

BEFORE THE REVIEW BOARD OF THE
ILLINOIS ATTORNEY REGISTRATION
AND DISCIPLINARY COMMISSION

FILED

JUL 13 2016

In the Matter of:)
)
JOHN PATRICK MESSINA,)
Respondent-Appellant) No. 2014-PR-00002
Attorney No. 1892622)
)

**ATTY REG & DISC COMM
CHICAGO**

FIRST DECLARATION OF JOHN P. MESSINA

I, John P. Messina, hereby declare under penalty of perjury that the following statements are true and correct:

1. I am the Respondent in this case. This is the first of two declarations under penalty of perjury that I am submitting in support of my *Motion for a Rule to Show Cause Why the Administrator and His Staff Should Not Be Sanctioned*. There are five sections to this *First Declaration*:

- Section A (§§2-8) provides introductory information.
- Section B (§§9-15) describes the \$5,000 transaction that connects the prior order of discipline, entered on consent in 1998, to this disciplinary case.
- Section C (§§16-26) describes the procedural history of the inquiry stage of this case (November 2011-July 2013).
- Section D (§§27-28) describes my inspection of the Administrator's non-privileged file on or about February 10, 2014.
- Section E (§§29(a)-(s)) presents a summary of information relating to the 19 Orders and Judgments that are cited in the *Amended Complaint* in this case.

A. Introduction.

2. This disciplinary case began with a letter of inquiry dated November 3, 2011. The inquiry was triggered by a letter dated October 31, 2011 ("the Referral"), from a deputy clerk of the United States Court of Appeals for the Seventh Circuit. The Referral transmitted to the Administrator an order dated October 28, 2011 ("October 28th Order"), that had struck my name from the roll of attorneys admitted to practice before that court. The Seventh Circuit issued the October 28th Order at the conclusion of an unsuccessful *pro se* appeal from a bankruptcy case.

3. Meriel Coleman is the Senior Litigation Counsel who represented the Administrator in this case from November 2011 through October 2015. On January 8, 2014—that is, 26 months after the date of the Referral—Ms. Coleman filed the original complaint in this

case. On February 28, 2014, she filed an amended complaint (“*Amended Complaint*”) that made only technical changes to the original complaint.

4. The *Amended Complaint* cites findings made in a series of 19 orders and judgments (“Orders and Judgments”) issued over a 21-year period, from May 1990 to October 2011. The Orders and Judgments were issued in private civil litigation (“the *Grove Fresh* Litigation”) that went through three phases:

- The First Phase (1989-93), described in ¶¶2-9 of the *Amended Complaint*, concerned unfair competition claims alleged by my client, Grove Fresh Distributors, Inc. (“Grove Fresh”). Grove Fresh settled those claims in April 1993.
- The Second Phase (1993-98), described in ¶¶10-25 of the *Amended Complaint*, concerned disputes that arose in July 1993, three months after the settlement closed.
- The Third Phase (1999-2011), described in ¶¶26-45 of the *Amended Complaint*, concerned bankruptcy proceedings that began in September 1999, when I filed a petition to reorganize my law practice under Chapter 11 of the Bankruptcy Code.

5. Eleven of the Orders and Judgments (*Amended Complaint* ¶¶3, 4, 5, 6, 7, 14, 16, 17, 23, 30, 31) were issued by the Hon. James B. Zagel, a federal trial judge who had presided over several related unfair competition cases, including the two cases cited in the *Amended Complaint*: *Grove Fresh Distributors, Inc. v. Everfresh Juice Co., et al.* No 90cv1113 (“89cv1113”) and *Grove Fresh Distributors, Inc. v. John Labatt Ltd., et al.*, No. 90cv5009 (“90cv5009”). The other Orders and Judgments were issued by the following courts:

- The bankruptcy court presiding over the petition to reorganize my law practice. (*Amended Complaint* ¶¶34, 35.)
- A district court sitting as an intermediate appellate bankruptcy court. (*Amended Complaint* ¶38.)
- The Seventh Circuit sitting in review of orders issued by Judge Zagel in the *Grove Fresh* Litigation (¶¶18, 25, 33) and by a different district court judge sitting as an appellate bankruptcy court. (*Amended Complaint* ¶¶41, 43.)

