

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GIZELLA WEISSHAUS,

Plaintiff,

-against-

THE STATE OF NEW YORK;  
THE OFFICE OF COURT ADMINISTRATION  
OF THE UNIFIED COURT SYSTEM;  
THOMAS J. CAHILL, in his official and individual capacity;  
ALAN W. FRIEDBERG, in his official and individual capacity;  
JUDITH N. STEIN, in her official and individual capacity;  
HAL R. LIEBERMAN, in his official and individual capacity;

SAUL E. FEDER;  
MEL URBACH;  
EDWARD D. FAGAN; and  
JOHN and JANE DOES, 1-20,

Defendants.

**ORDER  
TO SHOW CAUSE  
FOR  
PRELIMINARY  
INJUNCTION AND  
TEMPORARY  
RESTRAINING  
ORDER**

**08 Civ 4053**  
(DLC)

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Upon the affirmation of Gizella Weissshaus, *pro se*, executed the 28<sup>th</sup> day of December, 2008, it is ORDERED, that the above named defendants, or any party, appear and show cause before a motion term of this court, at Court Room 11B, in United States District Court for the Southern District of New York, 500 Pearl Street, in the City, County and State of New York on January \_\_\_\_\_, 2009, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued:

- (a) appointing a federal monitor to oversee the day-to-day operations of defendants' Office of Court Administration's, and State of New York's, Departmental Disciplinary Committee, located at 61 Broadway, New York, New York, for an indefinite period of time;
- (b) referring all herein allegations for investigation to the Office of the United States Attorney for the Southern District of New York, Attention: Boyd M. Johnson III, Chief, Public Corruption Unit, for investigation;
- (c) enjoining defendants, pursuant to Rule 65 of the Federal Rules of Civil Procedure, from destroying, concealing, discarding, secreting or in anyway altering any portion

of any files or ethics complaints involving plaintiff; and

(d) granting such other legal and equitable relief as the court deems just and proper;  
and it is further,

ORDERED, that sufficient reason having been shown, therefore, pending the hearing of plaintiff's application for a preliminary injunction, pursuant to FRCP Rule 65, the defendants are temporarily restrained and enjoined from destroying, concealing, discarding, secreting or in anyway altering any portion of any files or ethics complaints involving plaintiff; and it is further

ORDERED, that no security be posted by plaintiff, and it is further,

ORDERED, that personal service of a copy of this order and annexed affirmation upon the defendants or counsel on or before \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, \_\_\_\_\_, 200\_\_ shall be deemed good and sufficient service thereof.

DATED: December \_\_\_\_, 2008  
New York, New York

\_\_\_\_\_  
Hon. Denise L. Cote  
United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Plaintiff,

-against-

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ADMINISTRATION OF THE UNIFIED COURT SYSTEM;  
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SAUL E. FEDER; MEL URBACH; EDWARD D. FAGAN; and  
JOHN and JANE DOES, 1-20,

Defendants.  
-----X

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U.S. DISTRICT COURT  
S.D.N.Y.  
**08 Civ 4053**  
(DLC)

**AFFIRMATION**

Gizella Weisshaus, *pro se*, makes the following affirmation under the penalties of perjury:

1. I am the plaintiff in the above entitled Complaint (attached as Exhibit "A"), and

I respectfully move this Court to order defendants to show cause why an order should not be issued:

- (a) appointing a federal monitor to oversee the day-to-day operations of defendants' Office of Court Administration's, and State of New York's, Departmental Disciplinary Committee, located at 61 Broadway, New York, New York, for an indefinite period of time;
- (b) referring all herein allegations for investigation to the Office of the United States Attorney for the Southern District of New York, Attention: Boyd M. Johnson III, Chief, Public Corruption Unit, for investigation;
- (c) enjoining defendants, pursuant to Rule 65 of the Federal Rules of Civil Procedure, from destroying, concealing, discarding, secreting or in anyway altering any portion of any files or ethics complaints involving plaintiff;
- (d) granting such other legal and equitable relief as the court deems just and proper; and
- (e) pending the hearing of plaintiff's application for a preliminary injunction, temporarily restraining and enjoining defendants from destroying, concealing, discarding, secreting or in any way altering any portion of any files or ethics complaints involving plaintiff.

2. There is now evidence of criminal action by defendants including recent threats

upon a federal witness, physical intimidation by "state actors," and on-going ethics whitewashing.

