contract - yes..as she wrote knowing you were a judge.
- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
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I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:23 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

I made some suggested changes and asked some questions in red.

We are not adding in a tortious interference claim?

How much are we suing for and are you doing this one on a contingency basis?

Re: Demand for correction/retraction

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, December 14, 2022 at 04:41 PM EST

There is no private right of action under HIPAA; there is a state law invasion of privacy claim developed in my case, Juric v. Bergenstrasser which might be possible...but i am not sure we gain much from it.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:47 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

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- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
- Actual breach of the contract - no, an investigation is not a breach of any contract you have with OCA and you remain employed...

I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:23 PM

retainer and revised complaint in Mora v. Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, December 14, 2022 at 05:28 PM EST

Per your request. Best to you -

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



DOC121422-006.pdf
586.5kB

Re: Demand for correction/retraction

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, December 14, 2022 at 10:21 PM EST

Should I file a HIPAA complaint with the government?

On Wednesday, December 14, 2022 at 04:41:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

There is no private right of action under HIPAA; there is a state law invasion of privacy claim developed in my case, *Juric v. Bergenstrasser* which might be possible...but i am not sure we gain much from it.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:47 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

On Wednesday, December 14, 2022 at 03:30:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

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- The defendant's intentional procurement of the third party's breach - yes, she sought your removal or the third party's breaking its contract with you BUT
- Actual breach of the contract - no, an investigation is not a breach of any contract you have with OCA and you remain employed...

I AM REVIEWING THE OTHER CHANGES...

I AM THINKING ABOUT 250K IN COMPENSATORY DAMAGES AND 175 IN PUNITIVES...

MS

Re: retainer and revised complaint in Mora v. Koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 15, 2022 at 08:17 AM EST

It looks good, but needs a few changes.

Retainer

- it is Stacey not Tracey

Complaint

5. change "he" to "the"

25. quotes are needed before "huge scene" on 2nd line; remove County before Judge on 2nd to last line

26. change "Ceeta" to "Seeta"

On Wednesday, December 14, 2022 at 05:28:07 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Per your request. Best to you -

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: Demand for correction/retraction

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 15, 2022 at 09:28 AM EST

I see you are wishy-washy on that one. 🤔

On Thursday, December 15, 2022 at 09:15:03 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

No

[Get Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 10:21:37 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Should I file a HIPAA complaint with the government?

On Wednesday, December 14, 2022 at 04:41:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

There is no private right of action under HIPAA; there is a state law invasion of privacy claim developed in my case, Juric v. Bergenstrasser which might be possible...but i am not sure we gain much from it.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, December 14, 2022 3:47 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Demand for correction/retraction

Sounds good on all.

What about adding in HIPAA violations, as she was demanding a diagnosis from my chiropractor? Also, along those lines, my chiropractor wanted to file HIPAA charges against her since the date it happened, but I asked him to hold off. Should we go forward with those charges and have either him or I make a HIPAA complaint?

On Wednesday, December 14, 2022 at 03:30:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I will review...the elements of tortious interference do not exactly fit:

- The existence of a valid and binding contract between the plaintiff and a third party - assuming OCA is the third party, yes...

Re: retainer and revised complaint in Mora v. Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, December 15, 2022 at 05:06 PM EST

Ok changes made-please change name in retainer, sign and return and we file this Monday.

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, December 15, 2022 8:17:37 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: retainer and revised complaint in Mora v. Koch

It looks good, but needs a few changes.

Retainer

- it is Stacey not Tracey

Complaint

5. change "he" to "the"

25. quotes are needed before "huge scene" on 2nd line; remove County before Judge on 2nd to last line

26. change "Ceeta" to "Seeta"

On Wednesday, December 14, 2022 at 05:28:07 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Per your request. Best to you -

Michael Sussman

Sussman & Associates

1 Railroad Ave., 3rd Floor

PO Box 1005

Goshen, NY 10924

[REDACTED]

edits to final complaint

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, December 15, 2022 at 05:08 PM EST

I made the three spelling charges you noted...we will file the attached upon receipt of the retainer agreement and costs check, hopefully on or before Monday. Best to you.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



mora complaint re Seeta final 121522.docx
20.8kB

Re: edits to final complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, December 15, 2022 at 09:21 PM EST

Michael,

Attached please find the signed retainer agreement, along with confirmation from TD Bank for issuance of the \$500 retainer payment. This is through TD Bank Bill Pay and goes directly from the bank to you. As they say, the check is in the mail. As it has been issued, I hope you will file before you receive it. I think you know I'm good for it. 🙏

The word "County" still needs to be removed from the 2nd to last sentence in #25. Also in 25 (a), "caused" should be "cause."

Thank you.

Frank

On Thursday, December 15, 2022 at 05:08:51 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I made the three spelling charges you noted...we will file the attached upon receipt of the retainer agreement and costs check, hopefully on or before Monday. Best to you.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



Koch lawsuit retainer agreement.pdf
2.2MB



Koch lawsuit retainer TD Bank check confirmation.pdf
57.9kB

Re: edits to final complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, December 19, 2022 at 03:59 PM EST

Good afternoon.

Did you file the complaint against Koch?

[REDACTED]

[REDACTED]

On Thursday, December 15, 2022 at 09:21:42 PM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Michael,

Attached please find the signed retainer agreement, along with confirmation from TD Bank for issuance of the \$500 retainer payment. This is through TD Bank Bill Pay and goes directly from the bank to you. As they say, the check is in the mail. As it has been issued, I hope you will file before you receive it. I think you know I'm good for it. 🙄

The word "County" still needs to be removed from the 2nd to last sentence in #25. Also in 25 (a), "caused" should be "cause."

Thank you.

Frank

On Thursday, December 15, 2022 at 05:08:51 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I made the three spelling charges you noted...we will file the attached upon receipt of the retainer agreement and costs check, hopefully on or before Monday. Best to you.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

RE: status

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, December 22, 2022 at 08:25 AM EST

It is fine, just wanted you to know we had filed and met the deadline of concern to you.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, December 22, 2022 8:20 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: status

I just checked on TD Bank's website and it shows the check should be there by today. Sorry for the delay, but they are competing with Christmas mailings.

Thanks for the update.

On Thursday, December 22, 2022 at 07:23:07 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

We did not receive your check for costs for the second case but, regardless, did file it yesterday.

[REDACTED]

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924

EXHIBIT 2



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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TAA GRAYS, VICE CHAIR
HON. FERNANDO M. CAMACHO
BRIAN C. DOYLE
HON. JOHN A. FALK
HON. ROBERT J. MILLER
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VICKIE MA
ERIC ARNONE
SENIOR ATTORNEYS
KELVIN S. DAVIS
STELLA E. GILLILAND
ADAM B. KAHAN
STAFF ATTORNEYS
ALAN W. FRIEDBERG
SPECIAL COUNSEL

CONFIDENTIAL

April 8, 2024

Via Email: [REDACTED]@yoderlaveglia.com; [REDACTED]@cjllaw.org

Hon. Frank M. Mora
c/o Chad J. LaVeglia, Esq.
Yoder Laveglia LLP
626 RXR Plaza, Suite #613
Uniondale, New York 11566

Re: File Nos. 2021/N-1120 and 2023/N-0369

Dear Judge Mora:

In connection with its investigation into allegations that you refused to wear a face mask at Seeta Eye Center on December 28, 2021 (2021/N-1120) and brought a defamation lawsuit against Stacey Koch, *Frank Mora v Stacey Koch*, in retaliation for Ms. Koch filing a complaint against you with the Commission (2023/N-0369), the Commission requests the following information:

1. A list of any and all email addresses that you used between December 28, 2021, to the present, including but not limited to [REDACTED]@nycourts.gov and [REDACTED]@yahoo.com.
2. Copies of any and all emails between you and Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on

Hon. Frank M. Mora

April 8, 2024

Page 2

December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

3. Copies of any and all text messages between you Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

4. Copies of any and all letters between you Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

5. Copies of any and all voice recordings made by and between you and Michael H. Sussman, Esq., from December 28, 2021, to present, pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

In addition to your responses to the foregoing, during your February 27, 2024, appearance at the Commission, you voluntarily testified about communications with your attorney, Michael H. Sussman, Esq., regarding the defamation lawsuit that you brought against Stacey Koch. In addition, in your letter dated March 12, 2024, supplementing the testimony that you gave at your appearance, you represented that you initiated the lawsuit against Ms. Koch “based on [Mr. Sussman]’s legal advice” and that Mr. Sussman “advised” you it “was a viable lawsuit.” Having voluntarily testified about your communications with your attorney and having placed those communications at issue, you have waived the attorney-client privilege. See

Hon. Frank M. Mora

April 8, 2024

Page 3

e.g. Jakobleff v. Cerrato, Sweeney and Cohn, 97 AD2d 834, 835 (2d Dept 1983); *see also People v Patrick*, 182 NY 131, 175 (1905).

Please sign and return the enclosed Waiver of Confidential Communications permitting Michael H. Sussman, Esq., to provide communications, documents, information and testimony to the New York State Commission on Judicial Conduct related to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

Please respond in writing to this inquiry and sign and date the enclosed waiver and return it to the Commission on or before April 26, 2024.

Thank you for your continued attention to this matter.

Very truly yours,



MARK LEVINE

Deputy Administrator

Encl.

cc: Melissa DiPalo, Esq. – [REDACTED]@cjc.ny.gov

WAIVER OF CONFIDENTIAL COMMUNICATIONS

File Nos. 2021/N-1120, 2023/N-0369

I, FRANK M. MORA, a Judge of the Poughkeepsie City Court, Dutchess County, hereby waive the attorney-client privilege of confidentiality and give my attorney in *Frank Mora v Stacey Koch* (Index No. 2022-54141), Michael H. Sussman, Esq., permission to provide communications, documents, information and testimony to the New York State Commission on Judicial Conduct related to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

Dated:

Hon. Frank M. Mora
Judge of the Poughkeepsie City Court

July 10, 2024

Via Electronic Mail

██████████@cjc.ny.gov, ██████████@cjc.ny.gov

PERSONAL & CONFIDENTIAL

Mark Levine, Esq.
Deputy Administrator
Melissa DiPalo, Esq.
Senior Attorney
New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Re: File Nos. 2021/N-1120 and 2023/N-0369
Hon. Frank M. Mora

Dear Deputy Administrator Levine and Ms. DiPalo:

Thank you for the extension for Judge Mora to respond to your letter dated May 21, 2024. The following is provided to the best of Judge Mora's recollection. Judge Mora respectfully reserves the right to file supplemental information if necessary. Judge Mora has signed below, acknowledging that he has read this letter and adopts its contents.

Attached is a signed *Waiver of Confidential Communications*.

Attached are the remaining emails between Judge Mora and Mr. Sussman from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference. Some emails have been redacted as they relate to non-Koch matters. They are numbered 1 to 127 in the bottom right corner for ease of reference.

Attached also is an affirmation from Mr. Sussman.

There are no text messages between Judge Mora and Mr. Sussman from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

There are no letters between Judge Mora and Mr. Sussman from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye

Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference, other than the apology letters, the settlement agreement regarding attorney fees, and the retainer agreement, that the Commission has in its possession, and any letters that were filed in Supreme Court that are of public record.

There are no voice recordings between Judge Mora and Mr. Sussman from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

In reviewing the emails for submission, each one refreshed Judge Mora's recollection of the events from that period. Judge Mora notes that portions of his testimony regarding this complaint are inaccurate. As such, he corrects them below to the best of his ability.

CORRECTING PART OF THE RECORD

Judge Mora did not review any information about this complaint before his testimony and tried to recite facts from memory. (IA, p137, line 14).

There are three distinct time periods regarding the Koch suit. The time prior to Judge Rosa's decision, the time after her decision, and the time after Judge Mora read the Commission's rules, which was after he printed them from the website on January 2, 2024. Before reading the Rules, Judge Mora believed Koch would not be involved in any proceedings with the Commission. Meaning, Judge Mora believed that Ms. Koch would not have to testify. Thus, his lawsuit was not filed in retaliation for Koch filing a complaint with the Commission, nor was it an attempt to intimidate her into not testifying, but rather it was to get redress for his perceived harms for the alleged defamatory content of the complaint. (IA, p103, starting at line 11; and p160, starting at line 5; Emails 22, 56, 66, 79, 106, 122).

When Judge Mora first contacted Sussman to see if there was any legal action that could be taken regarding Koch, Sussman advised Judge Mora that "it does not look good for a judge to sue the person complaining about him." Judge Mora thought differently, and advised Sussman so prior to filing the suit, stating that Judge Mora was confident that a jury would see otherwise.¹ Although Judge Mora was willing to "take his chances in front of a jury," this is

¹ Judge Mora was at Seeta eleven (11) months prior presenting with the same issue of not being able to medically tolerate a mask (advising Koch of this fact); asking Koch to have in place an accommodation for when he comes back with his minor children or for himself; then waiting in the parking lot for his son [REDACTED]; then being allowed back into Seeta the same day to pay a co-pay wearing just his shield; not being advised that he would be required to present medical documentation when he came back in the future; speaking to Dr. [REDACTED] on the phone the same day while waiting in the parking lot for [REDACTED] and the mask issue not being mentioned; making an appointment for his son after this and not being told the issue was not resolved or that medical documentation would be required; Koch calling the police because Judge Mora could not medically tolerate wearing a mask; Koch demanding a diagnosis from Dr. M [REDACTED] in violation of HIPAA; Koch bragging to Michael Brown that she was threatened by or felt threatened by Judge Mora; and that Koch was going to get him fired.

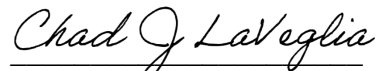
different than the suit not being viable ab initio. Sussman advised Judge Mora from the beginning, throughout the suit, and after the suit (to this very day), that it was, and is, a viable suit.

Judge Mora was willing to wait for the Commission's proceedings to finish before filing a defamation suit. However, Sussman advised that there is no tolling provision, and that the Statute of Limitations (SOL) is one (1) year. Based on Sussman's advice that a defamation lawsuit was viable, the suit was then filed on the last day of the SOL. Again, Judge Mora believed his advice was correct. As testified to by Judge Mora, he now knows the advice was not correct.

Judge Mora was contemplating withdrawing the matter after being Lector at church. (IA, p136, starting at line 9; and Email 25). Any references to withdrawing because Judge Mora thought it was a SLAPP are mistakes (IA, p136, starting at line 11; p198, starting at line 16).

Judge Mora's statements on page 198, line 21, and on page 132, starting at line 24, relate specifically to Email 32. His statements were in-artfully, and inarticulately, worded. What he was attempting to convey was that after Sussman received that email, Sussman did not recommend to Judge Mora that he should accept the offer, or to make a counter-offer, but that they were going forward with the case. Judge Mora's reliance on Sussman's advice, and expertise, is why Judge Mora did not accept the offer, along with being hung up on the apology (IA, p 138, starting at line 11).

Thank you again for your consideration.


Chad J. LaVeglia Esq.


Hon. Frank Mora

WAIVER OF CONFIDENTIAL COMMUNICATIONS

File Nos. 2021/N-1120, 2023/N-0369

I, FRANK M. MORA, a Judge of the Poughkeepsie City Court, Dutchess County, hereby waive the attorney-client privilege of confidentiality and give my attorney in *Frank Mora v Stacey Koch* (Index No. 2022-54141), Michael H. Sussman, Esq., permission to provide communications, documents, information and testimony to the New York State Commission on Judicial Conduct related to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

Dated: 7/10/24



Hon. Frank M. Mora
Judge of the Poughkeepsie City Court

STATE OF NEW YORK)
)
COUNTY OF ORANGE) ss.:

Michael H. Sussman, Esq. states:

1. I have reviewed the remaining emails (numbered 1 to 127) being submitted to the Commission between Judge Mora and myself from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference. They are complete and accurate. Some emails have been redacted as they relate to non-Koch matters.
2. There are no text messages between Judge Mora and myself from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.
3. There are no letters between Judge Mora and myself from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference, other than the apology letters, the settlement agreement regarding attorney fees, and the retainer agreement, that I have been advised that the Commission has in its possession, and any letters that were filed in Supreme Court that are of public record.
4. There are no voice recordings between Judge Mora and myself from December 30, 2022, to present, that were exchanged pertaining to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v. Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v. Koch*, and/or any discussion of defamation or tortious interference.

I affirm this 9th day of July, 2024, under the penalties of perjury under the laws of the State of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.


Michael H. Sussman, Esq.

Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, January 3, 2023 at 08:22 AM EST

Good morning. Attached is a copy of an article on the Koch lawsuit. It states it was filed on 12/29/22. Do they have the date wrong? Didn't it have to be filed on or before 12/28/22?

On Saturday, December 31, 2022 at 10:48:16 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

She will likely be served on Tuesday. [REDACTED]

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Saturday, December 31, 2022 10:38:50 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

Happy New Year!

Thanks for the update. Was Koch served?

[REDACTED]

On Saturday, December 31, 2022 at 10:15:01 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Just so you know, the case against CEETA was filed timely...I will be in further touch and wish you and yours the best new year.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, December 8, 2022 10:40 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

Would you please represent me against Seeta Eye/Stacey Koch? We only have until 12/28/22 to file.

On Tuesday, December 6, 2022 at 10:23:21 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

1

Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, January 3, 2023 at 08:23 AM EST

Forgot to attach the article. Here it is.

On Tuesday, January 3, 2023 at 08:22:43 AM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Good morning. Attached is a copy of an article on the Koch lawsuit. It states it was filed on 12/29/22. Do they have the date wrong? Didn't it have to be filed on or before 12/28/22?

On Saturday, December 31, 2022 at 10:48:16 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

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[Get Outlook for iOS](#)

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Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

Happy New Year!

Thanks for the update. Was Koch served?

[REDACTED]

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, December 8, 2022 10:40 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

2

Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, January 3, 2023 at 08:28 AM EST

Got it, thanks!

[Get Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, January 3, 2023 8:23:11 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

Forgot to attach the article. Here it is.

On Tuesday, January 3, 2023 at 08:22:43 AM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Good morning. Attached is a copy of an article on the Koch lawsuit. It states it was filed on 12/29/22. Do they have the date wrong? Didn't it have to be filed on or before 12/28/22?