6. The Orders and Judgments cited in the *Amended Complaint* were entered onto eight different dockets—three district court dockets, two bankruptcy court dockets, and three Seventh Circuit dockets.

7. In preparation for this declaration I reviewed seven of the eight dockets mentioned in the previous paragraph—all but the docket for the adversary action referred to in

¶¶34-35 of the *Amended Complaint*. I have also reviewed my personal files for that adversary action.

8. Based on my review of the dockets and my adversary action files, I have identified at least 351 pleadings, motions, briefs, orders, and transcripts of proceedings (collectively, “Court Records”) that are directly related to the 19 orders and judgments cited in the *Amended Complaint*. These Court Records are identified below in ¶¶29 (a) through (s).

B. The \$5,000 transaction connecting the prior order of discipline, entered in 1998, to the *Grove Fresh* Litigation and ultimately to this disciplinary case.

9. In preparing my response to the Administrator’s 2011 letter of inquiry I had in mind a 1998 order, entered on consent, suspending me from the practice of law for 30 days. I knew that the prior order of discipline was a factor that the Administrator could, and likely would take into account in deciding whether to file charges against me for the litigation that was the subject of the Referral from the Seventh Circuit.

10. The 1998 order of suspension was for a technical violation of the rules on segregating client funds. The technical violation occurred over a six-day period in December 1993 and involved \$2,830.66 in disputed funds. The procedural details of the prior disciplinary case are discussed in §D of my *Second Declaration*.

11. The transaction that created the technical violation underlying the 1998 disciplinary order was a \$5,000 retainer that I paid to Prof. Daniel Coquillette. I paid that retainer in the course of defending myself against efforts by the defendants in the *Grove Fresh* Litigation to restrict my right to practice law. The circumstances in which I retained Prof. Coquillette are briefly described below in ¶¶12-15.

12. Prof. Coquillette is an expert on legal ethics. Currently, he is Charles Warren Visiting Professor of American Legal History at Harvard Law School. I retained him in December 1993 to render an opinion on the ethics of a certain Legal Services and Consulting Agreement (“Consulting Agreement”) that was the subject of litigation pending before Judge Zagel.

13. I had been required to execute the Consulting Agreement in March 1993 as a condition to settling Grove Fresh’s unfair competition claims. That settlement closed the following month. About four months later, on August 5, 1993, I rescinded my agreement to the Consulting Agreement. A few weeks after I rescinded, one of the firms that had required me to

execute the Consulting Agreement (Everfresh Juice Co.) filed a motion for specific enforcement of the Consulting Agreement. The motion, styled as *Everfresh's Motion to Enforce Settlement or Relief from Judgment*, was received in evidence during the Hearing Board proceedings as Resp. Ex. 10.

14. On December 9, 1993, I filed my response to Everfresh's motion. My response, styled as *Response of John P. Messina to Defendants' Motions for Relief from Judgment and for Rule to Show Cause*, was received in evidence during the Hearing Board proceedings as Resp. Ex. 10-A.

15. Professor Coquillette's role as an expert witness is disclosed in footnote 5 at pp.17-18 of Resp. Ex. 10-A. His resume is attached to Resp. Ex. 10-A at pp. 71-76.

C. Procedural History of the Administrator's Inquiry in this case.

16. Neither the October 28th Order striking my name from the roll of attorneys nor the Rule to Show Cause that preceded it specified any Rule of Professional Conduct that I allegedly had violated. Neither did the letter from the Administrator initiating the inquiry. I construed this lack of specificity as implying that, in the Seventh Circuit's view, and in the view of the Administrator, my conduct in the *Grove Fresh* Litigation showed a lack of the requisite character and fitness to practice law.