### **\$1.25 Billion Holocaust Fraud Now Pales Against Madoff's \$50 Billion**

3. I am a 79-year-old Holocaust survivor who has been fighting to recover my father's stolen assets since shortly after my entire family was exterminated during the Holocaust. I submit this affirmation upon personal knowledge as to my own facts and upon information and belief as to all other matters. I was the person who first filed the historic "Swiss Banks" lawsuit in 1996 against various Swiss banks for looting my family assets. My case eventually became a class action, and that class action was settled on behalf of Holocaust survivors for \$1.25 billion in 1998. I opted out of the settlement because involved attorneys were paying themselves millions of dollars when some Holocaust survivors and class plaintiffs had not received a penny, and others had only received a few thousand dollars.

### **The Common Denominator is the DDC and its Whitewashing of Ethics Complaints**

4. I respectfully move this court for an order temporarily restraining and enjoining defendants from destroying, concealing, discarding, secreting or in anyway altering any portion of my files or ethics complaints concerning any herein defendants or any other attorney disciplinary files under the jurisdiction of defendants' "ethics" body, the Departmental Disciplinary Committee (hereinafter "DDC"). I am extremely concerned over the DDC's long-practiced improper manipulation of ethics complaint case files. I am well aware that I am not the lone victim of buried ethics complaints. The time has come for immediate and decisive judicial intervention.

### **Plaintiff Weisshauss and Victims of Madoff and Dreier are Defrauded by Defendants' On-Going Whitewashing of Ethics Complaints**

5. It is of no surprise to me that the gross unethical misconduct and failings of Manhattan's so-called "ethics" committee, the DDC, that I have witnessed, is the same "ethics" body that has ignored and whitewashed the outrageous conduct of legal, financial and business leaders,

...sisting in the current financial collapse. This court needs to know how many complaints have been filed with the DDC against our so-called financial and legal leaders over the last ten years. The refusal of the DDC to properly oversee the ethics failings of attorneys under its jurisdiction has harmed me greatly over the last ten years. And the knowing failure by the DDC to uphold ethics of any kind not only continues to harm me but the stability of the world's financial, legal and business communities. Unless this order is issued, I will suffer immediate and irreparable injury, loss and further damage in that my constitutional right to fair proceedings will not be possible if defendants are allowed to continue their practice of altering and "cleansing" file documents to support whatever improper purposes may be served in furtherance of defendants' manipulated "findings" involving complaints against select attorneys.

### **Federal Witness Tampering**

6. I recently learned that in a case now pending before the Honorable Shira A. Scheindlin, *Anderson v. The State of New York* (S.D.N.Y. 07cv9599), a federal witness was physically intimidated just prior to giving testimony. The plaintiff, Christine Anderson, is widely regarded as the courageous whistleblower who, as a DDC staff attorney, exposed the criminal actions of the so-called DDC "ethics" committee. I am informed that the federal witness, who was another DDC staff attorney, was threatened by a DDC Supervising Attorney! I am also informed that the NYS Office of Court Administration Inspector General, Sherril Spatz, investigated the matter and that the DDC Supervising Attorney who threatened the federal witness was transferred out of the DDC's Broadway offices to another location.

### **Referral to US Attorney, Subpoenas and Public Testimony Needed**

7. I request a public hearing before this Honorable Court because I believe testimony will support my request for this Court's appointment of a federal monitor. Given the facts that: (1) *Anderson* (an attorney) alleges the "whitewashing of ethics complaints" at the DDC where she was

employed; and (2) another DDC attorney has complained of "witness intimidation," I respectfully submit that this Honorable Court must officially refer these allegations to the U.S. Attorney's Office for investigation.

### **State Judges Want to Testify in Federal Court as to "Ethics" Corruption**

8. In another DDC case related to *Anderson*, Judge Scheindlin *So Ordered* a request to file:

"An affirmation, dated June 8, 2008, from a retired elected judge of This state, and who sat on the bench for more than 20 years (3 pages); and

An affirmation, dated June 3, 2008, from a sitting, elected justice of the NYS Supreme Court (11 pages)"

#### **The document says, in part:**

"Both affirmants want to personally testify before this Honorable Court...as to their first-hand knowledge of the systemic corruption...within the New York State attorney grievance committees..."

(See attached Exhibit "B" from *McKeown v State of NY* (08cv2391 SDNY))

9. I believe testimony by elected judges of this state at a public hearing before this Honorable Federal Court will clearly show, and fully support, the urgent need for this Honorable Court's immediate appointment of a federal monitor over the Manhattan DDC "ethics" committee.