On Saturday, December 31, 2022 at 10:48:16 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

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[Get Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Saturday, December 31, 2022 10:38:50 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

Happy New Year!

Thanks for the update. Was Koch served?

[REDACTED]

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Just so you know, the case against CEETA was filed timely...I will be in further touch and wish you and yours the best new year.

Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, January 3, 2023 at 12:36 PM EST

Yes, you can do that.

Michael Sussman

From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Tuesday, January 3, 2023 12:19 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

Thanks.

[REDACTED] is in need of an eye exam, since his last exam was the event that caused all of this. My wife will not schedule the appointment, or take him, because of all of this (I cannot blame her).

Am I able to schedule the exam and bring him?

On Tuesday, January 3, 2023 at 11:31:49 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

yes and yes

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, January 3, 2023 9:29 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

I think I answered by own question. As she filed with the judicial commission on 12/29, that would be the date, correct? And, the last day to file is on the actual date, not the day before, correct?

On Tuesday, January 3, 2023 at 08:40:13 AM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Did we file timely?

Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al
Complaint

From: Frank Mora ([REDACTED]@yahoo.com)
To: [REDACTED]@sussman.law
Date: Tuesday, January 3, 2023 at 01:44 PM EST

Thank you.

On Tuesday, January 3, 2023 at 12:36:14 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Yes, you can do that.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, January 3, 2023 12:19 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: Activity in Case 7:22-cv-10322 Mora v. New York State Unified Court System et al Complaint

Thanks.

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On Tuesday, January 3, 2023 at 08:40:13 AM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

5

Re: Mora v. NYS Unified Court Sys., Office of Court Admin.

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, January 10, 2023 at 04:05 PM EST

Other than my heart feeling like it was going to pop out of my chest because I was wearing my shield, [REDACTED]'s eye doctor appointment went without a hitch!

Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, January 19, 2023 at 04:53 PM EST

Good thing you're heavier then! 🍷

On Thursday, January 19, 2023, 4:02 PM, Michael Sussman <[REDACTED]@sussman.law> wrote:

Victor Kovner former NYC Corporation Counsel and a heavy weight...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, January 19, 2023 4:02 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

Who is her attorney?

On Thursday, January 19, 2023 at 03:31:37 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

yes. she has an attorney and we have been discussing scheduling...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, January 19, 2023 3:27 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

[REDACTED]

What is the status of the Koch suit. Does she have an attorney?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7

Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, January 19, 2023 at 05:37 PM EST

and I have been on a diet since mid-April...

Michael Sussman

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Thursday, January 19, 2023 4:53 PM

To: Michael Sussman [REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

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To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, January 20, 2023 at 10:52 AM EST

I will ask him to request them. Regarding the calls Koch made to the police, should I inquire with them to see if they still have them available?

On Thursday, January 19, 2023 at 10:03:14 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

He should as he represents you in that soecifiroceeing

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, January 19, 2023 9:42:50 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

Thanks. Regarding the Koch suit, are we able to get a copy of the transcripts from her testimony and Mike Brown's testimony from the Judicial Commission? If so, should LaVeglia ask for a copy of them, or should you subpoena them?

[REDACTED]

On Thursday, January 19, 2023 at 05:37:16 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

and I have been on a diet since mid-April...

Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, January 20, 2023 at 12:44 PM EST

The town police said they do go back that far.

We are looking for the two calls that Koch made to them on 12/28/21 at approximately 3pm. It may be a little before that as I may have arrived earlier for [REDACTED]'s eye appointment.

A FOIL request needs to be done. Is it better that this comes from your office?

On Friday, January 20, 2023 at 11:05:09 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

on second point, sure...ms

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, January 20, 2023 10:52 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

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From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Friday, January 20, 2023 at 12:50 PM EST

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Michael Sussman

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Friday, January 20, 2023 12:44 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

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on second point, sure...ms

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From: Frank Mora [REDACTED]@yahoo.com>

Sent: Friday, January 20, 2023 10:52 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

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He should as he represents you in that soecifiroceeing

Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, January 20, 2023 at 12:58 PM EST

I have a feeling the first call will show that she knew I was a judge at that time based on a response she made to the police. I do not know what was said to her, but I just have a hunch. If that is in there, then this is another lie in her complaint to the judicial commission that she did not know I was a judge.

The 2nd call will show how irrational she was when she told them it was an emergency because I did not have a mask on and was spreading germs on her.

On Friday, January 20, 2023 at 12:50:00 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

sure...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, January 20, 2023 12:44 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Activity in Case 7:22-cv-10322-VB Mora v. New York State Unified Court System et al Declaration in Support of Motion

The town police said they do go back that far.

We are looking for the two calls that Koch made to them on 12/28/21 at approximately 3pm. It may be a little before that as I may have arrived earlier for [REDACTED]'s eye appointment.

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On Friday, January 20, 2023 at 11:05:09 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

on second point, sure...ms

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, January 20, 2023 10:52 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Re: CLE

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, January 30, 2023 at 11:59 AM EST

Did you get a chance to FOIL the phone recordings on Koch?

Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, February 2, 2023 at 06:18 PM EST

just received a motion to dismiss the Koch complaint...interesting...will share with you when i have a moment tomorrow. It is on line...

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

bizarre

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Saturday, February 4, 2023 at 12:34 PM EST

I am reading the motion papers in Koch, noting that the statement of facts takes Koch's statement to the judiciary commission as facts, not your allegations in the complaint, which is fundamentally improper. That does not resolve the legal issues, but is interesting to note...

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: cases

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Saturday, February 4, 2023 at 04:11 PM EST

Sounds good. Thanks.

On Saturday, February 4, 2023 at 04:05:31 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I thought I did last night..will do so first thing in am with additional thoughts.

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Saturday, February 4, 2023 3:59:26 PM

To: Michael Sussman [REDACTED]@sussman.law>

Subject: Re: cases

I don't know. You haven't sent me the motion yet. Please send. 😊

On Saturday, February 4, 2023 at 12:42:39 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

None of the cited cases relate to the Judicial Commission, do they? I see none. His argument is one by analogy. We shall respond. ms

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: bizarre

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Saturday, February 4, 2023 at 04:45 PM EST

She does that in her papers

Get [Outlook for iOS](#)

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Saturday, February 4, 2023 4:19:06 PM

To: Michael Sussman [REDACTED]@sussman.law>

Subject: Re: bizarre

I think we need to hear the voice recordings from when she called the police before we respond. If she lied about not knowing I was a judge at the time, I think that will go a long way.

On Saturday, February 4, 2023 at 12:34:48 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I am reading the motion papers in Koch, noting that the statement of facts takes Koch's statement to the judiciary commission as facts, not your allegations in the complaint, which is fundamentally improper. That does not resolve the legal issues, but is interesting to note...

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

[REDACTED]

Happy sunday

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Sunday, February 5, 2023 at 09:50 AM EST

Here are the papers..."absolute" is not so "absolute" as my research is showing...our papers are due on 2/21 and I have two briefs to write before this...
but, I am thinking about it...ms

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



DOC020523-006.pdf
2.4MB

Happy Tuesday

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, February 7, 2023 at 08:55 AM EST

Attached are some of my thoughts thus far. I hope they are in the right direction.

[REDACTED]

Also, should I be present at oral arguments on March 8? If so, do I ask for permission from my supervising judge?

On Sunday, February 5, 2023 at 09:50:55 AM EST, Michael Sussman [REDACTED]@sussman.law> wrote:

Here are the papers..."absolute" is not so "absolute" as my research is showing...our papers are due on 2/21 and I have two briefs to write before this...
but, I am thinking about it...ms

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



Answer to Koch Motion to Dismiss.docx
16.5kB

[REDACTED]

Re: Happy Tuesday

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, February 7, 2023 at 09:16 AM EST

The motion also states they were following CDC guidelines. Those guidelines also state for those who can medically tolerate.

They are attempting to vilify me because of my unseen medical condition. Koch stated that her husband has [REDACTED] (maybe that is why she is so afraid). My point with that is you would think she would be compassionate as they seek medical accommodations for him (I know this because someone who knows Koch & her husband told me).

On Tuesday, February 7, 2023 at 08:55:18 AM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Attached are some of my thoughts thus far. I hope they are in the right direction.

[REDACTED]

Also, should I be present at oral arguments on March 8? If so, do I ask for permission from my supervising judge?

On Sunday, February 5, 2023 at 09:50:55 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Here are the papers..."absolute" is not so "absolute" as my research is showing...our papers are due on 2/21 and I have two briefs to write before this...
but, I am thinking about it...ms

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED] [REDACTED]

Re: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court
<LETTER/CORRESPONDENCE FROM COURT> 2022-54141 (Frank Mora v. Stacey Koch)

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, February 8, 2023 at 08:57 AM EST

no...just your brain but that can be otherwise focused until I provide a draft response...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, February 8, 2023 7:52 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <LETTER/CORRESPONDENCE FROM COURT> 2022-54141 (Frank Mora v. Stacey Koch)

Is there anything you need from me at this point?

On Wednesday, February 8, 2023 at 05:25:30 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Office of Court Administration has intervened in the Koch matter and is seeking to dismiss your case also. Wow...interesting. I will be writing on all of this this weekend. Stay tuned.

Michael Sussman

From: efile@nycourts.gov <efile@nycourts.gov>

Sent: Tuesday, February 7, 2023 3:00 PM

To: [REDACTED]@frontier.com <[REDACTED]@frontier.com>; efile@nycourts.gov <efile@nycourts.gov>;

[REDACTED]@ag.ny.gov <[REDACTED]@ag.ny.gov>; [REDACTED]@dwt.com <[REDACTED]@dwt.com>;

[REDACTED]@dwt.com <[REDACTED]@dwt.com>; [REDACTED]@frontiernet.net <[REDACTED]@frontiernet.net>;

[REDACTED]@dwt.com <[REDACTED]@dwt.com>; [REDACTED]@frontier.com <[REDACTED]@frontier.com>

Subject: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <LETTER/CORRESPONDENCE FROM COURT> 2022-54141 (Frank Mora v. Stacey Koch)



Dutchess County Supreme Court Notification of Filing by Court 02/07/2023

On 02/07/2023, the NYSCEF System received the documents listed below from court user Maureen Moss . Please keep this notice as a confirmation of this filing.

[REDACTED]

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Thursday, February 9, 2023 9:03:30 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: 2021/N-0723, etal.

[REDACTED]

Regarding Koch, trying to silence the witness is just the opposite of the suit. We only filed the suit AFTER she testified before the commission. They will not even release her testimony to me. My suit would allow for discovery and cross examination of what she filed with, and told to, the commission.

draft of response

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Cc: [REDACTED]@sussman.law

Date: Monday, February 13, 2023 at 07:55 AM EST

This is due next Monday...please review and understand we will be adding to it, but it explains the basic issue...Jonathan Goldman will look at it this week and i will complete it next weekend with all comments considered.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



mora brief in opposition to motion to dismiss.docx
27.2kB

use this version please

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com; [REDACTED]@sussman.law

Date: Monday, February 13, 2023 at 08:10 AM EST

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



mora brief in opposition to motion to dismiss.docx
27.6kB

Re: draft of response

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Cc: [REDACTED]@sussman.law

Date: Monday, February 13, 2023 at 08:11 AM EST

Michael,

Good morning. I was just going to send this email, and your below email came in.

I was the Lector yesterday at mass. I don't believe it was a coincidence that I was scheduled to read the readings yesterday, or that particular Gospel was proclaimed. I believe that God was speaking to me through both the readings and the Gospel. Here is a link if you would like to read them: <https://bible.usccb.org/bible/readings/021223.cfm>

I have been praying about this continuously through this morning.

I am leaning towards withdrawing the Koch suit. Are you able to extend our time to answer? I want to read what you have put together. There are also a few caveats:

1. I want to listen to the police recordings so I need to get them. Do you want me to FOIL them?
2. I want to make sure that the commission knows that the suit was brought AFTER Koch testified, and that it in no way was brought to silence or intimidate a witness. As I am not allowed discovery in the commission case (they won't give me a transcript of her testimony), this is the route we chose to get discovery. I want to make sure that it will not be used against me in their proceeding.
3. If, or should I say when (as all the signs are on the wall), it goes to hearing with the commission, are we allowed to cross-exam Koch then?
4. No attorney fees.

Thank you for all of your hard work on my matters. I can't stress enough how much I appreciate it.

Frank

On Monday, February 13, 2023 at 07:55:17 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

This is due next Monday...please review and understand we will be adding to it, but it explains the basic issue...Jonathan Goldman will look at it this week and i will complete it next weekend with all comments considered.

Michael Sussman

Re: draft of response

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Monday, February 13, 2023 at 10:18 AM EST

Please call me at [REDACTED]

Get [Outlook for iOS](#)

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Monday, February 13, 2023 10:10:51 AM

To: Michael Sussman [REDACTED]@sussman.law>

Subject: Re: draft of response

Your draft reply is excellent. [REDACTED]

Please get the extension while I ponder this.

On Monday, February 13, 2023 at 08:14:45 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Thanks for your note. I think you should file a FOIL request for whatever you think pertinent. I can get another week or two if needed. You could also file a response and then withdraw. However, I do think withdrawing is a good idea, regardless of the legal merits of our position. It is just a bad look for a judge to sue the person who complains about him rather than to resolve the issues in the forum intended to resolve the complaint.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Monday, February 13, 2023 8:11 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Jonathan R. Goldman <[REDACTED]@sussman.law>

Subject: Re: draft of response

Michael,

Good morning. I was just going to send this email, and your below email came in.

see attached letter

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Saturday, February 18, 2023 at 03:08 PM EST

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



DOC021823-005.pdf
60.7kB

Re: see attached letter

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Sunday, February 19, 2023 at 02:44 PM EST

If you didn't file this yet, you should change Margarita to Maria.

On Saturday, February 18, 2023 at 03:08:59 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: see attached letter

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, February 22, 2023 at 01:20 PM EST

I'm just waiting on the police recordings, which we should have soon.

On Wednesday, February 22, 2023 at 09:39:35 AM EST, Michael Sussman [REDACTED]@sussman.law> wrote:

[REDACTED] We did get the two-week extension on Koch submission; please advise on your thinking so I either can finalize my pleading or finalize withdrawal of the matter. The court has also set a settlement conference in that matter for 3/8...Thanks.

Michael Sussman

On Sunday, February 19, 2023 at 02:44:10 PM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

If you didn't file this yet, you should change Margarita to Maria.

On Saturday, February 18, 2023 at 03:08:59 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

~~_____~~
From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, February 28, 2023 at 08:25 AM EST

Good morning. Chad received the police recordings in the mail yesterday, but has not listened to them yet. He is in the Appellate Division today and will try to email them to me tomorrow. I will let you know as soon as I have listened to them, and then we can see how to proceed.

Re: Koch suit

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, March 2, 2023 at 04:23 PM EST

you cannot withdraw without prejudice as you cannot re-file due to the statute of limitations running out. So, you either dismiss or you litigate...I am unsure what the tapes of the call showed about Ms. Koch or whether this did influence you. I would like to understand that...mhs

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, March 2, 2023 9:00 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Koch suit

Good morning. After much contemplation, I am willing to withdraw the matter without prejudice.

Re: Mora v. Koch

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@dwt.com

Cc: [REDACTED]@dwt.com

Date: Friday, March 3, 2023 at 04:18 PM EST

we brought the claim not you. Your client did not countersue. This is not happening. you either agree to his withdraw or we will litigate our claim.

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 3, 2023 4:04 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: Mora v. Koch

FOR SETTLEMENT PURPOSES ONLY

Thank you for your message. Ms. Koch has been significantly harmed by the stress and embarrassment caused by this SLAPP suit and resulting media coverage. Accordingly, Ms. Koch will only consent to the withdrawal if Judge Mora provides the following:

1. A public apology.
2. \$5,000 in damages for her emotional distress.
3. An agreement to cease contact with Seeta Eye and Ms. Koch.

Please let us know if these terms are acceptable.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman <[REDACTED]@sussman.law>

Date: March 2, 2023 at 6:03:56 PM EST

To: "Kovner, Victor" <[REDACTED]@dwt.com>

Subject: Mora v. Koch

[EXTERNAL]

I have briefed your motion and feel we can defeat it BUT my client has decided he wishes to withdraw his case against Ms. Koch assuming that we can do so with here consent and each party bearing their own fees/costs. If not, he has authorized me to file my response. Please advise.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Fw: Mora v. Koch

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@yahoo.com

Date: Friday, March 3, 2023 at 04:42 PM EST

see exchange below. they are clearly demented in my opinion...

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 3, 2023 4:41 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: Mora v. Koch

FOR SETTLEMENT PURPOSES ONLY

As you know, the anti-SLAPP statute provides for a mandatory award of attorneys' fees and allows Ms. Koch to claim compensatory and punitive damages against Judge Mora. In our motion, we requested those fees and reserved her right to seek compensatory and punitive damages.

Accordingly, Ms. Koch is entitled to compensation for this SLAPP suit. We are likewise prepared to litigate this case.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Friday, March 3, 2023 4:18 PM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: Mora v. Koch

[EXTERNAL]

we brought the claim not you. Your client did not countersue . This is not happening. you either agree to his withdraw or we will litigate our claim.

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 3, 2023 4:04 PM

To: Michael Sussman <[REDACTED]@sussman.law>
Cc: Kovner, Victor <[REDACTED]@dwt.com>
Subject: RE: Mora v. Koch

FOR SETTLEMENT PURPOSES ONLY

Thank you for your message. Ms. Koch has been significantly harmed by the stress and embarrassment caused by this SLAPP suit and resulting media coverage. Accordingly, Ms. Koch will only consent to the withdrawal if Judge Mora provides the following:

1. A public apology.
2. \$5,000 in damages for her emotional distress.
3. An agreement to cease contact with Seeta Eye and Ms. Koch.

