



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
ANDREW M. CUOMO

FACSIMILE TRANSMISSION

DATE: June 11, 2008 **NUMBER OF PAGES:** 3 (INCLUDING THIS PAGE)

TO: Hon. Shira A. Scheindlin

FAX NO: (212) 805 - 7920

Joseph McQuade, esq.

(212) 599-3116

Mr. Kevin McKeown

(212) 591-6022

FROM: Anthony Tomari, Assistant Attorney General

ATTN:

IF THERE IS A PROBLEM WITH THIS TRANSMISSION, PLEASE CONTACT

NAME: Anthony J. Tomari, Assistant Attorney General

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120 BROADWAY, NEW YORK, NY 10271-0332**



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

(212) 416-8553

ANDREW M. CUOMO
Attorney General

Division of State Counsel
Litigation Bureau

June 11, 2008

By Facsimile Transmission

Hon. Shira A. Scheindlin
United States District Court Judge
United States District Court
500 Pearl Street
New York, New York 10007
(212) 805-7920

RE: Kevin McKeown v. The State of New York, Office of Court Administration et al., Civil Action No. 08-CV-2391 (SAS)

Dear Judge Scheindlin:

The Office of the Attorney General represents the State of New York and the Office of Court Administration (the "State Defendants") in the above-referenced litigation.¹ I am writing because I am in receipt of two (2) letters from plaintiff. By letter to Your Honor dated June 9, 2008, plaintiff requested to file two (2) affirmations under seal, from a current New York State Supreme Court Justice, and from a "retired[,] elected judge of this state". A copy of the letter is annexed hereto for your convenience as Exhibit "A".

Today, less than 48 hours after² receiving a copy of plaintiff's letter to the court, I received a second letter from plaintiff stating: "As you are aware, Judge Scheindlin granted my request to file under seal" the above-

¹Plaintiff attempted to serve defendants Thomas J. Cahill; Sherry M. Cohen; Nancy J. Barry; Joseph M. Accetta and Robert M. DiBella through our office. By letter dated June 4, 2008 our office informed plaintiff that such service was improper as this office is not authorized to accept service for any individual not employed by the Attorney General. In addition, the body of the complaint names several other individuals, such as Anthony A. Scarpino, who are not listed in the caption, and, according to the docket sheet, have not been served. The current docket sheet indicates this office represents several named individuals in this action. That is an error.

²As Exhibit "A" shows, I did not receive it until almost 4 pm on June 9.

described affirmations. A copy of today's letter is annexed hereto for your convenience as Exhibit "B". Until I received today's letter, I was not aware Your Honor granted plaintiff's request and State Defendants have had no opportunity to be heard regarding plaintiff's request to submit affirmations under seal. It does not appear that plaintiff has made any showing of good cause for his application.³

State Defendants respectfully request that Your Honor withdraw your order as there is no basis for any affirmations to be received in this case at this time. The State Defendants have moved to dismiss this action on jurisdictional grounds which, if successful, will be wholly dispositive of this case. The motion to dismiss is made strictly on legal grounds; plaintiff has not yet served, or filed, an opposition; and it is by no means clear for what valid purpose plaintiff seeks to introduce these affirmations at this time.

Thank you for your time and attention to this matter. Each party that has appeared is receiving a copy of this letter simultaneously by facsimile transmission.

Very truly yours,



Anthony J. Tomari (AT-0186)
Assistant Attorney General

cc: Mr. Kevin McKeown
PO Box 616
New York, New York 10156
(212) 591-6022

Joseph McQuade, Esq.
McQuade & McQuade
104 East 40th Street
New York, New York 10016
(212) 599-3116

³I telephoned chambers within minutes of receiving plaintiff's letter and was informed by Mr. Rubenstein that indeed such an order was issued and I would receive it in the ordinary course of business. It appears that plaintiff has a copy of the order. No such order is reflected on the docket sheet.

FAX MEMO & COVER

TO: Deputy Law Clerk Jim Reilly
Chambers of The Honorable Shira A. Scheindlin, U.S.D.J.
FAX #: 212-805-7920
FROM: Kevin McKeown, *pro se*
Tel: 212-591-1022; Fax: 212-591-6022
DATE: Monday, June 9, 2008 - 4:00pm
RE: McKeown v State of NY, et al. (08cv2391)(SAS)
Leave to File Under Seal

TOTAL PAGES (including cover): 1

Dear Mr. Reilly,

1. I respectfully request permission to submit a Motion for Leave to File Under Seal two documents currently in my possession:

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

Both affirmants want to personally testify before this Honorable Court, in the above referenced matter, and at a hearing that I will be soon seeking. Upon information and belief, and after reading their affirmations, I believe both individuals will testify as to their first-hand knowledge of the systemic corruption, and that continues to severely harm me, within the New York State attorney grievance committees and, further, within the New York State Commission on Judicial Conduct. I believe their affirmations and testimony will fully support my allegations and the urgent need for this Honorable Court's immediate action.