### **DDC STANDARD PRACTICE IS OF SELF-DEALING ACCEPTANCE AND ADVANCEMENT OF FRAUDULENT DOCUMENTS**

10. I learned that defendants Fagan and Urbach, working together against me, participated in a scheme to perpetrate a fraud upon the court involving a document purporting to be a 1997 "amended complaint in the Swiss Banks action, but it was actually a document backdated and improperly manufactured in or about 2000. I also provided evidence to the DDC that defendant Fagan committed gross attorney misconduct regarding conversion of escrow account in the amount of \$82,583.04 in another matter involving my role as a fiduciary in The Estate of Jack Oestreicher. The

My improper whitewashing of ethics complaints cannot await another Madoff-size disaster- this must, I respectfully submit, take action now. I will be irreparably harmed, and further damaged, if the defendants are allowed to further "cleanse" my attorney ethics complaints now before the DDC.

11. The defendants' collective failure to oversee or correct attorney misconduct confirms their inability, or lack of desire, to perform their trusted duty of attorney ethics oversight. **Witness attorneys at the Dreier Law firm.** Upon information and belief, the Dreier Law firm was a large "protected" Manhattan law firm, immune from any real ethics accountability. Clearly, the state defendants are not capable of overseeing the misconduct of any attorney under its charge. In addition, and because the involved attorney misconduct was by select members of the bar, the defendants have little time, and less desire, to address any attorney misconduct. The defendants' collective continuation of neglecting their duty requires the immediate appointment of a federal monitor.

12. The defendants have knowingly acted to allow the DDC to disregard their state mandated duty to handle ethics complaints against attorneys whose offices are located within Manhattan and the Bronx. The DDC has long abandoned their duty to conduct full, fair and balanced investigations. The DDC is a division of the New York State Supreme Court, Appellate Division, First Judicial Department, and is therefore part of the New York State court system. As part of the New York State court system, the DDC is obligated and duty-bound to administer justice in a fair, honest and lawful manner. They have failed this obligation and in doing so have, and continue to, violate federal laws.

### **TWENTY YEARS OF DDC CHAOS REQUIRES FEDERAL INTERVENTION**

13. I recently became aware of the fact that the pattern of improper acts within the DDC has been the rule and not the exception-- egregious violations that continue to harm my right of due process and equal access, and actions that only serve to further the improper and

selective enforcement of attorney ethical investigations.

14. As a result of flagrant abuse and neglect of duty in and about the DDC in 1988, according to The Murphy Report (attached hereto as Exhibit "C"), the DDC office locks were changed, and the two top DDC administrators were forced to resign by then Appellate Division, First Department Presiding Justice Francis T. Murphy.

15. The Murphy Report tells of practices at the DDC from two decades ago that chillingly mirrors Madoff and Dreier neglect and current DDC operating procedure:

"In unlawfully closing the file, Mr. Gentile, wrote a servile letter to that political figure, inviting him to contact Mr. Gentile, and a letter to the complainant chastising him for having filed the complaints."

16. The 20 year old Murphy report also, and prophetically, speaks of current-day conditions at the DDC:

"It was apparent to me that a chief counsel whom we could rarely locate, who seemingly tried no cases, whose backlog seemed permanent, whose staff lawyers fell from the masthead with an awe-inspiring frequency and whose unethical conduct in certain cases had caused alarm, and who was lacking in professional courage, was not a chief counsel of anything."

17. The collection of filed cases in the Southern District of New York alone tells of the continuing, and too-long accepted, "unethical conduct" of the DDC, and it speaks loudly to the urgent need for this Court's immediate intervention by appointment of a federal monitor over all day-to-day operations of state actors at the DDC. The continuing inaction of DDC's duty to properly oversee attorney ethics requires this court's immediate action of appointing a federal monitor over the DDC so that the violations of federal laws harming me and all others similarly situated may, finally, come to an end.



constitutional right to a fair, lawful and honest judicial system, free from self-dealing and bias, with impartial arbiters of the law. I have no other remedy at law, and have not previously sought the relief herein requested.

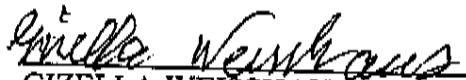
19. I respectfully request that a hearing being held on the herein sought relief and, that I be permitted to present the brief testimony of approximately ten credible witnesses.

WHEREFORE, I respectfully request that the court grant the within relief as well as such and further relief that may be just and proper.

The undersigned declares under penalty of perjury that she is the plaintiff in the above action, that she has read the above and that the information contained in the complaint is true and correct, 28 U.S.C. § 1746; 18 U.S.C § 1621.

Dated: Brooklyn, New York  
December 28, 2008

Respectfully submitted,

  
GIZELLA WEISSHAUS, *Pro Se*  
203 Wilson Street  
Brooklyn, New York 11211  
(718) 387-0026