Please let us know if these terms are acceptable.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP
1251 Avenue of the Americas, 21st Floor | New York, NY 10020
Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]
Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman <[REDACTED]@sussman.law>
Date: March 2, 2023 at 6:03:56 PM EST
To: "Kovner, Victor" <[REDACTED]@dwt.com>
Subject: Mora v. Koch

[EXTERNAL]

I have briefed your motion and feel we can defeat it BUT my client has decided he wishes to withdraw his case against Ms. Koch assuming that we can do so with here consent and each party bearing their own fees/costs. If not, he has authorized me to file my response. Please advise.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: Mora v. Koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, March 3, 2023 at 04:49 PM EST

Agreed. Here are the police recordings. I'm in the process of getting the 911 recordings, as from what I recall, the 2nd call into them is even worse than the first. She literally says she does not want to breathe my air in the first call which is attached.

On Friday, March 3, 2023 at 04:42:52 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

see exchange below. they are clearly demented in my opinion...

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 3, 2023 4:41 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: Mora v. Koch

FOR SETTLEMENT PURPOSES ONLY

As you know, the anti-SLAPP statute provides for a mandatory award of attorneys' fees and allows Ms. Koch to claim compensatory and punitive damages against Judge Mora. In our motion, we requested those fees and reserved her right to seek compensatory and punitive damages.

Accordingly, Ms. Koch is entitled to compensation for this SLAPP suit. We are likewise prepared to litigate this case.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Friday, March 3, 2023 4:18 PM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Re: Mora v. Koch

From: Frank Mora <[REDACTED]@yahoo.com>

To: [REDACTED]@sussman.law

Date: Saturday, March 4, 2023 at 10:34 AM EST

Please email me the brief, as I would like to add some statements that they are muddying the waters by including the Law360 Article, my federal lawsuit, etc. I would like to have in there that I have a medical condition for not wearing a mask and received specific authorization to wear a shield at work, and had specific permission to be in the courthouse each and every time I was there.

On Friday, March 3, 2023 at 05:52:39 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

the court scheduled a settlement conference for 3/8 but I am tied up that day - I will try to move. I will file my brief on Monday...ms

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, March 3, 2023 4:49 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Mora v. Koch

Agreed. Here are the police recordings. I'm in the process of getting the 911 recordings, as from what I recall, the 2nd call into them is even worse than the first. She literally says she does not want to breathe my air in the first call which is attached.

On Friday, March 3, 2023 at 04:42:52 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

see exchange below. they are clearly demented in my opinion...

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 3, 2023 4:41 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: Mora v. Koch

FOR SETTLEMENT PURPOSES ONLY

Re: use this version please

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Saturday, March 4, 2023 at 08:10 PM EST

I added my suggestions. If you do not think they are appropriate, do as you see fit. I just think it is important to spell it out, as if I were the judge reading that false Law360 article, it would not sit well with me.

Thank you.

On Saturday, March 4, 2023 at 12:29:35 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I have edited the brief in preparation for its filing and you should edit this version. thanks. mhs

Michael Sussman

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Saturday, March 4, 2023 12:15 PM

To: Frank Mora <[REDACTED]@yahoo.com>

Subject: Fw: use this version please

This is the brief

Michael Sussman

From: Michael Sussman

Sent: Monday, February 13, 2023 8:10 AM

To: Frank Mora <[REDACTED]@yahoo.com>; Jonathan R. Goldman <[REDACTED]@sussman.law>

Subject: use this version please

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



mora brief in opposition to motion to dismiss FMM edits 3-4-23.docx

29.3kB

Re: NYSCEF Notification: Dutchess - Torts - Other - <MEMORANDUM OF LAW IN OPPOSITION> 2022-54141 (Frank Mora v. Stacey Koch)

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, March 6, 2023 at 03:09 PM EST

Thank you!

On Monday, March 6, 2023 at 02:51:07 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Our reply was timely filed. ms

Michael Sussman

From: efile@nycourts.gov <efile@nycourts.gov>

Sent: Monday, March 6, 2023 10:42 AM

To: [REDACTED]@frontier.com <[REDACTED]@frontier.com>; Michael Sussman <[REDACTED]@sussman.law>;
efile@nycourts.gov <efile@nycourts.gov>; [REDACTED]@ag.ny.gov <[REDACTED]@ag.ny.gov>;
[REDACTED]@dwt.com <[REDACTED]@dwt.com>; [REDACTED]@dwt.com <[REDACTED]@dwt.com>;
[REDACTED]@frontiernet.net <[REDACTED]@frontiernet.net>; [REDACTED]@dwt.com <[REDACTED]@dwt.com>;
[REDACTED]@frontier.com <[REDACTED]@frontier.com>

Subject: NYSCEF Notification: Dutchess - Torts - Other - <MEMORANDUM OF LAW IN OPPOSITION> 2022-54141
(Frank Mora v. Stacey Koch)



Dutchess County Supreme Court Notification of Filing 03/06/2023

On 03/06/2023, the NYSCEF System received the documents listed below from filing user Michael Sussman . Please keep this notice as a confirmation of this filing.

Case Information

Index #: 2022-54141

Caption: Frank Mora v. Stacey Koch

eFiling Status: Full Participation Recorded

Assigned Case Judge: Maria G Rosa

Working Copies By order of the Chief Administrative Judge ([A0/267/20](#)), the court shall NOT request working copies of documents filed electronically.

Documents Received

Re: Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, March 16, 2023 at 02:16 PM EDT

3/27/23 at 930 am

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, March 16, 2023 1:42 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

What is the date and time for the settlement conference?

On Tuesday, March 14, 2023 at 08:15:09 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Yes to both. I am at home due to snow but will confirm within 24 hours so you know date and time.

[REDACTED]

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, March 14, 2023 8:10 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Koch

Has a settlement conference been scheduled? Do you want me there?

Re: Koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, March 21, 2023 at 02:11 PM EDT

930 am...

Michael Sussman

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Tuesday, March 21, 2023 2:08 PM

To: Michael Sussman [REDACTED]@sussman.law>

Subject: Re: Koch

The email from last week states 9:30am. What time do you want me there?

On Monday, March 20, 2023 at 02:42:26 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

3/27 at 10 am - I wrote you this last week... [REDACTED]

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Monday, March 20, 2023 12:30 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

Please let me know the date and time for the settlement conference.

[REDACTED]

On Thursday, March 16, 2023 at 01:42:17 PM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

What is the date and time for the settlement conference?

On Tuesday, March 14, 2023 at 08:15:09 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Yes to both. I am at home due to snow but will confirm within 24 hours so you know date and time.

[REDACTED]

Re: Koch

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@yahoo.com

Date: Sunday, March 26, 2023 at 08:31 PM EDT

Court starts At 930 not 1000 am tomorrow. I will be there by 920 am mhs
Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, March 21, 2023 2:12:42 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

Thanks.

On Tuesday, March 21, 2023 at 02:11:27 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

930 am...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, March 21, 2023 2:08 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

The email from last week states 9:30am. What time do you want me there?

On Monday, March 20, 2023 at 02:42:26 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

3/27 at 10 am - I wrote you this last week...I will review the case you sent and advise...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Monday, March 20, 2023 12:30 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

Please let me know the date and time for the settlement conference.

On Thursday, March 16, 2023 at 01:42:17 PM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

42

se attached and provide me with your comments

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Monday, March 27, 2023 at 03:32 PM EDT

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



mora statement to koch.docx
12.7kB

[REDACTED]

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, March 27, 2023 4:13 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: se attached and provide me with your comments

I will review it with my wife and get back to you tomorrow.

CEETA is Seeta. Also, my vaccination status is not part of this. Do we want that in there?

[REDACTED]

On Monday, March 27, 2023 at 03:32:09 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005

edited statement to consider

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Monday, March 27, 2023 at 06:53 PM EDT

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



mora statement to koch edited 327.docx

12.8kB

Re: edited statement to consider

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, March 27, 2023 at 08:10 PM EDT

This is very good. Thank you.

On Monday, March 27, 2023 at 06:53:49 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Michael Sussman

Sussman & Associates

1 Railroad Ave., 3rd Floor

PO Box 1005

Goshen, NY 10924

[REDACTED]

Re: edited statement to consider

From: Frank Mora <[REDACTED]@yahoo.com>
To: [REDACTED]@sussman.law
Date: Tuesday, March 28, 2023 at 10:21 AM EDT

Yes.

On Tuesday, March 28, 2023 at 05:26:51 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

So. Are you on Board then with 1500 and this letter and a stay away between you and Koch business?

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, March 27, 2023 9:38:50 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: edited statement to consider

Yes. I presume that means the commission also, as we need them on board.

On Monday, March 27, 2023, 9:15 PM, Michael Sussman <[REDACTED]@sussman.law> wrote:

Can I share this with adversary counsel or not?

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, March 27, 2023 8:10:57 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: edited statement to consider

This is very good. Thank you.

On Monday, March 27, 2023 at 06:53:49 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005

Re: tomorrow - mora adv/ koch

From: Frank Mora <[REDACTED]@yahoo.com>

To: [REDACTED]@sussman.law

Date: Wednesday, March 29, 2023 at 09:22 AM EDT

Defendant agreed, but not yet the commission?

On Wednesday, March 29, 2023 at 09:09:41 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

They have yet not agreed...I floated this and am awaiting a reply...ms

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, March 29, 2023 9:08 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Thank God! Thank you!

On Wednesday, March 29, 2023 at 09:08:35 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

yes sir...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, March 29, 2023 9:07 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

They consent to our offer to withdraw with prejudice, the apology, \$1,500, me not going to Seeta, and the commission not using this suit against me?

On Wednesday, March 29, 2023 at 09:03:28 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

fyi

Michael Sussman

Re: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, March 29, 2023 at 09:26 AM EDT

I JUST SENT this and no none yet agreed.

Michael Sussman

From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Wednesday, March 29, 2023 9:22 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Defendant agreed, but not yet the commission?

On Wednesday, March 29, 2023 at 09:09:41 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

They have yet not agreed...I floated this and am awaiting a reply...ms

Michael Sussman

From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Wednesday, March 29, 2023 9:08 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Thank God! Thank you!

On Wednesday, March 29, 2023 at 09:08:35 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

yes sir...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, March 29, 2023 9:07 AM

To: Michael Sussman ([REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

They consent to our offer to withdraw with prejudice, the apology, \$1,500, me not going to Seeta, and the commission not using this suit against me?

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, March 29, 2023 at 09:50 AM EDT

Oh, nothing was attached and there is nothing in the email other than fyi, so I do not know what was sent.

On Wednesday, March 29, 2023 at 09:26:00 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I JUST SENT this and no one yet agreed.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, March 29, 2023 9:22 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Defendant agreed, but not yet the commission?

On Wednesday, March 29, 2023 at 09:09:41 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

They have yet not agreed...I floated this and am awaiting a reply...ms

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Wednesday, March 29, 2023 9:08 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Thank God! Thank you!

On Wednesday, March 29, 2023 at 09:08:35 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

yes sir...

Michael Sussman

Re: tomorrow - mora adv/ koch

From: Frank Mora <[REDACTED]@yahoo.com>

To: [REDACTED]@sussman.law

Date: Saturday, April 1, 2023 at 03:39 PM EDT

There is nothing here, or attached.

On Saturday, April 1, 2023 at 07:47:41 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Here is your answer from koch
Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, March 29, 2023 9:50:53 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Oh, nothing was attached and there is nothing in the email other than fyi, so I do not know what was sent.

On Wednesday, March 29, 2023 at 09:26:00 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I JUST SENT this and no none yet agreed.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, March 29, 2023 9:22 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Defendant agreed, but not yet the commission?

On Wednesday, March 29, 2023 at 09:09:41 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

They have yet not agreed...I floated this and am awaiting a reply...ms

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, March 29, 2023 9:08 AM

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, April 3, 2023 at 07:27 AM EDT

Am I able to withdraw the matter without their consent?

On Saturday, April 1, 2023 at 06:54:04 PM EDT, Michael Sussman ([REDACTED]@sussman.law) wrote:

see below message...

Michael Sussman

From: Holoszyc-Pimentel, Raphael ([REDACTED]@dwt.com)

Sent: Friday, March 31, 2023 11:37 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Thank you for your message. My client has rejected your offer. I have also spoken with counsel for the Commission, and it is not acceptable to them either.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile [REDACTED] | Fax [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Wednesday, March 29, 2023 9:03 AM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

I have spoken with Judge Mora since our argument/settlement conference. He has authorized me to share the following:

1. he will pay \$1500 to resolve the matter
2. he and his family will agree not to use the services offered by Ms. Koch's employer and to have no contact with her
3. he will email to her, through counsel, the attached document.
4. both sides will sign a settlement which disclaims liability to the other...
5. the commission will continue its investigation but not use this settlement against my client...

If this is acceptable to your client, my suggestion is that you speak with counsel for the Commission as it would have to agree to at least the last term.

Michael Sussman

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>
Sent: Tuesday, March 7, 2023 3:39 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Cc: Kovner, Victor [REDACTED]@dwt.com>
Subject: FW: tomorrow - mora adv/ koch

Mr. Sussman: We consent. In the future, please include both me and Victor on any correspondence.

Best,

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP
1251 Avenue of the Americas, 21st Floor | New York, NY 10020
Tel: [REDACTED] Mobile: [REDACTED] | Fax: [REDACTED]
Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>
Sent: Tuesday, March 7, 2023 3:25 PM
To: Kovner, Victor <[REDACTED]@dwt.com>
Subject: tomorrow - mora adv/ koch

[EXTERNAL]

for reasons explained in my letter, i have depositions tomorrow and cannot make the settlement conference which appears useless ion any event.

kindly consent to its adjournment until argument date so we need not be in poughkeepsie twice. thanks. michael sussman

Michael Sussman

Sussman & Associates

1 Railroad Ave., 3rd Floor

PO Box 1005

Goshen, NY 10924



Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, April 3, 2023 at 07:34 AM EDT

As we are in Lent, and this is Holy Week, a time for penance and forgiveness, please let them know that I accept their original offer amount of \$5,000.

On Monday, April 3, 2023 at 07:32:17 AM EDT, Michael Sussman ([REDACTED]@sussman.law) wrote:

We can try, but they have a pending motion and demand for fees therein...so I do not think you can...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Monday, April 3, 2023 7:27 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Am I able to withdraw the matter without their consent?

On Saturday, April 1, 2023 at 06:54:04 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

see below message...

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 31, 2023 11:37 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Thank you for your message. My client has rejected your offer. I have also spoken with counsel for the Commission, and it is not acceptable to them either.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

SS

Re: tomorrow - mora adv/ koch

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, April 4, 2023 at 08:37 AM EDT

If they don't respond, or it is not acceptable, can we set up another settlement conference with Judge Rosa?

The first time I heard about the SLAPP law was when I read about it in their motion to dismiss. In my whole legal career, I did not handle defamation cases, nor did I come across SLAPP. We do not handle that in city court. I never had any intention of silencing Koch. Actually, as you know, it was just the opposite. I only brought the suit AFTER she testified before the commission, and then bragged to Mike Brown that she told them that she felt threatened by me, and that she was going to get me fired.

[REDACTED]

On Monday, April 3, 2023 at 07:34:14 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

As we are in Lent, and this is Holy Week, a time for penance and forgiveness, please let them know that I accept their original offer amount of \$5,000.

On Monday, April 3, 2023 at 07:32:17 AM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

We can try, but they have a pending motion and demand for fees therein...so I do not think you can...

Michael Sussman

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Monday, April 3, 2023 7:27 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Am I able to withdraw the matter without their consent?

On Saturday, April 1, 2023 at 06:54:04 PM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

Re: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, April 4, 2023 at 08:44 AM EDT

They have responded and rejected our settlement proposal. I am not sure what more the Judge can do. I believe that if you offered them \$5k, they might accept, but their rejection was not specific. I assume they have issues with your "apology" though I do not..We can request that court's intercession again, but, I am not sure how much influence she really has over them or whether she is prepared to use it on this case...

Michael Sussman

From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Tuesday, April 4, 2023 8:37 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

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On Monday, April 3, 2023 at 07:34:14 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

As we are in Lent, and this is Holy Week, a time for penance and forgiveness, please let them know that I accept their original offer amount of \$5,000.

On Monday, April 3, 2023 at 07:32:17 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

We can try, but they have a pending motion and demand for fees therein...so I do not think you can...

Re: tomorrow - mora adv/ koch

From: Frank Mora <[REDACTED]@yahoo.com>

To: [REDACTED]@sussman.law

Date: Tuesday, April 4, 2023 at 08:46 AM EDT

Yesterday, I did authorize you to accept their offer of \$5,000 (see below). Please convey that.

On Tuesday, April 4, 2023 at 08:44:15 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

They have responded and rejected our settlement proposal. I am not sure what more the Judge can do. I believe that if you offered them \$5k, they might accept, but their rejection was not specific. I assume they have issues with your "apology" though I do not..We can request that court's intercession again, but, I am not sure how much influence she really has over them or whether she is prepared to use it on this case...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, April 4, 2023 8:37 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

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The first time I heard about the SLAPP law was when I read about it in their motion to dismiss. In my whole legal career, I did not handle defamation cases, nor did I come across SLAPP. We do not handle that in city court. I never had any intention of silencing Koch. Actually, as you know, it was just the opposite. I only brought the suit AFTER she testified before the commission, and then bragged to Mike Brown that she told them that she felt threatened by me, and that she was going to get me fired.

[REDACTED]

On Monday, April 3, 2023 at 07:34:14 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

As we are in Lent, and this is Holy Week, a time for penance and forgiveness, please let them know that I accept their original offer amount of \$5,000.

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, April 4, 2023 at 09:58 AM EDT

Thank you.

On Tuesday, April 4, 2023 at 09:05:15 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

ok. i did not see this yesterday. i will convey this.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Monday, April 3, 2023 7:34 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

As we are in Lent, and this is Holy Week, a time for penance and forgiveness, please let them know that I accept their original offer amount of \$5,000.

On Monday, April 3, 2023 at 07:32:17 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

We can try, but they have a pending motion and demand for fees therein...so I do not think you can...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Monday, April 3, 2023 7:27 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Am I able to withdraw the matter without their consent?

On Saturday, April 1, 2023 at 06:54:04 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

see below message...

