

1 DOCKET NO. CV06-5001159-S : SUPERIOR COURT

2 SYLVESTER TRAYLOR, et al : NEW LONDON J.D.

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4  
5 vs. : AT NEW LONDON

6  
7 BASSAM AWWA, et al : JANUARY 19, 2011

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11 HEARD BEFORE:

12 The Honorable Thomas F. Parker, Judge Trial Referee

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16 APPEARANCES:

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19 For the Plaintiff: (Ordering Party on Appeal)

20  
21 Attorney Edward C. Berdick  
22 764 Voluntown Road  
23 Griswold, Connecticut

24  
25  
26 For the Defendant:

27  
28 Attorney Donald Leone  
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31 Norwich, Connecticut

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39 Cheryl C. Straub,  
40 Certified Court Reporter  
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THE COURT: We're here today for the hearing as required by Section 1-22(b) of the practice book dealing with the complaint the plaintiff, Sylvester Traylor filed with the Judicial Review Council on June 15, 2010.

Before we proceed on that, there are a couple of things I'd like to find out about. The first, will counsel identify themselves for the record.

ATTY. BERDICK: Counsel for plaintiff is Edward C. Berdick, your Honor.

ATTY. LEONE: Attorney Don Leone for the defendant, Dr. Awwa, and his professional corporation.

THE COURT: Thank you. The plaintiff filed or plaintiffs filed a motion to reargue plaintiffs' motion to transfer this case to Bridgeport. He filed this, I believe -- or reconsideration rather -- not reargument, reconsideration. I believe that he filed that on December 1st. Now, in that motion for reconsideration, the body of it is just one paragraph long. The last -- the second sentence thereof says, "See Judge Handy's application to the complex litigation dated June 15, 2009, entry number 313.50."

Now, Mr. Berdick, you signed and submitted that motion for reconsideration which included the

1 sentence about Judge Handy's application, so I  
2 gather you believe it was important that the court  
3 consider or take into consideration in some way  
4 Judge Handy's application to have this case  
5 transferred to the complex litigation docket; is  
6 that correct?

7 ATTY. BERDICK: Yes, your Honor. If I may  
8 elaborate why I think that?

9 THE COURT: No, I'll ask the questions right  
10 now.

11 ATTY. BERDICK: Yes, your Honor.

12 THE COURT: Why do you think it was important?

13 ATTY. BERDICK: Because at that time we wanted  
14 to have a reconsideration on that issue, I mean, and  
15 that -- my understanding is that issue had been  
16 somewhat articulated somewhat earlier in the  
17 litigation, which I wasn't the attorney of record,  
18 so that was relevant at that time. In my  
19 determination, that was a relevant piece of -- you  
20 know, those circumstances at that time are relevant  
21 to that reargue that we were requesting at that  
22 time.

23 THE COURT: Okay.

24 ATTY. BERDICK: For your consideration, you  
25 know, to be aware of that previous argument.

26 THE COURT: Would you mark this as Court  
27 Exhibit 1.

1 (The clerk complies.)

2 THE COURT: Mr. Berdick, would you take a look  
3 at this. Would you hand this to Mr. Berdick.

4 ATTY. BERDICK: Yes, your Honor. Did you want  
5 to direct me to any particular pages?

6 THE COURT: No. Look at it. Have you ever  
7 seen it before -- excuse me. Have you ever seen it  
8 before?

9 ATTY. BERDICK: I think I've seen this -- not  
10 this transcript, a transcript of Hiller's hearing on  
11 that.

12 THE COURT: Well, that's a copy of it.

13 ATTY. BERDICK: Yes, your Honor. I've seen  
14 something like this before.

15 THE COURT: Did you have Traylor submit that to  
16 the court?

17 ATTY. BERDICK: I don't recall, your Honor.  
18 It's been not since a long time. I've been  
19 hospitalized on and off for three weeks so, I mean,  
20 I wouldn't want to rely on my memory right now to  
21 that question.

22 THE COURT: How long would it take you to  
23 remember whether you had Mr. Traylor file this with  
24 the court?

25 ATTY. BERDICK: Pretty much going back to my  
26 records in my office and seeing, you know, the file  
27 pagination in the file.