17. In defense of my conduct over the course of the *Grove Fresh* Litigation, which endured for 22 years, I submitted four narratives totaling 128 pages, as follows:

- A three-page letter to Ms. Coleman, dated November 21, 2011 ("*November 21st Response*"), a copy of which is in the Common Law Record at C.963-65. This letter outlined the procedural history of the matters underlying the Referral.
- A 51-page letter to Ms. Coleman, dated December 7, 2011 ("*December 7th Response*"), a copy of which is in the Common Law Record at C.966-1016. This letter presented facts and arguments bearing on the merits of the litigation in the district court, the Seventh Circuit, and the bankruptcy court. (I submitted a corrected and revised version of this narrative on January 18, 2012.)
- A 22-page letter to Ms. Coleman, dated January 31, 2012 ("*January 31st Response*"), a copy of which is in the Common Law Record at C.1017-1042. This letter described related proceedings at the ARDC in 1993-94.
- A 52-page brief dated March 21, 2012 ("*March 21st Brief*"), a copy of which is in the Common Law Record at C.1043-1102. This brief blended the facts and arguments presented in the prior submissions.

18. In support of the narratives described in the preceding paragraph I submitted 95 paper exhibits and 43 digital exhibits. The paper exhibits included copies of 48 of the 351 Court Records that are related to the Orders and Judgments that, two years later, would be cited in the *Amended Complaint*.

19. On February 27, 2012—that is, after I had submitted the *November 21st Response*, the *December 7th Response*, and the *January 31st Response*, but before I had submitted the *March 21st Brief*—I faxed a letter to Ms. Coleman seeking a meeting. In this letter I made the following request:

I am preparing a brief that will, I hope, sharpen the presentation of the factual and legal issues implicated by your inquiry. I will outline the brief below. After I obtain feedback from colleagues who've agreed to review my brief, I will submit the final product to the ARDC at the earliest practicable date.

I would then like to meet with you *to answer any questions or concerns you may have*, and to arrange a mutually agreeable schedule for moving forward with this inquiry. (emphasis added)

20. A few days after I submitted the *March 21st Brief* I called Ms. Coleman and asked for a date and time that would be convenient for us to meet and discuss the matters outlined in my February 27th letter. Ms. Coleman rejected my request for a meeting. She said that the only circumstance in which she would meet with me would be at a deposition with a court reporter taking my testimony. She also said that she had no interest in learning about disputes in the *Grove Fresh* Litigation that had taken place during the years that she was “in college and law school.”

21. Ms. Coleman graduated from law school in or about May 1993, shortly after the *Grove Fresh* Litigation settled. The post-settlement controversies she described in ¶¶12-25 of the *Amended Complaint* are rooted in events that preceded that settlement (and her graduation from law school), including, most importantly, the demand for a restriction on my right to practice law as a condition of settlement. To me, her refusal to investigate those events meant she had no interest in forming an independent judgment about the roots of the disputes that are the subject of ¶¶12-25 of the *Amended Complaint*.

22. In early July 2013, Ms. Coleman informed me that she would be referring the case to a panel of the Inquiry Board. On July 17, 2013, I faxed a request to appear before the panel, along with a five-page statement and a three-page declaration under penalty of perjury. In a letter dated July 25, 2013, Ms. Coleman informed me that the Inquiry Board had denied my request to

appear. She did not say whether she had provided the Board with copies of my July 17 submissions.

23. After presenting the Referral to the Inquiry Board in July 2013, Ms. Coleman filed the original *Complaint* in this case on January 8, 2014. She filed an *Amended Complaint* on February 28, 2014.

24. On July 24, 2014, I filed Respondent's *Amended Answer, Counterclaims, and Affirmative Defenses* (C.662). On September 3, 2014, the Hearing Panel Chair granted Ms. Coleman's motion to strike my counterclaims and affirmative defenses. (C.797.) That order is one of the subjects of this appeal.

25. My submissions to the Administrator during the inquiry stage of this case included 48 of the 351 Court Records that are directly related to the Orders and Judgments cited in the *Amended Complaint*. If Ms. Coleman wanted to review any of the other 303 Court Records, I stood ready to provide copies, but she never asked.

26. Based on my inspection of the Administrator's non-privileged file, discussed below in ¶¶27-28, it appears that Ms. Coleman did not obtain from any other source any of the 303 Court Records that were not included in my submissions.

D. My inspection of the Administrator's non-privileged file.

27. On or about February 10, 2014, I inspected the Administrator's non-privileged file. The only items in the file were: (a) the Referral letter dated October 31, 2011; (b) correspondence I had exchanged with various members of the Administrator's staff; and (c) my responses to the Administrator's inquiry as described above in ¶¶17-19.