Michael Sussman

Re: tomorrow - mora adv/ koch

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@dwt.com

Cc: [REDACTED]@dwt.com

Date: Wednesday, April 5, 2023 at 05:39 AM EDT

Good morning:

Judge Mora is interested in resolving the matter of attorneys' fees short of a hearing. He agreed previously to pay \$5000 which was the figure you provided the court at last week's settlement conference. While the court's decision otherwise moots the apology he proposed and the injunctive relief related to his presence at your client's place of employment, as part of any consensual resolution, the Judge would adhere to those conditions. Kindly advise.

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 31, 2023 11:37 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Thank you for your message. My client has rejected your offer. I have also spoken with counsel for the Commission, and it is not acceptable to them either.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Wednesday, March 29, 2023 9:03 AM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

I have spoken with Judge Mora since our argument/settlement conference. He has authorized me to share the following:

1. he will pay \$1500 to resolve the matter



Fwd: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, April 5, 2023 at 10:47 PM EDT

This is nuts

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Tuesday, April 4, 2023 9:05:20 AM

To: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

My client has advised me that he will pay the 5k you sought in fees - please advise whether this is sufficient to resolve the matter. Thank you,

Michael Sussman

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Sent: Friday, March 31, 2023 11:37 PM

To: Michael Sussman [REDACTED]@sussman.law>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Thank you for your message. My client has rejected your offer. I have also spoken with counsel for the Commission, and it is not acceptable to them either.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Wednesday, March 29, 2023 9:03 AM

To: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

I have spoken with Judge Mora since our argument/settlement conference. He has authorized me to share the following:

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, April 6, 2023 at 08:15 AM EDT

There is nothing here or attached.

On Wednesday, April 5, 2023 at 10:47:45 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

This is nuts

Get [Outlook for iOS](#)

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Tuesday, April 4, 2023 9:05:20 AM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

My client has advised me that he will pay the 5k you sought in fees - please advise whether this is sufficient to resolve the matter. Thank you,

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, March 31, 2023 11:37 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Thank you for your message. My client has rejected your offer. I have also spoken with counsel for the Commission, and it is not acceptable to them either.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Wednesday, March 29, 2023 9:03 AM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Fw: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, April 6, 2023 at 08:57 AM EDT

see the message below..

Michael Sussman

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Sent: Wednesday, April 5, 2023 8:34 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

FOR SETTLEMENT PURPOSES ONLY

Thank you for your message. The fees for my time on this matter at my standard hourly rate set by our firm are in excess of \$120,000. At this time, we intend to apply to the Court to recover most, but not all, of my fees, and we will not seek to recover fees for any of the substantial time spent by Victor Kovner.

If you would like to resolve the issue of fees short of a hearing, you will need to offer substantially more than \$5,000. Further, in addition to having no further contact with Ms. Koch or her employer, your client's letter (which only discussed the incident at the office) will also need to apologize for filing this SLAPP suit seeking \$425,000 from Ms. Koch.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Wednesday, April 5, 2023 5:40 AM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

Good morning:

Judge Mora is interested in resolving the matter of attorneys' fees short of a hearing. He agreed previously to pay \$5000 which was the figure you provided the court at last week's settlement conference. While the court's decision otherwise moots the apology he proposed and

Re: tomorrow - mora adv/ koch

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, April 6, 2023 at 09:21 AM EDT

Nuts would be an understatement. Did he add an extra zero by accident?

On Thursday, April 6, 2023 at 08:57:25 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

see the message below..

Michael Sussman

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Wednesday, April 5, 2023 8:34 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

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1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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Sent: Wednesday, April 5, 2023 5:40 AM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Re: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, April 6, 2023 at 09:23 AM EDT

it went from 15k as total fees when we were in court to 120 after court...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, April 6, 2023 9:21 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

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see the message below..

Michael Sussman

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Sent: Wednesday, April 5, 2023 8:34 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

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1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] Mobile: [REDACTED] | Fax [REDACTED]

65

Re: tomorrow - mora adv/ koch

From: Frank Mora <[REDACTED]@yahoo.com>

To: [REDACTED]@sussman.law

Date: Thursday, April 6, 2023 at 09:35 AM EDT

As I explained to you, I did not even know what a SLAPP suit was. When we spoke on the phone on Tuesday, you said you did not tell me about SLAPP regarding my case because you did not believe this is a SLAPP suit. I absolutely know I did not bring a SLAPP suit. Are you still confident that this is not a SLAPP suit, meaning, should we appeal?

On Thursday, April 6, 2023 at 09:23:53 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

it went from 15k as total fees when we were in court to 120 after court...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

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To: Michael Sussman <[REDACTED]@sussman.law>

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see the message below..

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Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

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“

Re: Stacey Koch suit

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, April 6, 2023 at 11:00 AM EDT

Well said. Let's see if they print it.

On Thursday, April 6, 2023 at 10:54:49 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

The case was filed long after Stacey Koch testified before the NY State Commission on Judicial Conduct. It was never intended to inhibit her ability to testify. Indeed, my client filed the defamation case on the final day before the expiration of the statute of limitations.

The issue for us is that no person should be above the law, including civilians who would, as the lawsuit alleges, besmirch the character and reputation of a judge. This decision leaves no y accountability in such situations, in fact, excepting them from the laws of defamation even though the allegedly defamatory statements were made to people with tremendous authority and power over my client. The consequence of this extension of absolute immunity is significant because it authorizes all manner of false reporting without any consequence. And, of course, the underlying complaints are not filed under oath or even with a guarantee of confidentiality. No such guarantee appears on the Commission's web site.

We have tried to settle the matter without success and will take all measures possible and appropriate to protect our client's legal and reputational interests. No one should be persecuted for sincerely held religious beliefs and, at bottom, I believe this is the genesis of this entire controversy and the Commission's intervention in this civil lawsuit.

Michael Sussman

From: Elliot Weld ([REDACTED]@law360.com>

Sent: Thursday, April 6, 2023 10:44 AM

To: Michael Sussman ([REDACTED]@sussman.law>

Subject: Stacey Koch suit

Hi Mr. Sussman,

It's Elliot Weld at Law360 again. I am working on some coverage of the suit against Stacey Koch and was wondering if you'd seen Justice Rosa's dismissal of the suit, citing anti-SLAPP laws. I was wondering if you wanted to comment at all. Let me know.

Thanks as always,
Elliot Weld

--

Re: Stacey Koch suit

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@yahoo.com

Date: Thursday, April 6, 2023 at 11:10 AM EDT

Thanks. ms

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, April 6, 2023 11:00 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Stacey Koch suit

Well said. Let's see if they print it.

On Thursday, April 6, 2023 at 10:54:49 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

The case was filed long after Stacey Koch testified before the NY State Commission on Judicial Conduct. It was never intended to inhibit her ability to testify. Indeed, my client filed the defamation case on the final day before the expiration of the statute of limitations.

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Michael Sussman

From: Elliot Weld <[REDACTED]@law360.com>

Sent: Thursday, April 6, 2023 10:44 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Stacey Koch suit

Hi Mr. Sussman,

Articles

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, April 7, 2023 at 11:02 AM EDT

Here are the articles I was telling you about.

One of them even has it wrong saying I have a religious belief about not wearing masks.

Do you have any of the cases you were mentioning that there is no award of attorney fees if pro bono?



Mid Hudson News - Defamation suit filed by Mora tossed out...ave to pay defendant 4-7-23.pdf
152.5kB



New York Law Journal - 2 Losses for a NY Judge as Misconduct C... Becomes Public 4-7-23.pdf
844.2kB



Law360 Optician Beats NY Judge_s Defamation Suit Over Mask Dispute 4-7-23.pdf
188.9kB

Re: Articles

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, April 7, 2023 at 12:47 PM EDT

Thank you. Have a good weekend.

On Friday, April 7, 2023 at 11:46:11 AM EDT, Michael Sussman ([REDACTED]@sussman.law) wrote:

Yes, I do.

I WILL REVIEW THAT brief this weekend and pull and send citations on what is necessary to get fees in NY

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, April 7, 2023 11:02 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Articles

Here are the articles I was telling you about.

One of them even has it wrong saying I have a religious belief about not wearing masks.

Do you have any of the cases you were mentioning that there is no award of attorney fees if pro bono?

Re: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@dwt.com

Cc: [REDACTED]@dwt.com

Date: Sunday, April 9, 2023 at 07:03 AM EDT

Good morning:

The court set April 27 for the attorneys' fees hearing, but I am in Atlanta between 4/26 and May 3 in court ordered depositions in a case down there. Please advise me whether May 11, May 22, 23, 25 or 26 works for you. I have trial commitments other days between now and June 12. I will then write the court and seek a mutually available date for this proceeding.

On another note, please provide your firm's retainer agreement [if any] with Ms. Koch and any bills provided her, records of your hours and CV/resumes you may introduce in support of your application for fees. If any court, federal or state, has set a fee for your service, kindly provide citation to such orders or decisions and if you intend to use any other attorney/expert in support of your hourly rate, kindly identify that person.

Thanks.

Michael Sussman

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Sent: Wednesday, April 5, 2023 8:34 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

FOR SETTLEMENT PURPOSES ONLY

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If you would like to resolve the issue of fees short of a hearing, you will need to offer substantially more than \$5,000. Further, in addition to having no further contact with Ms. Koch or her employer, your client's letter (which only discussed the incident at the office) will also need to apologize for filing this SLAPP suit seeking \$425,000 from Ms. Koch.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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Re: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Monday, April 10, 2023 at 09:20 AM EDT

Sure please send me his number

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, April 10, 2023 9:09:48 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Should I reach out to him and tell him to expect a call from you?

On Monday, April 10, 2023 at 08:56:57 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

It makes sense

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, April 10, 2023 7:56:51 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Does it make any sense to get an affidavit from Mike Brown, Koch's former co-worker, that Koch told him after she testified before the commission that she basically made up that she felt threatened by me, and that she was bragging that she is going to get me fired? We could then file for a rehearing. This would show Judge Rosa that my suit was not to silence Koch at all, but was just the opposite, to get redress for the harms she was causing me. Or, does none of this matter, as the case law seems to suggest that a complainant can say anything without fear of being held accountable?

On Sunday, April 9, 2023 at 07:03:03 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Good morning:

The court set April 27 for the attorneys' fees hearing, but I am in Atlanta between 4/26 and May 3 in court ordered depositions in a case down there. Please advise me whether May 11, May 22, 23, 25 or 26 works for you. I have trial commitments other days between now and June 12. I will then write the court and seek a mutually available date for this proceeding.

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, April 10, 2023 at 09:48 AM EDT

That's the amazing part. Before the 12/28/21 incident, I had never seen him before. I don't know him at all, except from Seeta, and when he signed his letter for me. This is from #40 of the docs I first sent to you, page 33:

Most people are not capable of exhibiting the type of restraint Judge Mora exhibited. Clearly, Ms. Koch has a problem and was trying to degrade Judge Mora as much as possible. But the Commission does not have to just take Judge Mora's word for it. An employee of Seeta, Michael Brown, witnessed the encounter and describes what really occurred. His recitation is attached as Exhibit 20. In addition, Dr. M [REDACTED]'s encounter with Ms. Koch is detailed in a statement attached as Exhibit 21. Notably, Mr. Brown does not know Judge Mora. He offered to provide the letter—despite the repercussion he may face—because how Ms. Koch treated Judge Mora was egregious. That is, Mr. Brown is putting his job on the line to avail this Commission of the truth. And his gesture speaks volumes about how Judge Mora conducted himself. Further, Judge Mora left such a good impression with Mr. Brown that he decided Judge Mora was worth the risk.

On Monday, April 10, 2023 at 09:42:22 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

How well do you know him?

[Get Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, April 10, 2023 9:41:22 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Michael Brown - [REDACTED]

On Monday, April 10, 2023 at 09:20:22 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Sure please send me his number

[Get Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, April 10, 2023 9:09:48 AM

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, April 11, 2023 at 06:04 PM EDT

I found this on attorney fees: <https://www.paulweiss.com/practices/pro-bono/news/paul-weiss-secures-significant-attorneys-fees-award-for-pro-bono-client?id=39474>

It does not look good.

On Tuesday, April 11, 2023 at 12:20:03 PM EDT, Frank Mora ([REDACTED]@yahoo.com) wrote:

I found the motion to dismiss. I did not receive their reply. Please send that and the case law on attorney fees.

On Tuesday, April 11, 2023 at 09:11:52 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

I told a friend of mine who is an attorney how Kovner is a former commissioner of the judicial commission, and that his firm is representing Koch pro-bono, and she said it does not pass the smell test. She thinks that Judge Rosa needs to hear this for the application on attorney fees. Your thoughts?

Please forward to me the case law when you have time regarding not awarding attorney fees to a pro-bono attorney. Also, I can't find their motion to dismiss. Would you please email that to me again?

On Monday, April 10, 2023 at 02:07:50 PM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

He actually told me he quit on the spot when she told him this, as he told her he could not work for a person that could do something like this. He said he told the commission everything when he testified before them. They asked him questions for 45 minutes to an hour, and were asking such things as, did Judge Mora coerce you in to writing the letter?

On Monday, April 10, 2023 at 09:48:18 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

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Re: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, April 12, 2023 at 05:17 AM EDT

When you write, "it doesn't look good," you are presuming Judge Rosa's decision was correct and that she will award exorbitant fees. I will send you what I have to date on fees and the reply papers when I return from mediation in White Plains later today.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, April 11, 2023 12:20 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

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Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, April 12, 2023 at 08:17 AM EDT

I meant that it appears that attorney fees can be awarded on a pro-bono case. I am nervous that she will do just that regarding exorbitant fees.

On Wednesday, April 12, 2023 at 05:17:16 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

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On Monday, April 10, 2023 at 02:07:50 PM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

He actually told me he quit on the spot when she told him this, as he told her he could not work for a person that could do something like this. He said he told the commission everything when he testified before them. They asked him questions for 45 minutes to an hour, and were asking such things as, did Judge Mora coerce you in to writing the letter?

On Monday, April 10, 2023 at 09:48:18 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, April 12, 2023 at 08:24 AM EDT

I will.

On Wednesday, April 12, 2023 at 08:19:56 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Please call me if you can between 840-930 – [REDACTED]...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, April 12, 2023 8:17 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

I meant that it appears that attorney fees can be awarded on a pro-bono case. I am nervous that she will do just that regarding exorbitant fees.

On Wednesday, April 12, 2023 at 05:17:16 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

When you write, "it doesn't look good," you are presuming Judge Rosa's decision was correct and that she will award exorbitant fees. I will send you what I have to date on fees and the reply papers when I return from mediation in White Plains later today.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, April 11, 2023 12:20 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Fw: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <COURT NOTICE> 2022-54141 (Frank Mora v. Stacey Koch)

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, April 20, 2023 at 06:57 AM EDT

The issue before us is whether to have a hearing on their fee application or whether to proceed on papers...I am dubious about paper submissions with no opportunity to question, especially since they get the last word on papers. If you have an opinion, please share it. Thanks.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED]
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Sent: Wednesday, April 19, 2023 5:16 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: FW: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <COURT NOTICE> 2022-54141 (Frank Mora v. Stacey Koch)

Good afternoon: Per the Court's notice, we agree to proceed on papers only, under the previously agreed schedule.

Best,

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP
1251 Avenue of the Americas, 21st Floor | New York, NY 10020
Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]
Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: efile@nycourts.gov <efile@nycourts.gov>

Sent: Wednesday, April 19, 2023 4:41 PM

To: [REDACTED]@frontier.com; [REDACTED]@sussman.law; efile@nycourts.gov; Kovner, Victor

[REDACTED]@dwt.com>; NYC Docket <[REDACTED]@dwt.com>; [REDACTED]@frontiernet.net;

[REDACTED]@cjc.ny.gov; Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>; [REDACTED]@frontier.com

Re: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <COURT NOTICE> 2022-54141 (Frank Mora v. Stacey Koch)

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@yahoo.com

Date: Thursday, April 20, 2023 at 09:01 AM EDT

we can discuss...not sure it would be best to place you under oath or for you to so defend the filing...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED]
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, April 20, 2023 8:11 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <COURT NOTICE> 2022-54141 (Frank Mora v. Stacey Koch)

I agree that we are going to need a hearing.

Looking at NY CLS Civ R Sec 70-a, it states that attorney fees are awarded from any person who "commenced or continued such action..." Would it be prudent to show that I had never handled a defamation case in my entire career, had never heard of SLAPP until reading it in their motion to dismiss, brought the suit on the last day of the SOL only after hearing from Mike Brown that Koch was bragging about making up feeling threatened and going to get my job, and then attempting to withdraw the matter before the decision?

Would it be a good idea to put me under oath at a hearing regarding all of this, and getting that affidavit from Brown?

On Thursday, April 20, 2023 at 06:57:23 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

The issue before us is whether to have a hearing on their fee application or whether to proceed on papers...I am dubious about paper submissions with no opportunity to question, especially since they get the last word on papers. If you have an opinion, please share it. Thanks.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue

Re: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <COURT NOTICE> 2022-54141 (Frank Mora v. Stacey Koch)

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, April 24, 2023 at 12:04 PM EDT

Please email me the case law that you have regarding no attorney fees for pro-bono attorneys.

On Thursday, April 20, 2023 at 09:01:29 AM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

we can discuss...not sure it would be best to place you under oath or for you to so defend the filing...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED]
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, April 20, 2023 8:11 AM

To: Michael Sussman [REDACTED]@sussman.law>

Subject: Re: NYSCEF Notification: Dutchess - Torts - Other - Notification from Court <COURT NOTICE> 2022-54141 (Frank Mora v. Stacey Koch)

I agree that we are going to need a hearing.

Looking at NY CLS Civ R Sec 70-a, it states that attorney fees are awarded from any person who "commenced or continued such action..." Would it be prudent to show that I had never handled a defamation case in my entire career, had never heard of SLAPP until reading it in their motion to dismiss, brought the suit on the last day of the SOL only after hearing from Mike Brown that Koch was bragging about making up feeling threatened and going to get my job, and then attempting to withdraw the matter before the decision?

Would it be a good idea to put me under oath at a hearing regarding all of this, and getting that affidavit from Brown?

On Thursday, April 20, 2023 at 06:57:23 AM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

The issue before us is whether to have a hearing on their fee application or whether to proceed on papers...I am dubious about paper submissions with no

Re: status

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, April 25, 2023 at 08:59 AM EDT

Thank you.