1 THE COURT: So are you saying it may be that  
2 you authorized or told Mr. Traylor to have this  
3 transcript filed?

4 ATTY. BERDICK: No, I can't say that that's  
5 what I'm saying. I can't make that -- I can't  
6 answer your question truthfully because I don't  
7 know, you know, at this time.

8 THE COURT: Mr. Leone, would you take a look at  
9 Court Exhibit 1 -- oh, wait a minute. Before that,  
10 you see that blue handwriting on the cover?

11 ATTY. BERDICK: Yes.

12 THE COURT: Whose handwriting is that?

13 ATTY. BERDICK: I don't know but I've seen  
14 something like that before, a Xeroxed copy.

15 THE COURT: Okay. Mr. Leone.

16 ATTY. LEONE: If I may, your Honor, if I  
17 understand what the court's exhibit is, this is a  
18 transcript from the hearing that was held before  
19 Judge Hiller on the motion -- on Judge Handy's  
20 motion to transfer the case to complex litigation?

21 THE COURT: And that hearing was held in  
22 Bridgeport before Judge Hiller on July 31 or June 31  
23 -- June 30, 2009.

24 ATTY. LEONE: Yes, your Honor. I was at that  
25 hearing. I'm not familiar with the transcript but I  
26 was at the hearing, your Honor. I'm familiar with  
27 what transpired.

1 THE COURT: Well, was a copy of that transcript  
2 delivered to you or sent to your office in  
3 mid-December of this month?

4 ATTY. LEONE: No.

5 THE COURT: And I can tell you that a copy was  
6 not filed with the office of the clerk. Now -- and  
7 it wasn't delivered to opposing counsel but that  
8 transcript dated -- not dated -- was delivered to  
9 the judges' secretary on December 13th by Mr.  
10 Traylor.

11 ATTY. BERDICK: Okay.

12 THE COURT: Was that done with your knowledge,  
13 Mr. Berdick?

14 ATTY. BERDICK: No, your Honor, it was not.

15 THE COURT: So Mr. Traylor did it on his own?

16 ATTY. BERDICK: I can't say that but --

17 THE COURT: Well, excuse me, your fingerprints  
18 aren't on it then. I mean, you did not say, hey,  
19 Mr. Traylor, get this --

20 ATTY. BERDICK: No, I did not, your Honor.

21 THE COURT: Okay. We have a problem here.

22 ATTY. BERDICK: Which is that, your Honor?

23 THE COURT: Well, it's a gross -- you're trying  
24 to influence a judge by submitting -- you disavow  
25 any knowledge of this but Mr. Traylor, he's been  
26 around, he's had a couple cases, at least two, and  
27 he knows the rules. If you try to submit something

1 or a party tries to submit something for the court's  
2 consideration, it's to be filed with the court  
3 clerk; you understand that?

4 ATTY. BERDICK: Yes, your Honor.

5 THE COURT: Mr. Traylor understands that. And  
6 submitting it to the judges' secretary so that the  
7 judge will get it is a gross violation of our  
8 procedure. So what do I do about this? Do you have  
9 any ideas, Mr. Berdick?

10 ATTY. BERDICK: I think you exercise judicial  
11 discretion, your Honor.

12 THE COURT: Well, what should my -- what are  
13 the range of things I could do?

14 ATTY. BERDICK: I don't know. The answer to  
15 your question legalistically: I don't know the full  
16 range of your options. I'm sure there's guidance on  
17 that, you know, in the rules, I'm sure you're aware  
18 of them right now but I'm sure there is and I'm sure  
19 you're aware of it too what your ranges are.

20 (Pause.)