28. The Administrator's non-privileged file did not include any of the following kinds of documents:

- It did not include any subpoenas for witnesses or documents.
- It did not include any sworn statements.
- It did not include any correspondence with the defense lawyers in the Grove Fresh litigation, or any other documents indicating that Ms. Coleman had ever communicated with them.
- It did not include copies of any of the eight dockets mentioned above in ¶6.
- It did not include copies of any of the 351 Court Records, other than the copies I had submitted in support of my responses to the Administrator's inquiry.

E. Summary of information regarding the 19 Orders and Judgments.

29. Subparagraphs (a) through (s), below, identify each of the 19 Orders and Judgments cited in the *Amended Complaint*. Each subparagraph then identifies the following information, where applicable:

- The docket entries for items related to each of the 11 orders or judgments entered by the Trial Judge in 89cv1113 and 90cv5009.
- The transcripts of proceedings relevant to any of the 19 orders and judgments cited in the *Amended Complaint*.
- The Court Records I provided to the Administrator between November 21, 2011, and March 21, 2012. These submissions are referred to as “Inq. Ex. ___.”
- The narrative I submitted to the Administrator during the inquiry stage of this case (“Respondent’s Inquiry Narrative”) respecting each order or judgment.
- The narrative I submitted to the Hearing Board, in the form of counterclaims for declaratory judgments and affirmative defenses (“Respondent’s Affirmative Defense Narrative”), which are in the Common Law Record at C.674-712.
- The trial exhibits (“Adm. Ex. ___” or “Resp. Ex. ___”) that correspond to each order or judgment.

(a) The protective order issued by the Trial Judge in 89cv1113 *nunc pro tunc* to May 25, 1990 (*Amended Complaint* ¶3):

- i. Relevant entries on 89cv1113 Docket: Nos. 73, 75, 76, 81.
- ii. Relevant transcripts: 5/25/90.
- iii. Respondent’s Inquiry Narrative: December 7th Response, p. 7; Letter from Respondent to Administrator dated August 16, 1994, responding to inquiry triggered by a referral from the Seventh Circuit (“8/16/94 Response to Inquiry”), pp. 12-13 (Inq. Ex. 5-A, pp. 12-13.)
- iv. Respondent’s Affirmative Defense Narrative: ¶¶109-27.
- v. Trial Exhibits: Resp. Ex. 8-C.

(b) The minute order (“the Seal Order”) issued by the Judge dated August 28, 1990, authorizing Respondent’s client to file, under seal, the 90cv5009 complaint (*Amended Complaint* ¶4):

- i. Relevant entries on 89cv1113 Docket: Nos. 145, 146, 147, 457, 458.
- ii. Relevant entries on 90cv5009 Docket: Nos. 388, 2, 47, 48, 49, 50, 51, 52, 53, 56, 353, 65, 70, 71, 73, 75, 79, 80, 83, 84, 85, 87, 90, 91, 94, 97
- iii. Relevant transcripts: 8/24/90; 8/31/90.
- iv. Items supplied by Respondent during Inquiry: 8/24/90 Transcript (Inq. Ex. 12, 22-F); 89cv1113 Docket no. 457 (Inq. Ex. 22-E); 90cv5009 Docket Nos. 388, 97 (Inq. Ex. 12-A, 12-B).

- v. Respondent's Inquiry Narrative: November 14th Declaration, ¶¶26-31; December 7th Response, pp. 13-16; March 21st Response, pp.17-20.
- vi. Respondent's Affirmative Defense Narrative: ¶¶4, 11-13, 46-61, 66-82, 90-127, 145-84.
- vii. Trial Exhibits: Resp. Ex. 7-B

(c) A protective order in 90cv5009 (Amended Complaint ¶5.)

- i. Relevant entries on 90cv5009 Docket: Nos. 106, 107, 108.
- ii. Respondent's Affirmative Defense Narrative: ¶¶109-27.
- iii. Trial Exhibits: Resp. Ex. 8-L

(d) An order denying a motion brought by journalists to vacate the seal. (Amended Complaint ¶6.)