On Tuesday, April 25, 2023 at 08:58:10 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

She left us no choice. She is being unreasonable and a record of that exists. Not much let I can do. Let's see what they submit and create the best record we can in response.

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From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Tuesday, April 25, 2023 8:56:01 AM

To: Michael Sussman ([REDACTED]@sussman.law>

Subject: Re: status

After reading your letter to Justice Rosa, this should not be done on papers. We need an evidentiary hearing, so we can cross-examine them. It is apparent that she has already made up her mind, and she is going to hammer me with attorney fees.

On Tuesday, April 25, 2023 at 08:29:33 AM EDT, Frank Mora ([REDACTED]@yahoo.com> wrote:

Thank you. Good luck in Georgia.

On Tuesday, April 25, 2023 at 08:27:30 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I have to write on the attorneys fees issues in may and will pull together all cases [from prior research] then. I am still with a jury deliberation in my manslaughter case and leaving for Georgia tonight. I will be away nine days. ◀

▶ Judge Rosa is being extremely difficult in the Koch case and has refused to even entertain the idea of an evidentiary hearing if we submit papers. I do not understand her attitude, but she is quite hostile.

I have sent her the following letter today on this issue. Best regards.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: Fwd: NYSCEF Notification: Dutchess - Torts - Other - <AFFIRMATION OF ATTORNEY FEES> 2022-54141 (Frank Mora v. Stacey Koch)

From: Frank Mora ([REDACTED]@yahoo.com)
To: [REDACTED]@sussman.law; [REDACTED]@sussman.law
Date: Thursday, April 27, 2023 at 06:57 PM EDT

No need to send to me. I have it all, and ready to discuss. Another sleepless night tonight.

On Thursday, April 27, 2023, 6:54 PM, Michael Sussman <[REDACTED]@sussman.law> wrote:

Monica - Please print this and email to judge mora.

ThAnks

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From: efile@nycourts.gov <efile@nycourts.gov>
Sent: Thursday, April 27, 2023 12:59:34 PM
To: [REDACTED]@frontier.com [REDACTED]@frontier.com>; Michael Sussman [REDACTED]@sussman.law>; efile@nycourts.gov <efile@nycourts.gov>; [REDACTED]@dwt.com <[REDACTED]@dwt.com>; [REDACTED]@dwt.com <[REDACTED]@dwt.com>; [REDACTED]@frontiernet.net <[REDACTED]@frontiernet.net>; [REDACTED]@cjc.ny.gov <[REDACTED]@cjc.ny.gov>; [REDACTED]@dwt.com <[REDACTED]@dwt.com>; [REDACTED]@frontier.com <[REDACTED]@frontier.com>
Subject: NYSCEF Notification: Dutchess - Torts - Other - <AFFIRMATION OF ATTORNEY FEES> 2022-54141 (Frank Mora v. Stacey Koch)



Dutchess County Supreme Court Notification of Filing 04/27/2023

On 04/27/2023, the NYSCEF System received the documents listed below from filing user RAPHAEL HOLOSZYC-PIMENTEL . Please keep this notice as a confirmation of this filing.

Case Information

Index #: 2022-54141
Caption: **Frank Mora v. Stacey Koch**
eFiling Status: **Full Participation Recorded**
Assigned Case Judge: **Maria G Rosa**

Working Copies

By order of the Chief Administrative Judge ([A0/267/20](#)), the court shall NOT request working copies of documents filed electronically.

attorneys fees

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Monday, May 1, 2023 at 03:28 AM EDT

I will be drafting our reply on Saturday. If you have any comments, please let me have by the end of the week. Thanks.
Mhs

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Re: Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, May 2, 2023 at 08:57 AM EDT

Write out your apology and I will send them A new proposal

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From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, May 2, 2023 8:34:26 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: Koch

They want a specific apology for bringing the SLAPP suit, which I am willingly to give. I am also offering 15k, not 5k.

On Monday, May 1, 2023, 8:57 PM, Michael Sussman <[REDACTED]@sussman.law> wrote:

We made this offer, and it was rejected. I told you I was working on this this weekend and I will write on it then. I will not appeal.

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From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, May 1, 2023 5:06:50 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Koch

Michael,

Please do not appeal Judge Rosa's decision. There is no way to win it, and both you and I will be subject to sanctions and attorney fees.

You mentioned in an April 6th email that their attorney fees "went from 15k as total fees when we were in court to 120 after court..."

Did they give that figure to Judge Rosa, and then she relayed it to you? If not, where did that figure come from?

In any event, please offer them the \$15,000 immediately, I will issue an apology, and stay away from Seeta.

Thank you.

Frank

Re: Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, May 2, 2023 at 12:55 PM EDT

Call my cell when you have time ty

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, May 2, 2023 10:37:18 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

I will work on it.

On Tuesday, May 2, 2023 at 09:51:06 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I think we should provide the apology as part of any proposal.

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, May 2, 2023 9:29:47 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

Please see if that is acceptable, and then I will write it.

1. \$15,000;
2. Apology for the SLAPP suit; and
3. I will stay away from Seeta.

On Tuesday, May 2, 2023 at 08:57:25 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Write out your apology and I will send them A new proposal

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, May 2, 2023 8:34:26 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Koch

They want a specific apology for bringing the SLAPP suit, which I am willingly to give. I am also offering 15k, not 5k.

Re: Koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Wednesday, May 3, 2023 at 05:47 PM EDT

this is very personal and i really have no opinion. the only thing that matters is that this be resolved in a manner you more acceptable than less acceptable. if you are comfortable with its content, I will send to the other counsel.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED]
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, May 3, 2023 3:49 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: Koch

Attached is the apology. What do you think?

On Tuesday, May 2, 2023 at 10:37:18 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

I will work on it.

On Tuesday, May 2, 2023 at 09:51:06 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I think we should provide the apology as part of any proposal.

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From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, May 2, 2023 9:29:47 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: Koch

Please see if that is acceptable, and then I will write it.

1. \$15,000;
2. Apology for the SLAPP suit; and

Re: Koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, May 4, 2023 at 04:01 PM EDT

Were you able to send the proposal?

On Thursday, May 4, 2023 at 08:45:25 AM EDT, Michael Sussman ([REDACTED]@sussman.law) wrote:

I will send them your proposal today copying you. Ms

Michael Sussman

Sussman & Goldman

1 Railroad Avenue

Goshen, NY 10924

[REDACTED]

[REDACTED] (fx)

[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, May 4, 2023 8:27 AM

To: Michael Sussman ([REDACTED]@sussman.law)

Subject: Re: Koch

I took out the part about my wife. Please use this one.

On Wednesday, May 3, 2023 at 05:47:53 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

this is very personal and i really have no opinion. the only thing that matters is that this be resolved in a manner you more acceptable than less acceptable. if you are comfortable with its content, I will send to the other counsel.

Re: Koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, May 4, 2023 at 05:53 PM EDT

yes I was. hours ago. ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Thursday, May 4, 2023 4:01 PM
To: Michael Sussman [REDACTED]@sussman.law>
Subject: Re: Koch

Were you able to send the proposal?

On Thursday, May 4, 2023 at 08:45:25 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I will send them your proposal today copying you. Ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Thursday, May 4, 2023 8:27 AM

Fw: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, May 4, 2023 at 05:54 PM EDT

fyi

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Thursday, May 4, 2023 11:36 AM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

Without prejudice, My client wishes to propose a resolution again:

Enclosed apology letter to your client

Payment of \$15,000 in fees

Agreement to not patronize her business establishment.

Kindly advise.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Wednesday, April 12, 2023 3:15 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Re: attorneys fees issues

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, May 5, 2023 at 11:13 AM EDT

Just some thoughts:

For the attorney fees, should we put in there that I accepted their terms on April 3rd, but you did not see my email until the next day, you advised them first thing on April 4th, but before they could respond, the decision was issued?

Maybe also put something like you were going to write the court to advise it was being withdrawn as as soon as you heard from them, but again, the decision came out the same day?

On Friday, May 5, 2023 at 08:55:43 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

Please look at Judge Rosa's case Kenneth Gottlieb v. Christine Colonel Index No. 50650/2016. This wasn't Gottlieb's first SLAPP suit, and the attorney fees were moderate, and he is an attorney.

[REDACTED]

On Friday, May 5, 2023 at 08:09:29 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

As I have written before, I intend to brief the attorneys fee issues this weekend, focusing on the relative simplicity of their argument, our efforts to compromise this far before much of these hours were spent and the lack of merit to the notion that fees are warranted...I will send my papers for your review and if you have anything you wish to add, will certainly consider.

I have heard nothing back from adversary counsel after forwarding my settlement proposal yesterday morning. As i had told you, I doubt they bite...

[REDACTED]

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Re: attorneys fees issues

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Friday, May 5, 2023 at 01:28 PM EDT

Yes the entire chronology should be there

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, May 5, 2023 11:13:17 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: attorneys fees issues

Just some thoughts:

For the attorney fees, should we put in there that I accepted their terms on April 3rd, but you did not see my email until the next day, you advised them first thing on April 4th, but before they could respond, the decision was issued?

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I have heard nothing back from adversary counsel after forwarding my settlement proposal yesterday morning. As i had told you, I doubt they bite...

Fwd: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Friday, May 5, 2023 at 01:43 PM EDT

Fyi let me know your position we could counter at 20k

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From: Holoszyk-Pimentel, Raphael [REDACTED]@dwt.com>

Sent: Friday, May 5, 2023 1:41:43 PM

To: Michael Sussman [REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

FOR SETTLEMENT PURPOSES ONLY

Thank you for your message. We can agree to resolve the issue of fees for \$25,000. Also, we assume the last provision means no contact with Seeta Eye nor Ms. Koch, but please confirm.

Raphael Holoszyk-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman [REDACTED]@sussman.law>

Sent: Thursday, May 4, 2023 11:36 AM

To: Holoszyk-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

Without prejudice, My client wishes to propose a resolution again:

Enclosed apology letter to your client

Payment of \$15,000 in fees

Agreement to not patronize her business establishment.

Kindly advise.

Michael Sussman

Sussman & Goldman

1 Railroad Avenue

Goshen, NY 10924

[REDACTED]

Re: tomorrow - mora adv/ koch

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, May 5, 2023 at 01:56 PM EDT

What do you think about \$17,500, advising them that it is \$2,500 more than they told Rosa they wanted?

On Friday, May 5, 2023 at 01:43:21 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Fyi let me know your position we could counter at 20k

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From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, May 5, 2023 1:41:43 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

FOR SETTLEMENT PURPOSES ONLY

Thank you for your message. We can agree to resolve the issue of fees for \$25,000. Also, we assume the last provision means no contact with Seeta Eye nor Ms. Koch, but please confirm.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman [REDACTED]@sussman.law>

Sent: Thursday, May 4, 2023 11:36 AM

To: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

Without prejudice, My client wishes to propose a resolution again:

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, May 5, 2023 at 02:05 PM EDT

Ok.

On Friday, May 5, 2023 at 02:00:05 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I think we go back with 20 and try to end it. Much time has passed since they made a representation of 15.

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, May 5, 2023 1:56:00 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

What do you think about \$17,500, advising them that it is \$2,500 more than they told Rosa they wanted?

On Friday, May 5, 2023 at 01:43:21 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Fyi let me know your position we could counter at 20k

Get [Outlook for iOS](#)

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, May 5, 2023 1:41:43 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

FOR SETTLEMENT PURPOSES ONLY

Thank you for your message. We can agree to resolve the issue of fees for \$25,000. Also, we assume the last provision means no contact with Seeta Eye nor Ms. Koch, but please confirm.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

Fwd: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Saturday, May 6, 2023 at 02:06 AM EDT

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From: Michael Sussman [REDACTED]@sussman.law>

Sent: Friday, May 5, 2023 5:28 PM

To: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

We can agree to 20k as compromise

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Thursday, May 4, 2023 11:36 AM

To: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

Without prejudice, My client wishes to propose a resolution again:

Enclosed apology letter to your client

Payment of \$15,000 in fees

Agreement to not patronize her business establishment.

Kindly advise.

Michael Sussman

Sussman & Goldman

1 Railroad Avenue

Goshen, NY 10924

[REDACTED]

[REDACTED] (fx)

[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Sent: Wednesday, April 12, 2023 3:15 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Looks good to me. Thanks

Re: attorneys fees issues

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Monday, May 8, 2023 at 04:35 PM EDT

not as of yet...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED](fx)
[REDACTED]@sussman.law

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Monday, May 8, 2023 3:23 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: attorneys fees issues

Any word?

On Sunday, May 7, 2023 at 05:00:11 PM EDT, Frank Mora [REDACTED]@yahoo.com> wrote:

I know. Just preparing.

On Sunday, May 7, 2023 at 04:58:35 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I am awaiting a response to our settlement proposal.

Get [Outlook for iOS](#)

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Sunday, May 7, 2023 4:49:38 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: attorneys fees issues

Back to the attorney fees issue. In Gottlieb, Judge Rosa awarded \$5,800. At \$290 per hour, that comes to 20 hours. In my case, they are seeking \$350 per hour. At 20 hours, that is \$7,000. Gottlieb had no court appearances, we had one. Tacking on another 10 hours for that, that is \$10,500. Even adding another 10 hours, for a total of 40 hours, that is \$14,000.

On Saturday, May 6, 2023 at 07:08:11 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Re: tomorrow - mora adv/ koch

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@dwt.com

Cc: [REDACTED]@dwt.com

Date: Tuesday, May 9, 2023 at 03:20 PM EDT

Resolved thank you.

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From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Tuesday, May 9, 2023 2:53:10 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Thank you for confirming. We can resolve the SLAPP fee award for \$20k and the other discussed terms contained in a mutually acceptable agreement. We will prepare draft settlement papers, which I hope to send you tomorrow.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Tuesday, May 9, 2023 1:03 PM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

Yes, no contact with either, and I had suggested compromising this for 20k but have not heard back from you.

Kindly advise if that will resolve this matter.

Thanks.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924

[REDACTED]
[REDACTED] (fx)

Re: tomorrow - mora adv/ koch

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, May 9, 2023 at 03:25 PM EDT

Please let Judge Rosa know so she does not award attorney fees.

At least there is certainty with this resolution.

On Tuesday, May 9, 2023 at 03:20:37 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Resolved thank you.

Get [Outlook for iOS](#)

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Tuesday, May 9, 2023 2:53:10 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

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Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Tuesday, May 9, 2023 1:03 PM

To: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

Yes, no contact with either, and I had suggested compromising this for 20k but have not heard back from you.

Re: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, May 9, 2023 at 03:30 PM EDT

I agree and we shall our papers are not due until Thursday and they have time to reply. So the judge is not doing anything.

Get [Outlook for iOS](#)

From: Frank Mora [REDACTED]@yahoo.com>

Sent: Tuesday, May 9, 2023 3:25:30 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Please let Judge Rosa know so she does not award attorney fees.

At least there is certainty with this resolution.

On Tuesday, May 9, 2023 at 03:20:37 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Resolved thank you.

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Sent: Tuesday, May 9, 2023 2:53:10 PM

To: Michael Sussman [REDACTED]@sussman.law>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

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Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Tuesday, May 9, 2023 1:03 PM

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, May 11, 2023 at 05:39 PM EDT

Did they, or you, contact the court stating we are settling the attorney fee issue?

On Thursday, May 11, 2023 at 08:22:52 AM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

Did we get anything yet? If not, maybe you should suggest they contact the court, on consent of the commission and us, that we are settling the matter.

On Tuesday, May 9, 2023 at 04:29:17 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

We will see what he proposes but I expect so.

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, May 9, 2023 3:58:30 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Are we able to have this sealed or marked confidential, so the press doesn't get it?

On Tuesday, May 9, 2023 at 03:30:46 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I agree and we shall our papers are not due until Thursday and they have time to reply. So the judge is not doing anything.

Get [Outlook for iOS](#)

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, May 9, 2023 3:25:30 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Please let Judge Rosa know so she does not award attorney fees.

At least there is certainty with this resolution.

On Tuesday, May 9, 2023 at 03:20:37 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Re: tomorrow - mora adv/ koch

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@yahoo.com

Date: Thursday, May 11, 2023 at 05:52 PM EDT

I will send that letter first thing in the morning. I am sending you their proposed settlement now before I contact the court...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Thursday, May 11, 2023 5:39 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

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We will see what he proposes but I expect so.

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From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, May 9, 2023 3:58:30 PM
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On Tuesday, May 9, 2023 at 03:30:46 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, May 11, 2023 at 06:08 PM EDT

Also, as Judge Rosa is a stickler for dates, shouldn't a letter be sent today, as today is our deadline to file a reply to their attorney fee papers?

On Thursday, May 11, 2023 at 06:07:06 PM EDT, Frank Mora ([REDACTED]@yahoo.com) wrote:

The agreement needs to state that it is confidential, and will not be filed with the court.

The apology letter is for her, as it has my personal medical info in it.

The 2nd whereas needs to be changed from unwillingness to inability.

Do you have any other comments or suggested changes?

On Thursday, May 11, 2023 at 05:54:53 PM EDT, Michael Sussman ([REDACTED]@sussman.law) wrote:

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael ([REDACTED]@dwt.com)
Sent: Thursday, May 11, 2023 4:12 PM
To: Michael Sussman ([REDACTED]@sussman.law)
Cc: Kovner, Victor ([REDACTED]@dwt.com)
Subject: RE: tomorrow - mora adv/ koch

Thanks for your patience. Attached are the settlement papers.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP
1251 Avenue of the Americas, 21st Floor | New York, NY 10020
Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]
Email: [REDACTED]@dwt.com | Website: www.dwt.com

Re: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, May 11, 2023 at 07:16 PM EDT

I just completed writing a brief and will read it tomorrow. I am not concerned about the judge and the settlement. I understand everything worries you. I do understand.

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From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Thursday, May 11, 2023 6:08:29 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

Also, as Judge Rosa is a stickler for dates, shouldn't a letter be sent today, as today is our deadline to file a reply to their attorney fee papers?

On Thursday, May 11, 2023 at 06:07:06 PM EDT, Frank Mora ([REDACTED]@yahoo.com> wrote:

The agreement needs to state that it is confidential, and will not be filed with the court.