21 THE COURT: Mr. Leone, do you have any thoughts  
22 on this?

23 ATTY. LEONE: If your Honor please, this is the  
24 first I'm hearing of it so I'm at a somewhat  
25 handicap but I will say to the court that this is  
26 one of many instances, and I have addressed the  
27 court -- this issue with the court many times in

1 motions, of Mr. Traylor's practice of filing things  
2 and not sending them to opposing counsel. I've  
3 asked for sanctions, I've asked for -- actually, in  
4 one motion I've asked the court to not allow Mr.  
5 Traylor to file anything without judicial review.  
6 So aside from what I've already asked for in terms  
7 of sanctions, this is yet another example of Mr.  
8 Traylor's either ignorance of or total, blatant  
9 disregard for the rules of practice and I think  
10 being that this is multiple times that this has  
11 occurred, I believe that any sanction that the court  
12 deems appropriate should take into account the prior  
13 transgressions on behalf of Mr. Traylor.

14 THE COURT: Mr. Leone, I have a question.

15 ATTY. LEONE: Yes, your Honor.

16 THE COURT: At any time -- I think you just  
17 indicated that you brought this to the -- his filing  
18 papers with the court without sending them to you as  
19 opposing counsel --

20 ATTY. LEONE: Yes, your Honor.

21 THE COURT: -- that type of thing. And you've  
22 moved for sanctions --

23 ATTY. LEONE: I have, your Honor.

24 THE COURT: -- and for orders appropriate?  
25 Have any of those motions come before me?

26 ATTY. LEONE: No, your Honor. In fact, many of  
27 -- I know of at least two of the motions that

1 haven't been heard, your Honor.

2 THE COURT: Have they ever been --

3 ATTY. LEONE: Well, at the time, your Honor,  
4 when you got involved, we had the December hearing  
5 and your Honor ordered a stay of all proceedings  
6 until April 21st and, quite frankly, on April 21st  
7 when things got rolling, again we had motion after  
8 motion that were being addressed in the pleadings  
9 and they have not been reclaimed, your Honor.

10 THE COURT: Okay.

11 ATTY. LEONE: So the long answer to your  
12 question is you have not been asked to consider any  
13 such motion, your Honor.

14 THE COURT: Well, since I've been blessed with  
15 this case, I see this isn't the first time this has  
16 happened since I've been aboard or I suspect it  
17 hasn't.

18 (Pause.)

19 THE COURT: Mr. Berdick --

20 ATTY. BERDICK: Yes, your Honor.

21 THE COURT: -- on November 16th of this year  
22 (sic) since you've been here in this case, and I  
23 gather you don't have anything to do with the two  
24 appeals Mr. Traylor has pending in the -- or had  
25 pending in the appellate court now?

26 ATTY. BERDICK: No, your Honor. I'm aware of  
27 those, he's told me about them, that's not my work

1 product but I am cognis (sic) of it, I have seen the  
2 papers.

3 THE COURT: I'm not the appellate court.

4 ATTY. BERDICK: No, your Honor. I'm just  
5 trying to answer your question.

6 THE COURT: Well, on November 16th of this year  
7 --

8 ATTY. BERDICK: Yes, your Honor.

9 THE COURT: -- in an apparent attempt to  
10 influence what I might be doing or have to do, Mr.  
11 Traylor delivered to the secretaries' office on  
12 November 16th of this year a motion for  
13 articulation. He delivered a copy of this motion  
14 for articulation to the secretaries' office with the  
15 obvious intent that it would aid me in my decision  
16 making. He did not file it with the clerk's office  
17 here and I'm going to ask -- mark that as Exhibit 2.

18 (The clerk complies.)

19 THE COURT: Would you hand this to Mr. Berdick.

20 THE CLERK: Yes, sir (complying).

21 ATTY. BERDICK: Thank you.

22 THE COURT: Have you ever seen that, Mr.  
23 Berdick?

24 ATTY. BERDICK: Not at this moment, your Honor.  
25 Not in this form, no, your Honor, I have not.

26 THE COURT: Not what?

27 ATTY. BERDICK: Not in this form, your Honor.

1 No, I have not.

2 THE COURT: Well, it's a motion for  
3 articulation filed -- submitted to the appellate  
4 court.

5 ATTY. BERDICK: I mean, the answer is no, your  
6 Honor. I have not seen this before. I'm cognizant  
7 he was doing stuff in regards to the appellate  
8 court.