- i. Relevant entries on 89cv1113 Docket: Nos. 335, 336, 337, 345, 346, 347 468, 469, 351, 352, 353, 469, 354, 355, 356, 357, 359, 363, 365, 368, 369, 370, 371, 397, 398, 401
- ii. Relevant entries on 90cv5009 Docket: Nos. 136, 356, 357, 134, 135, 137, 148, 149, 363, 150, 151, 364, 153, 165.
- iii. Relevant transcripts: 10/10/91; 10/31/91
- iv. Items supplied by Respondent during Inquiry: 89cv1113 Docket no. 401 (Inq. Ex. 12-C); 90cv5009 Docket nos. 137, 153, 165 (Inq. Ex. 23-A, 23-B, 23-C.)
- v. Respondent's Inquiry Narrative: November 14th Declaration, ¶¶46-54, 74-86; December 7th Response, pp. 14-16; March 21st Response, pp. 19-21.
- vi. Respondent's Affirmative Defense Narrative: ¶¶50-61, 66-78, 134-54.
- vii. Trial Exhibits: Resp. Ex. 12-F

(e) An order granting summary judgment to the 89cv1113 defendants. (Amended Complaint ¶7.)

- i. Relevant entries on 89cv1113 Docket: Nos. 319, 320, 323, 328, 329, 340, 342, 366, 374, 375, 376, 378, 379, 380.
- ii. Relevant transcripts: None. The court did not hold any evidentiary hearing or hear oral argument.
- iii. Respondent's Inquiry Narrative: November 14th Declaration, ¶¶37-45.
- iv. Trial Exhibits: Resp. Ex. 9 (denied admission)

(f) A purported order requiring Respondent to appear in court on September 1, 1993. (Amended Complaint ¶14.)

- i. Relevant entries on 90cv5009 Docket: None; no written order ever issued.
- ii. Relevant transcripts: 8/24/93.
- iii. Respondent's Inquiry Narrative: November 14th Declaration, ¶¶153-67.

- (g) **A rule to show cause issued by the Judge and requiring Respondent to explain why he should not be held in contempt for failing to appear in court on October 21, 1993.** (*Amended Complaint* ¶16.)
- i. Relevant entries on 90cv5009 Docket: Nos. 226, 227, 410.
 - ii. Relevant transcripts: 10/21/93; 11/8/93.
 - iii. Respondent's Inquiry Narrative: November 14th Declaration, ¶¶161-67.
- (h) **Purported findings that certain information cited in papers filed by Respondent in the Seventh Circuit on October 22, 1993, were subject to the Seal Order and the protective orders in 89cv1113 and 90cv5009.** (*Amended Complaint* ¶17.)
- i. Relevant entries on 89cv1113 Docket: None. As of October 22, 1993, the defendants had not claimed, nor had the court made any findings, that any of the information referred to in *Amended Complaint* ¶17 was subject to the 89cv1113 protective order.
 - ii. Relevant entries on 90cv5009 Docket: None. As of October 22, 1993, the defendants had not claimed, nor had the court made any findings, that any of the information referred to in *Amended Complaint* ¶17 was subject to the 90cv5009 seal order or protective order.
 - iii. Respondent's Inquiry Narrative: December 7th Response, p. 39; 8/16/94 Response to Inquiry, pp. 12-13 (Inq. Ex. 5-A, pp. 12-13.)
 - iv. Respondent's Affirmative Defense Narrative: ¶¶109-27.
 - v. Trial Exhibits: Resp. Ex. 8-C, 7-B, 8-L.
- (i) **Rule to show cause issued by the Seventh Circuit on November 9, 1993.** (*Amended Complaint* ¶18.)
- i. Relevant items: (1) Motion of John P. Messina for a Hearing Regarding Allegations of Misconduct in Appellees' Brief dated July 14, 1993; (2) Appendix I of Exhibits; (3) Appendix II of Exhibits (offered under seal); (4) Motion to Strike filed by Labatt; (5) Motion to Strike filed by American Citrus; (6) Response of Grove Fresh; (7) John P. Messina's Motion for Extension of Time; (8) Rule to Show Cause; (9) John P. Messina's Response to Rule to Show Cause; (10) Affidavit of Arthur L. Berney; (11) Order referring rule to show cause to a disciplinary panel; (12) Ruling on Journalists appeal; (13) Referral of the rule to show cause to the ARDC; (14) Respondent's response to ARDC inquiry; (15) ARDC letter closing the inquiry; (17) Motion of John P. Messina to Discharge Rule to Show Cause; (18) Order granting motion to discharge.
 - ii. Items supplied by Respondent during Inquiry: 8/16/94 Response to Inquiry (Inq. Ex. 5-A.)
 - iii. Respondent's Inquiry Narrative: November 14th Declaration, ¶¶168-73; 187-95; December 7th Response, pp. 27-28; March 21st Response, pp. 28-30.
 - iv. Respondent's Affirmative Defense Narrative: ¶¶74-78.