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The 2nd whereas needs to be changed from unwillingness to inability.

Do you have any other comments or suggested changes?

On Thursday, May 11, 2023 at 05:54:53 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Thursday, May 11, 2023 4:12 PM

To: Michael Sussman <[REDACTED]@sussman.law>

(No Subject)

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, May 11, 2023 at 07:31 PM EDT

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



DOC051123-019.pdf
131.9kB

agreement with koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Cc: [REDACTED]@sussman.law

Date: Friday, May 12, 2023 at 05:42 AM EDT

I have reviewed and edited the agreement. Upon your concurrence, I will forward to adversary counsel.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]



Mora-Koch Settlement Agreement ms edits 51223.docx
27.8kB

Re: agreement with koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Friday, May 12, 2023 at 07:27 AM EDT

I do not agree that we need the consent of the commission. My understanding is that the commission has consented to this through its liaison, Mr. Kovner, and I see no need to press the issue. I am not sure if you need to change this from 14 to 21 days. if so, fine; if not, why bother...there are other more important amendments to make in this agreement...I would stick with 14 days and seek the other changes...ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Friday, May 12, 2023 7:12 AM

To: Michael Sussman ([REDACTED]@sussman.law>

Subject: Re: agreement with koch

I changed 2a & 2b to 21 days. I tried to use track changes, but I don't know if it worked.

We also need consent of the commission, which can be as simple as a letter or email from them.

Thank you for sending the letter to Judge Rosa last night. You are correct, I am worried. The SLAPP decision makes me look like a complete idiot. Although it was not my intent to silence anyone, as her complaint was filed a year prior to the suit, and she had testified in front of the commission, no one knows that. [REDACTED]

Thank you for understanding.

On Friday, May 12, 2023 at 05:42:09 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I have reviewed and edited the agreement. Upon your concurrence, I will forward to adversary counsel.

Michael Sussman
Sussman & Associates

106

Re: agreement with koch

From: Frank Mora <[REDACTED]@yahoo.com>

To: [REDACTED]@sussman.law

Date: Friday, May 12, 2023 at 07:29 AM EDT

OK.

On Friday, May 12, 2023 at 07:27:56 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I do not agree that we need the consent of the commission. My understanding is that the commission has consented to this through its liaison, Mr. Kovner, and I see no need to press the issue. I am not sure if you need to change this from 14 to 21 days. if so, fine; if not, why bother...there are other more important amendments to make in this agreement...I would stick with 14 days and seek the other changes...ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Friday, May 12, 2023 7:12 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: agreement with koch

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Thank you for sending the letter to Judge Rosa last night. You are correct, I am worried. The SLAPP decision makes me look like a complete idiot. Although it was not my intent to silence anyone, as her complaint was filed a year prior to the suit, and she had testified in front of the commission, no one knows that.

[REDACTED]

Thank you for understanding.

On Friday, May 12, 2023 at 05:42:09 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, May 12, 2023 at 07:40 AM EDT

Looks good with the addition of the commission. Thank you.

On Friday, May 12, 2023, 7:37 AM, Michael Sussman <[REDACTED]@sussman.law> wrote:

I am providing you with my track edits. Please review and advise. Thanks.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>
Sent: Thursday, May 11, 2023 4:12 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Cc: Kovner, Victor <[REDACTED]@dwt.com>
Subject: RE: tomorrow - mora adv/ koch

Thanks for your patience. Attached are the settlement papers.

Raphael Holoszyc-Pimentel | Davis Wright Tremain LLP
1251 Avenue of the Americas, 21st Floor | New York, NY 10020
Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]
Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman <[REDACTED]@sussman.law>
Sent: Wednesday, May 10, 2023 7:00 PM
To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>
Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

I will notify court because my papers are due tomorrow...ms

Michael Sussman

Re: agreement with koch

From: Michael Sussman ([REDACTED])@sussman.law)

To: [REDACTED]@yahoo.com

Date: Friday, May 12, 2023 at 07:41 AM EDT

I have assed your issues regardless of my perspective...on their necessity...and, it's your money so I added the 20 days.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora ([REDACTED])@yahoo.com>

Sent: Friday, May 12, 2023 7:29 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: agreement with koch

OK.

On Friday, May 12, 2023 at 07:27:56 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I do not agree that we need the consent of the commission. My understanding is that the commission has consented to this through its liaison, Mr. Kovner, and I see no need to press the issue. I am not sure if you need to change this from 14 to 21 days. if so, fine; if not, why bother...there are other more important amendments to make in this agreement...I would stick with 14 days and seek the other changes...ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora ([REDACTED])@yahoo.com>

Sent: Friday, May 12, 2023 7:12 AM

To: Michael Sussman ([REDACTED])@sussman.law>

Subject: Re: agreement with koch

Re: court response

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Friday, May 12, 2023 at 03:23 PM EDT

Haha. You mean Justice Rosa.

On Friday, May 12, 2023 at 03:21:14 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Other than ordering that you be subjected to ten public lashings, Justice Mora gave us until 5/26 to submit a stipulation...she set no date, time or place for the public whipping...

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Fw: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Friday, May 12, 2023 at 04:22 PM EDT

see this...and advise.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, May 12, 2023 4:19 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Mr. Sussman:

We did not agree to confidentiality, and have made that clear since our initial offer on March 3. We also did not agree to, and do not see the point of, the Commission's sign-off since the fee motion is not their motion. I have deleted those provisions and made a few small edits to your other proposed changes. Please review and let me know if your client accepts by noon on Monday. If not, we will go back to the Court and ask to put the fee motion back on schedule.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] Mobile: [REDACTED] | Fax: [REDACTED]

Email [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman [REDACTED]@sussman.law>

Sent: Friday, May 12, 2023 7:38 AM

To: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

I am providing you with my track edits. Please review and advise. Thanks.

11

Fw: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Friday, May 12, 2023 at 05:46 PM EDT

this seems reasonable. ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael ([REDACTED]@dwt.com>

Sent: Friday, May 12, 2023 5:18 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor ([REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

We can agree to keep the content of the apology, but not the fact of it, confidential. Let me know if the attached version is acceptable.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman ([REDACTED]@sussman.law>

Sent: Friday, May 12, 2023 4:24 PM

To: Holoszyc-Pimentel, Raphael ([REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

my principal issue is that his letter of apology includes personal, medical information intended for your client, not the rest of the world. the balance of this need not be confidential, but the content of that should be at least in the referenced regard.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue

112

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, May 15, 2023 at 03:20 PM EDT

Any word?

On Saturday, May 13, 2023 at 05:00:58 PM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

I was at a DWI seminar In Glens Falls yesterday. Attached are my changes. Even with a diagnosis from a mental health professional, they refuse to accept the fact of my disability. I deleted "alleged." I also added, "Neither this settlement agreement, nor any exhibits, shall be filed with the court."

Thank you.

On Saturday, May 13, 2023 at 06:48:26 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I sent this to you when I received it. They have agreed to maintain the confidentiality of the apology letter, but not of other terms of the agreement. The agreement will not be filed with or in the court.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Friday, May 12, 2023 5:18 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

We can agree to keep the content of the apology, but not the fact of it, confidential. Let me know if the attached version is acceptable.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Re: tomorrow - mora adv/ koch

From: Michael Sussman <[REDACTED]@sussman.law>

To: [REDACTED]@dwt.com

Date: Monday, May 15, 2023 at 07:34 PM EDT

I think this is fine then...my client will have to live with alleged as that has not really been adjudicated...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyk-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Monday, May 15, 2023 7:06 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

We're fine with not filing the agreement with the court. But we need to put "alleged" inability back in, or change it back to "unwillingness" which is the language the court used. Finally, we assume you are not appealing and added a clause to that effect.

Raphael Holoszyk-Pimentel | Davis Wright Tremaine LLP
1251 Avenue of the Americas, 21st Floor | New York, NY 10020
Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]
Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Saturday, May 13, 2023 5:07 PM

To: Holoszyk-Pimentel, Raphael <[REDACTED]@dwt.com>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

I think we are almost there. I am enclosing the final edits on our side of this...please see whether you can live with this and end the matter. Thanks.

Michael Sussman
Sussman & Goldman

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, May 16, 2023 at 07:40 AM EDT

Do you want me to add the acknowledgement language to sign before a notary?

After I sign, I will mail it to you with a check payable to Michael Sussman, as attorney, correct?

On Monday, May 15, 2023 at 07:34:58 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

kindly sign this before a notary and return to me. thanks. ms

Michael Sussman

Sussman & Goldman

1 Railroad Avenue

Goshen, NY 10924

[REDACTED]

[REDACTED]fx)

[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Monday, May 15, 2023 7:06 PM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

We're fine with not filing the agreement with the court. But we need to put "alleged" inability back in, or change it back to "unwillingness" which is the language the court used. Finally, we assume you are not appealing and added a clause to that effect.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Saturday, May 13, 2023 5:07 PM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

115

Re: tomorrow - mora adv/ koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, May 16, 2023 at 08:22 AM EDT

So, I am just signing it, and sending it to you without it being notarized?

On Tuesday, May 16, 2023 at 07:56:53 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

no and yes...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora ([REDACTED]@yahoo.com)
Sent: Tuesday, May 16, 2023 7:40 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Do you want me to add the acknowledgement language to sign before a notary?

After I sign, I will mail it to you with a check payable to Michael Sussman, as attorney, correct?

On Monday, May 15, 2023 at 07:34:58 PM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

kindly sign this before a notary and return to me. thanks. ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

Re: tomorrow - mora adv/ koch

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Tuesday, May 16, 2023 at 08:33 AM EDT

My secretary can notarize. I'm confused, as there is no notary info at the bottom, and you do not want me to add it. How do I get it notarized if that is not there?

On Tuesday, May 16, 2023 at 08:30:41 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I can notarize if you send me a copy of your driver's license.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, May 16, 2023 8:22 AM
To: Michael Sussman [REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

So, I am just signing it, and sending it to you without it being notarized?

On Tuesday, May 16, 2023 at 07:56:53 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

no and yes...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora [REDACTED]@yahoo.com>
Sent: Tuesday, May 16, 2023 7:40 AM

Re: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Tuesday, May 16, 2023 at 08:38 AM EDT

they apparently do not care if it is notarized so that is why I told you to leave it alone. if they want it notarized, i can always do it ...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora ([REDACTED]@yahoo.com>
Sent: Tuesday, May 16, 2023 8:33 AM
To: Michael Sussman ([REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

My secretary can notarize. I'm confused, as there is no notary info at the bottom, and you do not want me to add it. How do I get it notarized if that is not there?

On Tuesday, May 16, 2023 at 08:30:41 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I can notarize if you send me a copy of your driver's license.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Tuesday, May 16, 2023 8:22 AM
To: Michael Sussman ([REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

So, I am just signing it, and sending it to you without it being notarized?

Fw: tomorrow - mora adv/ koch

From: Michael Sussman [REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, May 18, 2023 at 10:44 AM EDT

Please sign and return the last version of the agreement you received. Thanks.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>

Sent: Thursday, May 18, 2023 10:24 AM

To: Michael Sussman [REDACTED]@sussman.law>

Cc: Kovner, Victor [REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Just checking in to see if you've obtained final signoff from your client. If so, I will prepare execution copies.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Michael Sussman <[REDACTED]@sussman.law>

Sent: Monday, May 15, 2023 7:34 PM

To: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

I think this is fine then...my client will have to live with alleged as that has not really been adjudicated...

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)

Re: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@yahoo.com

Date: Thursday, May 18, 2023 at 11:13 AM EDT

Thaks. ms

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora ([REDACTED]@yahoo.com>

Sent: Thursday, May 18, 2023 10:47 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: tomorrow - mora adv/ koch

I signed and mailed it to you, along with the check on 5/16/23.

On Thursday, May 18, 2023 at 10:44:51 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

Please sign and return the last version of the agreement you received. Thanks.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael <[REDACTED]@dwt.com>

Sent: Thursday, May 18, 2023 10:24 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Cc: Kovner, Victor <[REDACTED]@dwt.com>

Subject: RE: tomorrow - mora adv/ koch

Just checking in to see if you've obtained final signoff from your client. If so, I will prepare execution copies.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP
1251 Avenue of the Americas, 21st Floor | New York, NY 10020
Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

120

Re: tomorrow - mora adv/ koch

From: Michael Sussman ([REDACTED]@sussman.law)

To: [REDACTED]@dwt.com

Date: Saturday, May 27, 2023 at 08:42 AM EDT

Kindly confirm your firm's receipt of the wired funds and, when timely, advise the court that our agreement has been consummate and the matter should be closed. Thanks.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Holoszyc-Pimentel, Raphael ([REDACTED]@dwt.com)

Sent: Friday, May 26, 2023 3:37 PM

To: Michael Sussman ([REDACTED]@sussman.law)

Cc: Kovner, Victor ([REDACTED]@dwt.com)

Subject: RE: tomorrow - mora adv/ koch

Thank you for the update. Have a good Memorial Day weekend.

Raphael Holoszyc-Pimentel | Davis Wright Tremaine LLP

1251 Avenue of the Americas, 21st Floor | New York, NY 10020

Tel: [REDACTED] | Mobile: [REDACTED] | Fax: [REDACTED]

Email: [REDACTED]@dwt.com | Website: www.dwt.com

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From: Michael Sussman ([REDACTED]@sussman.law)

Sent: Friday, May 26, 2023 3:35 PM

To: Holoszyc-Pimentel, Raphael ([REDACTED]@dwt.com)

Subject: Re: tomorrow - mora adv/ koch

[EXTERNAL]

My bank will wire the funds before cob today.

Michael Sussman
Sussman & Goldman
1 Railroad Avenue
Goshen, NY 10924
[REDACTED]

121

[REDACTED]

On Monday, October 16, 2023 at 05:20:36 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I am not going to conflate the two cases.

[REDACTED]

I am not interested in being blamed for the state case. I expressed reluctance about that case and felt it should settle when we had that chance we tried but the defendant by then was empowered by the courts apparent hostility to our case. ou felt strongly about the matter and I continue to disagree that filing the case violated any dispositive legal doctrine as Supreme Court ruled.

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From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, October 16, 2023 3:16:28 PM
To: Michael Sussman [REDACTED]@sussman.law>
Subject: Re: documents filed re appeal

Good morning.

[REDACTED]

[REDACTED] The reason I thought that is because of the Koch case. Paying that \$20,500 really set me back. It was a mistake bringing that case. Mistakes happen, as we are all human. When I consulted with you to sue her, I thought we were bringing a viable suit. Just like when I consulted about suing Law360 for their blatantly false article, you advised that we are not able to sue, as the press is immune from suit. Although I was not happy about that, I moved on. If I had been advised about SLAPP, and that attorneys/judges are not allowed to sue their accusers even if the complaint is false and malicious, I would not have pursued it. I know you are a fair and honorable man, and if I misunderstood, please let me know.

Thank you.

Re: Judicial Commission new complaint Koch

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Wednesday, November 1, 2023 at 10:39 AM EDT

I will forward Chad this email exchange and see what he thinks.

Thank you.

On Wednesday, November 1, 2023 at 08:46:01 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I am not sure how much attorney/client privileged information is appropriate to share in this instance and your note below invites me to share quite a bit of that. I would certainly be a witness at any proceeding in these regards but am not sure whether a letter from me will be of any use. Perhaps I should speak about the content of any such letter with the lawyer handling this disciplinary proceeding on your behalf. Let me know...

Michael Sussman, Esq.
Sussman & Goldman
PO Box 1005
1 Railroad Avenue, Ste 3.
Goshen, NY 10924
[REDACTED]
[REDACTED]fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Tuesday, October 31, 2023 8:00 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Judicial Commission new complaint Koch

Good morning.

Attached is the newest complaint from the Commission which I recently received. Would you write a letter stating whatever you deem appropriate, such that it is not retaliation, that it was brought in good faith, that I was not advised about SLAPP, that you don't think it is SLAPP, that you wanted me to appeal, etc.?

Re: my comment on judicial commission charge

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Thursday, November 2, 2023 at 11:34 AM EDT

If you recall, the main impetus for me going forward came after Mike Brown's call to me, stating that Koch told him she testified to the commission that she felt threatened by me and was bragging that she was going to get me fired. He said he quit on the spot when she said that.

I'll run this by Chad and let you know.

Thanks for putting that together.

On Wednesday, November 1, 2023 at 03:13:07 PM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

This is how I understand this. michael

Michael Sussman

Sussman & Associates

1 Railroad Ave., 3rd Floor

PO Box 1005

Goshen, NY 10924

[REDACTED]

Re: Proposed opening on Koch lawsuit for my testimony tomorrow 2/27/24

From: Frank Mora ([REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Monday, February 26, 2024 at 07:38 PM EST

Thank you. I will let Chad know.

On Monday, February 26, 2024 at 06:01:19 PM EST, Michael Sussman ([REDACTED]@sussman.law) wrote:

You go further than I would in acknowledging the lawsuit was not viable. I still disagree with that conclusion and believe the laws remains open on this. It seems to me that you and chad might want to call me as a witness...i feel the claim is viable and that the privilege issue is defeated by bad faith which is what your adversary/defamer showed...that remains my view.

Michael Sussman, Esq.
Sussman & Goldman
PO Box 1005
1 Railroad Avenue, Ste 3.
Goshen, NY 10924

[REDACTED]
[REDACTED] (fx)
[REDACTED]@sussman.law

From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Monday, February 26, 2024 4:33 PM

To: Michael Sussman [REDACTED]@sussman.law>

Subject: Proposed opening on Koch lawsuit for my testimony tomorrow 2/27/24

I'm not sure how much of this Chad will use with the Judicial Commission in our opening, but wanted you to see it. Any thoughts?