2. As an alternative to my submission for leave, I respectfully request that the herein application to File Under Seal be SO ORDERED. (In the interest of judicial economy, I respectfully advise the Court that I have been informed by other NYS judges of their desire to also appear, and to file affirmations in support of my application, though I do not yet have those promised affirmations in my possession. Accordingly, I would respectfully request that any affirmation from any retired or sitting justice of any NYS court dated before June 27, 2008 be covered by any order)

3. As a final alternative, and as supported by all filings hereto had herein and in all related cases, I respectfully request this Honorable Court's reconsideration of the previously filed order to show cause, and that a hearing on the hereto sought relief be immediately scheduled.

cc: Anthony J. Tomari, Esq. 212-416-6009 fax
Joseph F. McQuade, Esq. 212-599-3116 fax

Respectfully submitted,

Kevin McKeown

FAX MEMO & COVER

TO: Anthony J. Tomari, Esq.
New York State, Assistant Attorney General

FROM: Kevin McKeown

DATE: Wednesday, June 11, 2008 1:30pm

RE: McKeown v State of NY, et al. (08cv2391)(SAS)

FAX #: 212-416-6009

Tel #: 212-591-1022

Fax #: 212-591-6022

Dear Mr. Tomari,

TOTAL PAGES (including cover): **1**

1.1 I respectfully bring to your attention the fact that 3 employees of your office have, at all times relevant, been fully aware of the various criminal acts committed in connection to the stolen Red Cross 9/11 monies at issue, *inter alia*, and in the above referenced proceedings and, upon information and belief, they currently remain improperly silent. Those NYS OAG employees are: Deputy Chief AG Charles Sanders, AAG Judith C. McCarthy and AAG Lisa Gharthey.

2.1 As you are aware, Judge Scheindlin granted my request to file under seal 2 documents I possess: (a) 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 (b) an affirmation, dated June 3, 2008, from a sitting, elected justice of the NYS Supreme Court (11 pages). As you were informed on Monday, June 9, 2008, both of these judges wish to personally testify in open court as to the corruption complained of, *inter alia*, and in specific support of my requested relief.

2.2 In that regard, and of immediate importance, I would appreciate you clarifying: (a) exactly whom you are representing; and (b) in exactly what capacity (personal and/or official) you now appear on their behalf. A review of the federal court docket sheet appears to contain incorrect information: for example, you're listed as representing at least one non-state employee.

2.3 As I will be requesting that U.S. Marshals effect service, and so as not to burden them, the court, or any involved party, I request that you advise me at your earliest convenience.

- *1. THE STATE OF NEW YORK
- *2. THE OFFICE OF COURT ADMINISTRATION OF THE UNIFIED COURT SYSTEM.
- *3. THE N.Y. STATE COMMISSION ON JUDICIAL CONDUCT
- *4. THE N.Y.S. 1ST DEPT., DEPARTMENTAL DISCIPLINARY COMMITTEE
- *5. THE N.Y.S. GRIEVANCE COMMITTEE, 9TH JUDICIAL DISTRICT
- *6. THOMAS J. CAHILL, in his official and individual capacity
- *7. SHERRY K. COHEN, in her official and individual capacity
- *8. GARY L. CASELLA, in his official and individual capacity
- *9. NANCY J. BARRY, in her official and individual capacity
- *10. FRANCIS A. NICOLAJ, in his official and individual capacity
- *11. JOSEPH M. ACCETTA, in his official and individual capacity
- *12. ROBERT M. DIBELLA, in his official and individual capacity
- *13. ANTHONY A. SCARPINO, in his official and individual capacity
- *14. CATHERINE M. MIKLITSCH (* = New York State Employees; cc'd through NYS AG)
- **15. ROBERT A. KORREN ESQ. (** = NON NYS employees; cc'd via facsimile)
- **16. JEFFREY A. MCNAMARA, ESQ.
- **17. PATRICIA BAVE-PLANELL, ESQ.
- **18. GIULINI & GIULINI, ESQS.; **19. CHARLES A. GIULINI, individually and as a partner of Giuliani and Giuliani
- **20. CHRISTINE GIULINI, individually and as a partner of Giuliani and Giuliani
- **21. MCQUADE & MCQUADE, ESQS. **22. JOSEPH F. MCQUADE, individually and as a partner of McQuade & McQuade
- **23. MICHAEL D. MCQUADE, individually and as a partner of McQuade & McQuade end

Kevin McKeown