(j) **A 60-page Memorandum Opinion Including Findings of Fact and Conclusions of Law (“Contempt Order”) issued by the Judge on June 9, 1995, and finding that Respondent had violated the Seal Order and the protective orders in 89cv1113 and 90cv5009. (Amended Complaint ¶23.)**

- i. Relevant entries on 89cv1113 Docket: Nos. 447, 448, 470, 471, 449, 472, 473, 474, 475, 477, 478, 479, 480, 451, 452, 453, 454, 481.
- ii. Relevant entries on 90cv5009 Docket: Nos. 403, 404, 410, 411, 412, 366, 368, 492, 367, 414,424,236, 416, 238, 242, 243, 428, 429, 430, 431, 432, 434, 440, 441, 442, 443, 445, 448, 450, 493, 457, 458, 459, 460, 462, 451, 453 454, 463, 470, 471, 345, 474, 452, 251, 250, 252, 255.
- iii. Relevant transcripts: 11/9/93; 12/30/93; 1/21/94; 3/16/94; 4/8/94; 5/18/94; 6/3/94; 6/20/94; 6/22/94; 10/27/94; 11/21/94; 11/22/94; 12/01/94; 2/01/95/ 2/3/95/ 2/8/95; 7/11/95; 8/1/95; 9/8/95; 1/9/96; 4/25/96; 1/21/97; 3/4/97; 3/18/97.
- iv. Items supplied by Respondent during Inquiry: 90cv5009 Docket no. 255 (Inq. Ex. 12-D.)
- v. Respondent’s Inquiry Narrative: November 14th Declaration, ¶¶177-235; March 21st Response, pp. 26-33.
- vi. Respondent’s Affirmative Defense Narrative: *Passim*.
- vii. Trial Exhibits: Adm. Ex. 1.

(k) **Unpublished order by the Seventh Circuit affirming the Contempt Order (Amended Complaint ¶25.)**

- i. Relevant Items: (1) Appellant’s Motion for Stay Pending Appeal; (2) Appendix to Motion for Stay; (3) Order denying Motion for Stay; (4) Brief of Appellant John P. Messina; (5) Appellant’s Separate Appendix; (6) Brief of Appellees; (7) Appellant’s Reply; (8) Unpublished order affirming the Contempt Order; (9) Petition for Rehearing *en banc*; (10) Order denying rehearing; (11) Appellant’s motion for stay of supersedeas bond; (12) Order granting stay.
- ii. Items supplied by Respondent during Inquiry: Brief of Appellant John P. Messina (Inq. Ex. 14).
- iii. Respondent’s Inquiry Narrative: November 14th Declaration, ¶¶243-78; December 7th Response, pp. 38-40; March 21st Response, pp. 33-35.
- iv. Trial Exhibits: Adm. Ex. 2.

(l) **Order issued June 8, 2000, citing Respondent for contempt and fining him \$7,000. (Amended Complaint 30.)**

- i. Relevant entries on 90cv5009 Docket: Nos. 523, 524, 525, 526, 528.
- ii. Relevant transcripts: 6/8/2000.