Judges, just like any other individual, are allowed to bring lawsuits. Judge Mora confirmed this with Laura Smith, Chief Counsel of The Advisory Committee on Judicial Ethics. For the commission's review, we are submitting nine (9) advisory opinions which state just that. As the commission is aware, he was represented by a very reputable attorney, Michael Sussman, who has been handling these types of matters for over 45 years. Prior to this lawsuit, Judge Mora had NEVER been involved in a defamation case, neither in his professional capacity as a lawyer or judge, or as an individual. Judge Mora sought advice from a highly skilled and successful attorney, who advised Judge Mora that this was a viable lawsuit, and a retainer agreement was entered into. Although it turned out not to be a viable claim, that is of no consequence to Judge Mora being allowed to bring the suit, upon his attorney's advice. Judge Mora was represented, advised, counseled, and instructed that it was proper – he believed it! He was not acting pro-se. I submit that a Judge who in good-faith brings a lawsuit based on his attorney's legal advice, necessarily acts ethically, even though it is later determined not to be a viable suit. To find otherwise would be contrary to public policy.

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Re: Proposed opening on Koch lawsuit for my testimony tomorrow 2/27/24

From: Frank Mora <[REDACTED]@yahoo.com>

To: [REDACTED]@sussman.law

Date: Saturday, March 23, 2024 at 12:18 PM EDT

Please let me know about the SLAPP issue, in case they raise it again with me.

On Thursday, March 14, 2024 at 04:26:47 PM EDT, Frank Mora <[REDACTED]@yahoo.com> wrote:

Any word on the SLAPP issue?

On Thursday, February 29, 2024 at 11:03:21 AM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Thank you.

On Thursday, February 29, 2024 at 10:57:15 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I will review all papers and advise. I am sure it was argued.

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From: Frank Mora <[REDACTED]@yahoo.com>

Sent: Thursday, February 29, 2024 10:34:09 AM

To: Michael Sussman <[REDACTED]@sussman.law>

Subject: Re: Proposed opening on Koch lawsuit for my testimony tomorrow 2/27/24

The Commission referee asked me a questions that I could not answer the other day. He asked that if my attorney (meaning you) believed that it was not a SLAPP suit, why wasn't that argued in our papers regarding the motion to dismiss?

On Monday, February 26, 2024 at 06:01:19 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

You go further than I would in acknowledging the lawsuit was not viable. I still disagree with that conclusion and believe the laws remains open on this. It seems to me that you and chad might want to call me as a witness...i feel the claim is viable and that the privilege issue is defeated by bad faith which is what your adversary/defamer showed...that remains my view.

Michael Sussman, Esq.
Sussman & Goldman
PO Box 1005
1 Railroad Avenue, Ste 3.
Goshen, NY 10924

Re: Federal Appeal

From: Frank Mora [REDACTED]@yahoo.com)

To: [REDACTED]@sussman.law

Date: Saturday, March 23, 2024 at 12:25 PM EDT

Thank you.

Have a good weekend.

On Saturday, March 23, 2024 at 12:24:15 PM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

The issue was addressed in my briefing by and the demonstration that the suit was viable and well founded. Such a suit cannot by definition be a slapp suit which characterization suggests there is no legitimate basis for the suit and merely a desire to vex and harass. No oral argument date has yet been provided for your second circuit case. I will advise as soon as noticed. Mhs

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WAIVER OF CONFIDENTIAL COMMUNICATIONS

File Nos. 2021/N-1120, 2023/N-0369

I, FRANK M. MORA, a Judge of the Poughkeepsie City Court, Dutchess County, hereby waive the attorney-client privilege of confidentiality and give my attorney in *Frank Mora v Stacey Koch* (Index No. 2022-54141), Michael H. Sussman, Esq., permission to provide communications, documents, information and testimony to the New York State Commission on Judicial Conduct related to Stacey Koch, any statements allegedly made by Ms. Koch, *Frank Mora v Stacey Koch* (Index No. 2022-54141), the incident at Seeta Eye Center on December 28, 2021, that is referenced in *Mora v Koch*, and/or any discussion of defamation or tortious interference.

Dated: 7/10/24



Hon. Frank M. Mora
Judge of the Poughkeepsie City Court

Re: Draft letter to judicial commission's Nov 14 correspondence

From Frank Mora <[REDACTED]@yahoo.com>
Date Wed 11/23/2022 8:09 PM
To Michael Sussman [REDACTED]@sussman.law>

Understood. When looking at it, are we able to just sue Stacey Koch, the manager of Seeta?

Enjoy the day tomorrow with your family.

On Wednesday, November 23, 2022 at 04:04:17 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

I need a little more time to go back and review all of that and want first to focus on the OCA issue...Happy Holiday.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, November 23, 2022 4:02 PM
To: Michael Sussman [REDACTED]@sussman.law>
Subject: Re: Draft letter to judicial commission's Nov 14 correspondence

Thank you. Please let me know if we can proceed against Seeta.

Happy Thanksgiving!

On Tuesday, November 22, 2022 at 10:16:54 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

my edits are embedded in the text.

Michael Sussman

From: Frank Mora [REDACTED]@yahoo.com>
Sent: Tuesday, November 22, 2022 7:34 PM

Re: Koch

From Frank Mora <[REDACTED]@yahoo.com>

Date Thu 2/2/2023 7:41 PM

To Michael Sussman <[REDACTED]@sussman.law>

Did you FOIL the police calls yet?

Since she knew almost a year before the confrontation that I did not medically tolerate the mask, I believe she had this all planned.

On Thursday, February 2, 2023 at 06:18:26 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

just received a motion to dismiss the Koch complaint...interesting...will share with you when i have a moment tomorrow. It is on line...

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

Happy Tuesday

From Frank Mora <[REDACTED]@yahoo.com>

Date Tue 2/7/2023 8:55 AM

To Michael Sussman <[REDACTED]@sussman.law>

 2 attachments (17 MB)

Answer to Koch Motion to Dismiss.docx; 40Judicial Conduct Commission Reply with Exhibits 6-17-22.pdf;

Attached are some of my thoughts thus far. I hope they are in the right direction.

Any word on the federal preliminary injunction?

Also, should I be present at oral arguments on March 8? If so, do I ask for permission from my supervising judge?

On Sunday, February 5, 2023 at 09:50:55 AM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Here are the papers..."absolute" is not so "absolute" as my research is showing...our papers are due on 2/21 and I have two briefs to write before this...
but, I am thinking about it...ms

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

On January 29, 2021, when I was there with my son [REDACTED] Koch made no inquiry as to my medical condition, nor did she request documentation. She knew that I did not medically tolerate masks for 11 months before going there with my son [REDACTED] on December 28, 2021.

It does not seem right that Koch can use the judicial commission as a sword, then use the SLAPP statute as a shield. Regarding SLAPP, it should be stressed that it was Koch who caused the behavior. I did nothing wrong by presenting myself for my [REDACTED] son's eye exam, and following the regulations. Knowing that I do not medically tolerate masks, and not coming up with a plan (such as having me wait in the parking lot and call me in through the side door), was her inappropriate behavior. They are attempting to transfer her misdeeds to me.

Are individuals allowed to make a false report to the judicial commission with impunity? That's what the motion and their case law seem to state.

Seeta's ability to require masks derives from 10 NYCRR 2.60

Specifically, Section (a) states "any person ... able to medically tolerate a face-covering may be required to cover their nose and mouth with a mask or face-covering..."

I do not medically tolerate a mask, thus I wore a face-shield.

Interestingly, it states mask OR face covering, then gives three examples of face-coverings.

Section (e) – face-coverings shall include, but are not limited to, cloth masks, surgical masks, and N-95 respirators that are worn to completely cover a person's nose and mouth. (emphasis added). I submit that a face shield meets this definition, as it completely cover's my nose and mouth.

See article <https://www.faceshield.com/what-experts-say/face-shield-as-a-preferred-face-covering-over-a-mask-or-cloth/>

I never failed to abide by the above regulation.

I think we should focus on Koch creating the entire scene, then reporting me for the scene that she created. I think the police call recordings are essential. If she acknowledges that she knows I was a judge on the police call, it shows she was lying about contacting the bar association. We can then show that she had no intention of following the mask regulation, even though she knew well ahead of the Dec visit that I did not tolerate masks.

Koch was determined not to let anyone in without a mask. She basically stated so when I asked her Jan 29, 2021 what they do for people who do not medically tolerate a mask. She advised that only one other patient could not wear a mask. I asked her how they handled it, and she said that patient decided to leave the practice. When you read between the lines, you see that Koch made her leave the practice. I told her I choose not to leave the practice, as my children and I like the doctors here. I also stated that she needs to have something in place for when I come back with my minor children, or for myself, for me to be able to wear the face

shield in lieu of the mask. I told her it is a violation of the American with Disabilities Act to not allow me in because of my medical condition.

Please re-read my response to the judicial commission which is attached (#40 in the batch of emails I sent to you), starting at page 27. I did not have the above paragraph in there, but I think it is needed in our answer to the motion. It shows she had 11 months to have something in place for when I returned. She had no intention of abiding by 10 NYCRR 2.60, although I did.

I think we should point out the governor's mandates that were a pre-cursor to this regulation, which forbade asking for medical documentation. This is all spelled out in my above response.

This lawsuit was not brought to harass or intimidate Koch from testifying before the commission. It was specifically brought after I found out she testified before the commission, and then bragged to her former co-worker Michael Brown that she told the commission that she felt threatened by me, and that she was going to get me removed from the bench. Brown's letter to the commission is Exhibit 20. Please let me know if you want to talk to him and I'll give him a heads-up and give you his cell number.

I would have gladly waited until the commission was through to bring suit against Koch, however, the one year SOL prevented that.

Regarding footnote 2 of the Motion, we can give them Minihan's email granting me access, and advise I had authorization from the administration to wear a shield due to my medical issues. Also, as you know, we did not challenge the vaccine requirement, we challenged the denial of my religious rights.

The paragraph regarding the police is complete nonsense. I knew the police were coming, and was waiting. It was after she called the 2nd time regarding the "emergency," that I left. I think we should spell this out exactly as in my response starting on page 31.

They specifically admit that Koch called M [REDACTED] Chiropractic for a diagnosis, which is a HIPAA violation. This should be pointed out.

We should also point out that I did not criticize masks. Both my sons were wearing masks on January 29, 2021, and December 28, 2021. If I was able to tolerate a mask, I would have been wearing one.

Regarding accommodating me, that is what they have to do. Just as if a 23 month old child was there, they could not force that child to wear a mask (or a shield), as the regulation is clear that it is for two year olds and up. The regulation is also clear that those who do not medically tolerate masks do not have to wear them. Seeta did not have to escort me in through a side door, that was their choice. No time when I was in the waiting room did I come within 6 feet of anyone. They make it sound like I am a leper. I had Covid in September 2021, and was completely healthy when I went there. Per Koch's instructions, I called when I was in the

parking lot, and Brown came out to let my son and I in through the side door. If she had done this from the beginning, there would have been no issues.

Re: 2021/N-0723, etal.

From Frank Mora <[REDACTED]@yahoo.com>
Date Wed 2/8/2023 9:34 PM
To Michael Sussman <[REDACTED]@sussman.law>

The corruption doesn't end!

On Wednesday, February 8, 2023 at 08:20:27 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

they are plainly working in concert with each other...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, February 8, 2023 8:49 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Fw: 2021/N-0723, etal.

Judicial Commission will not turn over transcripts from Koch or Brown.

Re: 2021/N-0723, etal.

From Frank Mora <[REDACTED]@yahoo.com>
Date Wed 2/8/2023 9:51 PM
To Michael Sussman <[REDACTED]@sussman.law>

You are correct. Even now that DiFiore is no longer a judge, they still will not reveal that there was an investigation against her. So, how are they giving all of the details of my investigation? They are not even supposed to acknowledge that I am under investigation.

Have you heard anything on the federal case? Their answer is due tomorrow, correct?

On Wednesday, February 8, 2023 at 09:45:12 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

it is interesting because the commission process is supposed to be confidential, no? it is one thing for you to reveal what you have; it is another thing for the commission itself to do so...i also note on its web site no pledge of confidentiality to those who file complaints and no requirements that complaints be sworn to...

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, February 8, 2023 9:34 PM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Re: 2021/N-0723, etal.

The corruption doesn't end!

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From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Wednesday, February 8, 2023 8:49 AM
To: Michael Sussman <[REDACTED]@sussman.law>
Subject: Fw: 2021/N-0723, etal.

Judicial Commission will not turn over transcripts from Koch or Brown.

Re: draft of response

From Frank Mora [REDACTED]@yahoo.com>
Date Mon 2/13/2023 10:10 AM
To Michael Sussman [REDACTED]@sussman.law>

Your draft reply is excellent. If I thought the process was going to be fair, I would not have brought the suit.

Even though I am stipulating to taking medicine/medical procedures, they still want 12 years of my medical records. They think I am making up homeschooling my children. They think I forged my kids' doctor's letter. This is a proverbial witch hunt. They are on a fishing expedition to see if there is anything that will stick to say, "look, he doesn't really believe the stuff he is saying!"

Please get the extension while I ponder this.

On Monday, February 13, 2023 at 08:14:45 AM EST, Michael Sussman [REDACTED]@sussman.law> wrote:

Thanks for your note. I think you should file a FOIL request for whatever you think pertinent. I can get another week or two if needed. You could also file a response and then withdraw. However, I do think withdrawing is a good idea, regardless of the legal merits of our position. It is just a bad look for a judge to sue the person who complains about him rather than to resolve the issues in the forum intended to resolve the complaint.

Michael Sussman

From: Frank Mora <[REDACTED]@yahoo.com>
Sent: Monday, February 13, 2023 8:11 AM
To: Michael Sussman [REDACTED]@sussman.law>
Cc: Jonathan R. Goldman [REDACTED]@sussman.law>
Subject: Re: draft of response

Michael,

Good morning. I was just going to send this email, and your below email came in.

I was the Lector yesterday at mass. I don't believe it was a coincidence that I was scheduled to read the readings yesterday, or that particular Gospel was proclaimed. I believe that God was speaking to me through both the readings and the Gospel. Here is a link if you would like to read them: <https://bible.usccb.org/bible/readings/021223.cfm>

I have been praying about this continuously through this morning.

Re: NYSCEF Notification: Dutchess - Torts - Other - <MEMORANDUM OF LAW IN OPPOSITION> 2022-54141 (Frank Mora v. Stacey Koch)

From Frank Mora <[REDACTED]@yahoo.com>
Date Mon 3/6/2023 3:15 PM
To Michael Sussman <[REDACTED]@sussman.law>

 1 attachments (255 KB)

36Judicial Commission denial to extend time to answer 4-12-22.pdf;

Maybe you can use Tembeckjian's own words against him at oral argument. When I asked for them to postpone the matter because I had a human rights case pending, they denied me saying their jurisdiction is independent from the the division of human rights and the civil courts. See attached letter.

On Monday, March 6, 2023 at 03:09:16 PM EST, Frank Mora <[REDACTED]@yahoo.com> wrote:

Thank you!

On Monday, March 6, 2023 at 02:51:07 PM EST, Michael Sussman <[REDACTED]@sussman.law> wrote:

Our reply was timely filed. ms

Michael Sussman

From: efile@nycourts.gov <efile@nycourts.gov>
Sent: Monday, March 6, 2023 10:42 AM
To: [REDACTED]@frontier.com [REDACTED]@frontier.com; Michael Sussman <[REDACTED]@sussman.law>; efile@nycourts.gov <efile@nycourts.gov>; [REDACTED]@ag.ny.gov [REDACTED]@ag.ny.gov; [REDACTED]@dwt.com <[REDACTED]@dwt.com>; [REDACTED]@dwt.com [REDACTED]@dwt.com; [REDACTED]@frontiernet.net <[REDACTED]@frontiernet.net>; [REDACTED]@dwt.com [REDACTED]@dwt.com; [REDACTED]@frontier.com <[REDACTED]@frontier.com>
Subject: NYSCEF Notification: Dutchess - Torts - Other - <MEMORANDUM OF LAW IN OPPOSITION> 2022-54141 (Frank Mora v. Stacey Koch)

**Dutchess County Supreme Court
Notification of Filing
03/06/2023**

Re: tomorrow - mora adv/ koch

From Frank Mora [REDACTED]@yahoo.com>
Date Mon 4/3/2023 10:44 AM
To Michael Sussman [REDACTED]@sussman.law>

I find it very interesting that the attorney for the commission, in open court, on the record, stated that I am being investigated for other matters. It is my understanding that this is a violation of their duty to keep it confidential. Judiciary Law Secs 44-46. I understand that I opened the door regarding the proceeding with Koch, but nothing else.

On Monday, April 3, 2023 at 07:34:14 AM EDT, Frank Mora [REDACTED]@yahoo.com> wrote:

As we are in Lent, and this is Holy Week, a time for penance and forgiveness, please let them know that I accept their original offer amount of \$5,000.

On Monday, April 3, 2023 at 07:32:17 AM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

We can try, but they have a pending motion and demand for fees therein...so I do not think you can...

Michael Sussman

From: Frank Mora [REDACTED]@yahoo.com>
Sent: Monday, April 3, 2023 7:27 AM
To: Michael Sussman [REDACTED]@sussman.law>
Subject: Re: tomorrow - mora adv/ koch

Am I able to withdraw the matter without their consent?

On Saturday, April 1, 2023 at 06:54:04 PM EDT, Michael Sussman [REDACTED]@sussman.law> wrote:

see below message...

Michael Sussman

From: Holoszyc-Pimentel, Raphael [REDACTED]@dwt.com>
Sent: Friday, March 31, 2023 11:37 PM
To: Michael Sussman [REDACTED]@sussman.law>
Cc: Kovner, Victor [REDACTED]@dwt.com>
Subject: RE: tomorrow - mora adv/ koch

Re: agreement with koch

From Frank Mora [REDACTED]@yahoo.com>
Date Fri 5/12/2023 7:14 AM
To Michael Sussman [REDACTED]@sussman.law>

 1 attachments (30 KB)

Mora-Koch Settlement Agreement ms edits 51223 fmm edits 5-12-23.docx;

I changed 2a & 2b to 21 days. I tried to use track changes, but I don't know if it worked.

We also need consent of the commission, which can be as simple as a letter or email from them.

Thank you for sending the letter to Judge Rosa last night. You are correct, I am worried. The SLAPP decision makes me look like a complete idiot. Although it was not my intent to silence anyone, as her complaint was filed a year prior to the suit, and she had testified in front of the commission, no one knows that. It is readily apparent that the commission is trying to remove me as judge due to my religious beliefs. Since they seem to have hit a brick wall, they are trying to figure out how to get me out based on my inability to mask.