9 THE COURT: Well, okay.

10 ATTY. BERDICK: Just answering your question.

11 THE COURT: Hold on. I've got another  
12 question. Did you know he was filing that with the  
13 or submitting that to the judges' secretary?

14 ATTY. BERDICK: No.

15 THE COURT: Mr. Berdick -- I mean, excuse me,  
16 Mr. Leone --

17 ATTY. LEONE: Yes, your Honor.

18 THE COURT: -- look at Court Exhibit 2. Was  
19 that delivered to you, served upon you or your  
20 office on or about November 16 of this year?

21 ATTY. LEONE: I can't answer that question,  
22 your Honor. I've seen many documents, I'm not  
23 handling the appeal so I don't want to make that  
24 representation, your Honor. I may have seen this  
25 but I may not have been delivered as counsel in that  
26 case. I might have received it from the counsel  
27 who's representing Dr. Awwa in the appeal, so I

1 don't want to make that representation.

2 THE COURT: I'm also going to state that a copy  
3 of this Court Exhibit 2 was not submitted to the  
4 clerk of this court on or about mid-November -- on  
5 or about the 16th of November and, if you gentlemen  
6 would notice, the first paragraph of that --

7 ATTY. BERDICK: Yes, your Honor. Let me take a  
8 look.

9 THE COURT: It involves me or at least my name  
10 is mentioned in the first paragraph.

11 ATTY. BERDICK: That's correct, your Honor.  
12 Your name is mentioned in the prefatory paragraph.

13 THE COURT: But that was delivered, ostensibly,  
14 because you or Mr. Traylor or both of you thought I  
15 should have this to help me and guide me in what I'm  
16 doing in various matters.

17 ATTY. BERDICK: You're directing the question  
18 to the wrong person. I'm not the counsel of record  
19 on the appeal.

20 THE COURT: He can file anything he wants with  
21 the appellate court. He can put it in a sleigh and  
22 bring it down the chimney to them but filing it in  
23 this court for the purposes of influencing this  
24 court, he's out of bounds. He has a lawyer.

25 ATTY. BERDICK: Mmm-Hmm.

26 THE COURT: Does he listen to you?

27 ATTY. BERDICK: Yes, he does, your Honor.

1 THE COURT: Okay. Well, you whisper to him  
2 outside he better not file anything more or submit  
3 anything more to this court. You're the one that  
4 does it.

5 ATTY. BERDICK: Yes, your Honor.

6 THE COURT: And you take responsibility for it.

7 ATTY. BERDICK: Now, just for clarification,  
8 not to judge what you're saying, I understand what  
9 you're saying but when you mean file, you mean you  
10 don't want anything submitted to secretaries and  
11 stuff like that?

12 THE COURT: Why do you submit it to the judges'  
13 secretary? Because it's going to get to the to the  
14 judge. Why do you want it to get it to the judge?  
15 To influence the judge.

16 ATTY. BERDICK: What I'm saying, when I get to  
17 that conversation with my client. I want to give  
18 him a thorough --

19 THE COURT: He knows more about this than you  
20 do. I'm not trying to denigrate or demean you.

21 ATTY. BERDICK: I'm clear on what you want me  
22 to say to my client.

23 THE COURT: I'm going to say it here in open  
24 court: Sylvester Traylor is not to file anything in  
25 connection with this case with anyone in this court  
26 building except through you, Mr. Berdick. I'm being  
27 very specific it's about this case. He has lots of

1 other cases and he still can do what he wants and  
2 about which you do not represent him. If another  
3 thing is submitted for use in this case by Mr.  
4 Traylor, there will be severe sanctions.

5 ATTY. BERDICK: Yes, your Honor.

6 THE COURT: And sanctions can run the full  
7 gamut; a pat on the wrist, and that isn't what I'm  
8 inclined to do, and it can get more severe and it  
9 could even mean outright dismissal of this case.  
10 And look at all the work that it would save me.  
11 Look at all the work it would save me.