(m) **Orders issued in November 2000 denying Respondent’s motion to vacate the Contempt Order and motion to recuse the Judge. (Amended Complaint 31.)**

- i. Relevant entries on 90cv5009 Docket: Nos. 523, 524, 525, 526, 518, 519, 520, 527, 528, 521, 522, 529, 531, 530, 532, 534, 536, 538, 539, 540, 541, 542, 537, 553.
 - ii. Relevant transcripts: June 8, 2000; June 27, 2000; July 10, 2000; November 29, 2000.
 - iii. Items supplied by Respondent during Inquiry: Docket nos. 518, 527, 520, 522, 521, 541 (Inq. Ex. 16-B, 16-C, 16-D, 16-E, 16-F, 16-G.)
 - iv. Respondent's Inquiry Narrative: December 7th Response, pp. 45-47.
- (n) **Order issued by the Seventh Circuit on August 5, 2002, affirming the orders denying Respondent's motion to vacate the Contempt Order and motion to recuse the Judge. (Amended Complaint 33.)**
- i. Relevant items: (1 & 2) Two orders vacating the seal on the record on appeal; (3) Respondent's Opening Brief and; (4) Respondent's Separate Appendix; (5) American Citrus's Supplemental Record; (6) Respondent's Motion to Strike the supplemental materials; (7) American Citrus's Response to Motion to Strike; (8) Respondent's reply re motion to strike; (9) order denying motion to strike; (10) American Citrus's Brief; (11) Respondent's Reply Brief; (12-15) Cross-motions for sanctions; (16) Memorandum Opinion and Order.
 - ii. Items supplied by Respondent during Inquiry: Respondent's Opening Brief (Inq. Ex. 13-C.)
 - iii. Respondent's Inquiry Narrative: December 7th Response, pp. 47-48.
 - iv. Trial Exhibits: Adm. Ex. 4.
- (o) **Order issued by Bankruptcy Judge Squires on March 27, 2000, granting summary judgment on the claim by John Labatt Ltd. ("Labatt") and American Citrus Products Corp. ("American Citrus") that the fines and sanctions imposed by the Contempt Order were non-dischargeable. (Amended Complaint 34.)**
- i. Relevant items: (1) Complaint; (2) Answer; (3) Debtor's Motion for Summary Judgment; (4) Debtor's Statement of Uncontested Facts; (5, 6, & 7) Debtor's Appendices; (8) Debtor's Memorandum in Support of Summary Judgment Motion; (9) Plaintiff's Cross-Motion for Summary Judgment; (10) Plaintiff's Statement of Uncontested Facts; (11) Plaintiffs' Memorandum in Support of Cross-Motion for Summary Judgment; (12) Debtor's Reply in Support of Motion for Summary Judgment; (13) Debtor's Response to Plaintiffs' Statement of Uncontested Facts; (14) Plaintiffs' Reply in Support of their Motion for Summary Judgment; (15) Memorandum Opinion and Order.
 - ii. Relevant transcripts: None; the court did not hold an evidentiary hearing or hear oral argument.
 - iii. Items supplied by Respondent during Inquiry: Inq. Ex. 10, 11, 13-B, 15, 15-A.
 - iv. Respondent's Inquiry Narrative: December 7th Response, pp. 43-45; March 21st Response, pp. 36-40.

v. Trial Exhibits: Adm. Ex. 5.

(p) Order issued by the Bankruptcy Court on January 26, 2009, approving the bankruptcy trustee's final report. (Amended Complaint 35.)

i. Relevant items: (1) Trustee's final report; (2) Trustee's Application for Compensation; (3) Trustee's Attorney's Application for Compensation; (4) Application for Compensation by Trustee's Accountant; (5) U.S. Trustee's Certificate of Review; (6) Debtor's Objections to Trustee's Final Report; (7) David Lee's Objections to Trustee's Final Report; (8) Trustee's Response to Objections; (9) Debtor's Reply; (10-12) Orders granting applications for compensation; (13) Trustee's Amended Final Report; (14) Trustee's Notice of Abandonment; (15) Distribution Report; (16) Order approving Trustee's Amended Final Report and Notice of Abandonment

(q) Memorandum Opinion and Order issued by Judge Gettleman on August 20, 2010: (a) affirming the orders issued by Judge Squires, and (b) granting motion for sanctions filed by Labatt and American Citrus (Amended Complaint 38.)

