

In the Matter of LILLIAN GLASSER,
An Alleged Incapacitated Person

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - PROBATE PART
MIDDLESEX COUNTY

Docket No. 209568

Robert Borteck, Esq. of Edwards Wildman was secretly paid by Goldman Sachs to represent another party while protecting Goldman Sachs at the peril of Lillian Glasser. These are excerpts from a brief filed in support of a motion Robert Borteck filed seeking to keep Lillian Glasser in Texas and to have the head of Adult Protective Services removed as he was zealously attempting to protect Lillian Glasser.

(Annotated Emphasis)

**SUPPLEMENTAL BRIEF ON BEHALF OF SUZANNE MATHEWS IN FURTHER
SUPPORT OF MOTION TO DISMISS OR STAY THE PROCEEDINGS BROUGHT BY
ERIC SMITH, ADULT PROTECTIVE SERVICES, TO REMOVE LAWRENCE ROSA,
ESQ. AS COUNSEL FOR ADULT PROTECTIVE SERVICES, AND FOR A
PROTECTIVE ORDER**

EDWARDS ANGELL PALMER & DODGE, LLP
Robert D. Borteck, Esq.
Kenneth J. Cesta, Esq.
Danielle A. Brucchieri, Esq.
51 John F. Kennedy Parkway
Short Hills, New Jersey 07078-2701
(973) 376-7700
Attorneys for Suzanne Mathews
In her Capacity as An Interested Party

PRELIMINARY STATEMENT

Suzanne Mathews, in her capacity as an interested party, submits this Supplemental Brief (i) in further support of her motion in lieu of answer pursuant to R. 4:6-2 to dismiss or stay the First Amended Verified Complaint filed on behalf of plaintiff Eric Smith; (ii) in support of her supplemental motion to dismiss or stay the Verified Complaint filed on behalf of the Middlesex County Board of Social Services, Adult Protective Services Division (“APS”); (iii) to remove Lawrence Rosa, Esq. as counsel for APS in this matter; and (iv) for a Protective Order pursuant to R. 4:10-3.

The fundamental issues before this Court are identical to the issues currently pending before the Honorable Polly Jackson Spencer of the Probate Court, Bexar County, Texas in the matter captioned In the Guardianship of Lillian Glasser, an incapacitated person, Docket No. 2005-PC-00843 (the “Texas Proceedings”). Since March 2005, those issues have been actively litigated before Judge Spencer. The matter is now ready for final disposition and trial on the merits has been set down for March 29, 2006. The accompanying Certification of Les J. Strieber, III, Esq., one of Mrs. Mathews’ attorneys in the Texas Proceedings, describes those proceedings in detail. Thus, as a matter of comity and practicality, this Court should defer to the first-filed Texas Proceedings and dismiss or stay the present action.

For the same reasons, this Court should dismiss the Complaint filed by APS. Like Eric Smith’s Complaint, APS’s Complaint should be dismissed in favor of the first-filed Texas Proceedings as all of the issues raised in the Complaint have already been addressed by or are before the Texas Court and are replicated in Mr. Smith’s Complaint before this Court. Moreover, APS’s involvement has become unnecessary, given the appointment of Joseph Catanese, Esq. in New Jersey to represent Lillian Glasser’s best interests.

Furthermore, given the biased and unprofessional manner in which Mr. Rosa has conducted the APS investigation, it is respectfully submitted that Mr. Rosa should be removed as counsel for APS in this matter in the event that its Complaint is not dismissed outright. Mr. Rosa's submissions to this Court are brimming with blatant advocacy, and contain wild and unsubstantiated accusations toward Suzanne and Gilbert Mathews, their attorneys and, sadly, Judge Spencer. Mr. Rosa's inappropriate behavior does not end there, however. At every turn, Mr. Rosa has seized the opportunity to disparage Suzanne and Gilbert Mathews, both in court and in the media, making inappropriate and libelous comments. Not content to disparage only Mrs. Glasser's daughter and son-in-law, Mr. Rosa has now taken aim at a highly qualified and well-regarded jurist, Judge Spencer, to whom he has shown total disrespect. Despite admonitions by this Court, and contrary to his statutory charge, Mr. Rosa has utterly failed to proceed in a neutral manner.

Finally, Mrs. Mathews moves for a Protective Order preserving the confidentiality of documents already produced and to be produced in this matter. Many documents concerning Lillian Glasser's estate also contain highly sensitive and confidential information regarding Suzanne and Gilbert Mathews' personal finances. Production of all such documents should be made pursuant to a Protective Order confirming that they will not be disclosed to any non-party or used for any purpose other than this litigation. No counsel has yet responded to our pre-motion effort to have the Protective Order signed on consent, other than Mr. Rosa, who has expressed his opposition, further demonstrating his unexplained bias in this matter.

It is all too apparent that this matter, as a whole, was and is nothing more than a pre-death will contest. The impetus in this case is not the best interests of Mrs. Glasser, but rather the financial interests of Mark Glasser, Eric Smith, and others. This Court need look no further than