Thank you for understanding.

On Friday, May 12, 2023 at 05:42:09 AM EDT, Michael Sussman <[REDACTED]@sussman.law> wrote:

I have reviewed and edited the agreement. Upon your concurrence, I will forward to adversary counsel.

Michael Sussman
Sussman & Associates
1 Railroad Ave., 3rd Floor
PO Box 1005
Goshen, NY 10924
[REDACTED]

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----- X

In the Matter of the Proceeding Pursuant to
Section 44, subdivision 4, of the Judiciary Law
In Relation to

FRANK M. MORA,

VERIFIED ANSWER

a Judge of the Poughkeepsie City Court,
Dutchess County

----- X

Hon. Frank M. Mora, by and through his attorney, Stephen R. Coffey, Esq., as and for his
answer to the Formal Written Complaint, sets forth the following upon information and belief:

RESPONSE #1: Respondent admits the allegations contained in this paragraph.

RESPONSE #2: Respondent denies information sufficient to form a belief as to the
allegations in this paragraph.

RESPONSE #3: Respondent repeats and re-alleges the responses to the specific acts
set forth in Charges I, II, and III, *infra*, as if fully set forth herein,
and denies that he committed judicial misconduct.

RESPONSE #4: Respondent admits the allegations contained in this paragraph.

CHARGE I

RESPONSE #5: Respondent admits that he had a verbal confrontation with Stacey
Koch, denies that it was discourteous, admits that he advised Ms.
Koch that he could not medically tolerate a mask, that he was in
full compliance with 10 NYCRR 2.60, hereinafter the "mandate,"
admits that any Seeta mask policy that contravenes the mandate is
void, a nullity, and unenforceable, admits that Ms. Koch called the
police, denies that he left only after a police official said he would

send an officer to Seeta, and admits he left after Ms. Koch agreed to have his son's eyes examined if he provided medical documentation that he could not medically tolerate wearing a mask.

RESPONSE #6: Respondent denies information sufficient to form a belief as to Seeta's policies, admits that any Seeta mask policy that contravenes the mandate is void, a nullity, and unenforceable, admits that he advised Ms. Koch that he could not medically tolerate a mask, and that he was in full compliance with the mandate. Respondent admits that he was more than six (6) feet away from EVERYONE in the room the entire time he was there (with his son standing next to him). Respondent admits that Ms. Koch had known since January 29, 2021, that he did not medically tolerate a mask, which is eleven (11) months prior to this incident, when he advised her of same when he accompanied his other son, [REDACTED] at Seeta for an eye examination. Respondent admits that [REDACTED] was wearing a mask (as he could medically tolerate masks). Respondent admits that he was not asked to provide medical documentation for the next time he would be at Seeta to be allowed in the building. He admits that although there is nothing in the mandate that stated one must show proof or medical documentation, he would have provided same if it was requested prior to the December 28, 2021, visit.

RESPONSE #7: Respondent admits that on December 28, 2021, Respondent and his [REDACTED] son, [REDACTED] entered Seeta, where [REDACTED] had an appointment for an eye examination. Respondent admits that both he and his son were in full compliance with the mandate; [REDACTED] was wearing a mask (as he could medically tolerate masks), and Respondent was wearing a clear plastic face shield that was provided to him by his employer, the New York State Unified Court System, Office of Court Administration, hereinafter "OCA," which he was authorized by OCA to wear in lieu of a mask. Respondent admits that the mandate states, "any person who is over age two and **able to medically tolerate** a face-covering may be required to cover their nose and mouth with a mask or face-covering...." (emphasis added). Respondent admits that the mandate states in (e), "For purposes of this section face-coverings shall include, **but are not limited to**, cloth masks, surgical masks, and N-95 respirators that are worn to completely cover a person's nose and mouth." (emphasis added). Respondent admits that his shield met this definition, as it completely covered his nose and mouth. Respondent admits that the shield is open at the bottom and admits that many masks are open not only at the bottom, but at the top, and on the sides. Respondent admits that there were approximately 20 patients in the waiting room but denies information sufficient to form a belief as to the waiting room's

fullness, or the number of chairs occupied.

RESPONSE #8: Respondent admits that a receptionist asked him if he had a face mask and that he advised he could not medically tolerate masks. Respondent denies that he was told that he could alternatively wait outside. He admits that had a policy been in place for those who could not tolerate a mask where he would wait outside and then be called in, even by a backdoor, he would have gladly done so. He admits that he would not wait outside while his [REDACTED]-minor son remained inside with approximately twenty (20) strangers, and that he would not allow his son to go into the exam room without him. Respondent admits that Ms. Koch was called.

RESPONSE #9: Respondent admits that Ms. Koch entered the waiting room and asked him to put on a face mask, and that he advised he was not able to medically tolerate a mask. Respondent admits that he did not identify his disability or any medical reason that he was unable to wear a mask. Respondent admits that he was not asked by anyone why he could not medically tolerate wearing a mask. He admits that even if he had been asked, this information is personal, confidential, and under no circumstances something Ms. Koch was entitled to know.

RESPONSE #10: Respondent denies that Ms. Koch asked him to produce documentation of the medical condition that exempted him from the face masking requirement. Respondent admits that she asked

for medical documentation stating that he could not medically tolerate a mask. Respondent admits that he did not produce such documentation at that moment, but stated he would try to get it for her (as he was not sure if Dr. M [REDACTED] was available or able to write a note), and asked her to please have [REDACTED] seen. He admits that no other person or entity prior to, or after, this incident asked him any questions regarding his inability to wear a mask, or for medical documentation, as EVERY other person/entity followed the mandate. He admits that there is nothing in the mandate that allowed for someone to request, let alone demand, medical records. Respondent admits that the mandate did not speak to an exemption requirement, nor was there a process setup for same.

RESPONSE #11: Respondent admits that Ms. Koch asked him to put on a face mask, and that he was not able to do so. Respondent admits that he again told her he could not medically tolerate a mask. He admits that Ms. Koch was in violation of the mandate by demanding that he put on a face mask or leave. Respondent admits that he did not put on face mask, not because he was refusing, but because he was not medically able to tolerate one. Respondent admits that although Seeta is a private business, it is a Public Accommodation, as defined by 42 USC, Chapter 126. Section 12181(F) lists, among many other establishments, a professional office of a health care provider. Respondent admits that he had a license to be there

(his appointment for his minor son's eye exam), and that Ms.

Koch's demand that he leave was for the sole reason that he could not wear a mask, which was a violation of the mandate, unlawful, and discriminatory.

RESPONSE #12: Respondent admits that Ms. Koch stated she would call the police. Respondent denies that he stated that the police would not come to remove him because Dutchess County was not enforcing the mask mandate. Respondent admits that he stated that Dutchess County was not enforcing the mask mandate. He admits that just as the police dispatcher advised Ms. Koch, respondent was referring to County Executive Molinaro's Executive Order stating same.

RESPONSE #13: Respondent admits that Ms. Koch called 911 and the call was transferred to the Town of Poughkeepsie Police Department, which recorded the call. Respondent denies stating, "Go ahead. They're not coming." Respondent admits that he again stated in words or substance, "Go ahead. They're not enforcing it."

RESPONSE #14: Respondent admits that Ms. Koch offered to provide him with a paper mask and in violation of the mandate repeated that he could not be in the office without a mask. He admits the balance of the paragraph. Respondent admits that he wanted desperately to put the mask on, but could not mentally do it, as just the thought caused a panic attack.

RESPONSE #15: Respondent admits that Ms. Koch was on the phone with the

police, but at the time of the incident did not know what was said to Ms. Koch, as the officer was not on speakerphone. Respondent denies that he left the premises because of anything the official said, as he could not hear what the official said. Respondent admits to practically begging Ms. Koch to please have [REDACTED]'s eyes examined, but she refused. He admits that while Ms. Koch was still on the phone with the police during the second call, he asked her if she would have [REDACTED] seen if he could get medical documentation from his doctor, and she said yes. Respondent admits that it was at that point, while Ms. Koch was still on the phone with the police, that he left to try to get medical documentation, as all he wanted was for [REDACTED]'s eyes to be examined.

RESPONSE #16: Respondent admits the allegations contained in this paragraph. He admits that the mandate did not establish any procedure that required a certain type of doctor to give a medical exemption, and that the mandate does not even speak to the requirement of an exemption. Respondent admits that he sought treatment for his disability, and he began treating with a therapist on April 30, 2022. He admits that he has been continuously treating with her since then, and continues to the present day. He further admits that he was diagnosed with severe anxiety, which manifests as object phobia. He admits that although not diagnosed at the time of the

incident, this is what he was suffering from. He admits that physical symptoms and manifestations from this are headaches and neck pain. He admits that the regulation does not call for, contemplate, nor require a diagnosed medical condition. As chiropractors cannot diagnose mental health issues, and they deal with physical and body structural issues, no diagnosis was provided. Respondent admits that Dr. M [REDACTED], as his treating doctor for his physical symptoms, and a doctor licensed by the State of New York, had the right and authority to provide a doctor's note.

RESPONSE #17: Respondent admits the allegations contained in this paragraph.

RESPONSE #18: Respondent denies the allegations and inferences of misconduct contained in this paragraph.

CHARGE II

RESPONSE #19: Respondent admits that he filed a defamation suit but denies that it was in retaliation for her having filed a confidential complaint against him with the Commission. Respondent admits that he takes his ethical responsibilities extremely seriously. He does not leave anything to chance when placed in a situation where it is not clear what is ethically proper. He admits that even prior to becoming a judge on January 1, 2011, he had sought advice formally and informally from the Judicial Advisory Committee (JAC), and its long-time former Co-chair, the Honorable George

Marlow. He also speaks regularly with Laura Smith, Esq., the JAC's Chief Counsel, whenever an issue arises that he has questions about. He admits that he is mindful of and careful to adhere to the Rules of Judicial Conduct. Respondent admits that he has written to the JAC approximately twenty (20) times for opinions so he can follow the rules appropriately. He admits that in a time span of approximately fifteen (15) months alone (1/20/22 – 6/6/24), he exchanged phone calls with Ms. Smith approximately fifty (50) times. He admits that prior to bringing this suit, he called Ms. Smith to seek advice about bringing lawsuits and she advised that a judge, like any individual, is allowed to bring lawsuits. He admits that Ms. Smith did not qualify her answer in any way. He admits that had she stated that certain lawsuits are not allowed, he would have inquired further. He admits that he would have provided specifics about this suit, and if she did not have an answer, he would have written to the JAC and would have complied with its advice. He admits that had she advised that the suit was not proper, he would not have filed it. He admits that he would not have sought advice from Mr. Sussman if that were the case. Respondent admits that prior to this lawsuit, he had NEVER been involved in a defamation case, neither in his professional capacity as a lawyer or judge, or as an individual. He admits that prior to this lawsuit, he had NEVER heard of a SLAPP suit.

Respondent admits that this lawsuit was a good faith attempt to vindicate conduct he perceived to be actionable.

RESPONSE #20: Respondent denies information sufficient to form a belief as to the allegations in this paragraph.

RESPONSE #21: Respondent denies information sufficient to form a belief as to the allegations in this paragraph.

RESPONSE #22: Respondent admits the allegations contained in this paragraph.

RESPONSE #23: Respondent admits the allegations contained in this paragraph.

RESPONSE #24: Respondent admits the allegations contained in this paragraph.

RESPONSE #25: Respondent admits the allegations contained in this paragraph.

RESPONSE #26: Respondent admits the allegations contained in this paragraph.

Respondent admits that prior to the suit his attorney, Mr. Sussman, advised that the filing of the complaint with the Commission satisfied the publication element of defamation, and was therefore public.

RESPONSE #27: Respondent admits the allegations contained in this paragraph, in that Mr. Sussman arranged for service of Ms. Koch.

RESPONSE #28: Respondent admits the allegations contained in this paragraph. He admits that in addition to this visit, he had two (2) other visits after the December 28, 2021, visit, and prior to filing of the suit. Respondent admits that he had no interactions with Ms. Koch during any of these visits, he was wearing his face shield the entire time, and all three (3) visits took place without incident.

RESPONSE #29: Respondent admits that he telephoned Janna Whearty as a potential witness. He denies that he was angry, that his tone was aggressive, and denies the remainder of the allegations in this paragraph.

RESPONSE #30: Respondent admits the allegations contained in this paragraph.

RESPONSE #31: Respondent admits the allegations contained in this paragraph.

RESPONSE #32: Respondent admits the allegations contained in this paragraph, in that Mr. Sussman filed the papers.

RESPONSE #33: Respondent admits the allegations contained in this paragraph.

RESPONSE #34: Respondent admits the allegations contained in this paragraph.

RESPONSE #35: Respondent denies the allegations and inferences of misconduct contained in this paragraph.

CHARGE III

RESPONSE #36: Respondent admits that certain documents, including emails, were not turned over to the Commission, but it was inadvertent and due to human error. He admits that Mr. Sussman was retained to represent him on his federal suit, the Koch defamation suit, and advised him pro-bono regarding the original three (3) Commission complaints: 2021/N-1176, 2021/N-0723, and 2021/N-1120. Respondent admits that he spent several hours searching for, printing, reviewing, and culling the emails that he sent to the Commission, even numbering each email in the July 10, 2024, submission by hand from 1 to 127. He admits that he culled the

emails to make it easier for the Commission to review them, and when he did, he mistakenly put several of the missing emails in a “duplicate” pile, which was accidentally excluded. Regarding the redacted emails, Respondent admits that he redacted in good faith approximately 24 of the 127 emails that related to his federal suit and the Commission complaints, of which he did not waive his attorney-client privilege between himself and Mr. Sussman.

Respondent admits that he pointed out to the Commission that he was redacting non-Koch matters in both the May 9th and July 10th submissions, and the Commission did not object to it. He admits that had the Commission objected, he would have created a privilege log and asked for an independent 3rd party referee be appointed to determine if the emails had to be unredacted.

Respondent admits that he acted in good faith in redacting emails, has cooperated with the commission for three (3) years now, and would not intentionally withhold or redact anything the Commission is entitled to. Respondent apologizes for any mistakes that were made.

RESPONSE #37: Respondent admits the allegations contained in this paragraph.

RESPONSE #38: Respondent denies that the letter dated April 8, 2024, contains the words “and related matters,” and admits the remaining allegations contained in this paragraph.

RESPONSE #39: Respondent admits the allegations contained in this paragraph. He

again admits that the Commission did not state that the redactions were unacceptable.

RESPONSE #40: Respondent admits the allegations contained in this paragraph. He again admits that the Commission did not state that the redactions were unacceptable.

RESPONSE #41: Respondent admits the allegations contained in this paragraph. He again admits that the Commission did not state that the redactions were unacceptable.

RESPONSE #42: Respondent admits the allegations contained in this paragraph in that he waived the attorney-client privilege of confidentiality between himself and Mr. Sussman SOLEY related to the matter related to *Frank Mora v Stacey Koch* (Index No. 2022-54141).

RESPONSE #43:

(A): Respondent denies the allegations contained in this paragraph, as he searched diligently and could not find these two (2) emails. He admits they were not produced because he had no record of them. He admits that these emails corroborate that he sought and relied upon Mr. Sussman's advice in determining whether a viable suit could be brought and are exculpatory.

(B): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein. He denies that the text was redacted, and admits that the email was not turned over as it was missed due to human error as explained in Response 36.

- (C): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein. He admits that the attachment was not turned over as it was missed due to human error. He admits that it is exculpatory, as it shows Respondent believed the suit was viable as he was putting forth his theory of the case. He also admits that the Commission left out these exculpatory statements, "I would have gladly waited until the commission was through to bring suit against Koch, however, the one year SOL prevented that." "The paragraph regarding the police is complete nonsense. I knew the police were coming, and was waiting. It was after she called the 2nd time regarding the "emergency," that I left. I think we should spell this out exactly as in my response starting on page 31." "We should also point out that I did not criticize masks. Both my sons were wearing masks on January 29, 2021, and December 28, 2021. If I was able to tolerate a mask, I would have been wearing one." "No time when I was in the waiting room did I come within 6 feet of anyone.... I had Covid in September 2021, and was completely healthy when I went in there. Per Koch's instructions, I called when I was in the parking lot, and Brown came out to let my son and I in through the side door. If she had done this from the beginning, there would have been no issues."
- (D): Respondent repeats and re-alleges the response from thirty-six (36)

above, as if fully set forth herein.

(E): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(F): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(G): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(H): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

(I): Respondent repeats and re-alleges the response from thirty-six (36) above, as if fully set forth herein.

RESPONSE #44: Respondent denies the allegations and inferences of misconduct contained in this paragraph.

FURTHER ANSWERING THE COMPLAINT

45: Respondent denies the remaining allegations of the complaint not hereinbefore specifically admitted or otherwise denied.

Dated: April 11, 2025

O'Connell and Aronowitz, P.C.



Stephen R. Coffey
Attorneys for Respondent
54 State Street, Floor 9
Albany, NY 12207

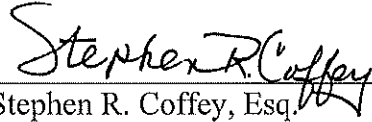
To: Robert H. Tembeckjian
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

ATTORNEY VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF ALBANY)

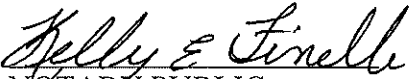
Stephen R. Coffey, being duly sworn, deposes and says that he is an attorney-at-law and is a shareholder of the law firm of O'Connell and Aronowitz, P.C., attorneys for the Respondent, HON. FRANK M. MORA, that he has read the foregoing VERIFIED ANSWER and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

The reason why this verification is made by deponent instead of the Respondent is because the Respondent does not reside within the County of Albany which is the county where the deponent has his office.



Stephen R. Coffey, Esq.
Attorney for the Respondent

Sworn to before me on this
11th day of April 2025



NOTARY PUBLIC

KELLY E. FINELLI
Notary Public, State of New York
Qualified in Rensselaer County No. 01F16412906
Commission Expires January 11, 2028