i. Relevant items: (1) Appellant's opening brief; (2) Appellee's brief; (3-10) Motion papers and orders regarding Labatt's counsel's motion to withdraw appearance; (11) Appellee's motion for sanctions; (12) Appellant's response to motion for sanctions; (13-19) Appellant's further response to motion for sanctions, plus appendices; (20-21) Appellant's reply brief and appendix; (22) Memorandum Opinion and Order.

ii. Relevant transcripts: None; no oral argument.

iii. Items supplied by Respondent during Inquiry: Appellant's opening brief; Appellant's reply brief; Appellant's Affidavit; Memorandum Opinion and Order (Inq. Ex. 13-D, 17, 17-A, 21.)

iv. Respondent's Inquiry Narrative: December 7th Response, pp. 48-49.

v. Trial Exhibits: Adm. Ex. 9.

(r) Order issued by the Seventh Circuit on May 24, 2011, affirming Judge Gettleman's Memorandum Opinion and Order and also finding that the appeal was frivolous. (Amended Complaint 41.)

i. Relevant items: (1) Brief of Debtor-Appellant John P. Messina; (2) Appellant's Separate Appendix; (3) Consolidated Brief of All Appellees Messina's; (4) Motion to Strike Portions of Appellees' Consolidated Brief; (5) Appellees' Response to Motion to Strike; (6) Appellant's Reply in Support of Motion to Strike; (7) Reply Brief of Debtor-Appellant John P. Messina; (8) Appendix to Messina's Reply Brief; (9) Motion of Appellee, American Citrus Products Corp., for Sanctions Pursuant to Rule 38; (10) Messina's Response to American Citrus's and Labatt's Motion for Sanctions; (11) Reply of American Citrus in Support of Its Motion for Sanctions; (12) Motion of Appellee, American Citrus Products Corp., To Not Permit Oral Argument; (13) Messina's Response to Motion Not to Permit Oral Argument; (14) Debtor-Appellant's Motion to Recuse Judge Bauer and the Panel; (15) Unpublished Order; (16) petition for rehearing; (17) order

denying petition for rehearing and striking Appellant's name from the roll of attorneys authorized to practice before the Court.


- ii. Relevant transcripts: None; no oral argument.
- iii. Items supplied by Respondent during Inquiry: Brief of Debtor-Appellant John P. Messina; (2) Consolidated Brief of All Appellees Messina's; (3) Motion to Strike Portions of Appellees' Consolidated Brief; (4) Reply Brief of Debtor-Appellant John P. Messina; (5) Appendix to Messina's Reply Brief; (6) Motion of Appellee, American Citrus Products Corp., for Sanctions Pursuant to Rule 38; (7) Messina's Response to American Citrus's and Labatt's Motion for Sanctions; (8) Reply of American Citrus in Support of Its Motion for Sanctions; (9) Motion of Appellee, American Citrus Products Corp., To Not Permit Oral Argument; (10) Messina's Response to American Citrus's and Labatt's Motions Regarding Oral Argument; (11) Debtor-Appellant's Motion to Recuse Judge Bauer and the Panel (Inq. Ex. 1, 2, 18, 18-A through J.)
- iv. Respondent's Inquiry Narrative: December 7th Response, pp. 49-51; March 21st Response, pp. 38-39.
- v. Trial Exhibits: Adm. Ex. 9, 10.

(s) Order issued by the Seventh Circuit on October 28, 2011, ordering Respondent to pay double attorney's fees and striking his name from the roll of attorneys admitted to practice before it. (*Amended Complaint 43.*)

- i. Relevant items: (1) Appellant's motion to vacate; (2) Appellant's declaration under penalty of perjury; (3) order denying motion to vacate.
- ii. Relevant transcripts: None; the court did not hold an evidentiary hearing or hear no oral argument.
- iii. Items supplied by Respondent during Inquiry: (1) Appellant's motion to vacate; (2) Appellant's declaration under penalty of perjury (Inq. Ex. 3, 4)
- iv. Respondent's Inquiry Narrative: November 21st Response, pp. 1-2.
- v. Trial Exhibits: Adm. Ex. 11, 13.

In accordance with 735 ILCS 5/1-10, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated this 7th day of July, 2016.


John P. Messina