12 ATTY. BERDICK: Yes, your Honor.

13 THE COURT: So Mr. Traylor, in all likelihood,  
14 is still going to file things because that's been  
15 his habit but --

16 ATTY. BERDICK: If he files it through me  
17 that's not the problem. It's if he --

18 THE COURT: If you file and put your --

19 ATTY. BERDICK: It's clear.

20 THE COURT: -- proverbial John Hancock on it,  
21 you're counsel, fine. He's to deal through counsel  
22 and --

23 ATTY. BERDICK: That's clear.

24 THE COURT: -- not end run you.

25 What do you have to say on any of this, Mr.  
26 Leone?

27 ATTY. LEONE: Well, obviously it's your Honor's

1       discretion. I just, again, would point out to the  
2       court that this -- this has been a pattern of  
3       conduct that has permeated the history of this case  
4       and I just want to make sure that everybody is on  
5       notice. I will and I expect to the extent the case  
6       is still pending I'm going to reclaim those other  
7       motions.

8               And, if your Honor please, if we're off that  
9       issue, I do have one issue with respect to today's  
10      hearing.

11             THE COURT: Now, let me -- I have another thing  
12      I want to bring up.

13             ATTY. LEONE: Yes, your Honor.

14             THE COURT: It's kind of related to this, what  
15      we've been talking about. We were here, Mr.  
16      Berdick, on October 18th and that was the first day  
17      you had your appearance in and there was some  
18      confusion about that but somehow an appearance had  
19      been filed at the window for you by Mr. Traylor and  
20      part of the system got caught up with it and part of  
21      it didn't but whatever. And I have a portion of the  
22      transcript of October 18th which raises a question  
23      just -- on page 2 of the transcript I said -- well,  
24      as we open most hearings, you then identified  
25      yourself and I asked, "You have an appearance with  
26      the court? Attorney Berdick: Yes, I do. I believe  
27      it was electronically submitted in the file this

1 morning, on Friday."

2 Now, October 18th was a Monday or a Tuesday but  
3 there's the confusion about it so I'm going to  
4 repeat this: "I believe it was electronically  
5 submitted in the file this morning on Friday and I  
6 was here on (sic) 8:40 this morning. My  
7 understanding is that I do have an appearance on  
8 that. The Court: How do you know that? Attorney  
9 Berdick: I conferred with the people that submitted  
10 it electronically and they told me they did it." Do  
11 you remember that?

12 ATTY. BERDICK: Yes, your Honor, that part of  
13 it I do remember. The other stuff I'd have to look  
14 into the transcript a little more.

15 THE COURT: Well, I'd like you to tell me who  
16 you're talking about when you say the people that  
17 submitted it electronically.

18 ATTY. BERDICK: Yeah.

19 THE COURT: Who are they?

20 ATTY. BERDICK: I was in another attorney's  
21 office and I used their computer.

22 THE COURT: Okay. What's his name?

23 ATTY. BERDICK: It's not a his name, it's a  
24 woman.

25 THE COURT: Well, let's change his to her.  
26 What's the name?

27 ATTY. BERDICK: I mean, is it relevant to what

1       you're trying to say or it goes to the credibility  
2       of the excuse? I mean, I'll give it. I'm just  
3       saying why is the person's name --

4               THE COURT: Okay. I'm asking you to answer.  
5       What's her name?

6               ATTY. BERDICK: Her name is Ann Palmer  
7       Hatfield, your Honor, and it was submitted -- and  
8       the reason I said that at the time is when it was  
9       put in, they give you a printout it went through but  
10      it was kicked back later on. So in the time I  
11      transferred to the court, when I conferred back to  
12      them, they said there's a glitch in the system. In  
13      other words, because I was registered Friday,  
14      inadvertently wrongful or correctly, they wouldn't  
15      let you submit electronically. That's where the  
16      confusion, you know what I mean? That's what I'm  
17      trying to explain. Your understanding about being  
18      confused is correct but there was a reason why it  
19      was that way.

20              THE COURT: No, no --

21              ATTY. BERDICK: So I didn't actually submit it.  
22      I was over the terminal when Ann was using her thing  
23      to put it in for me.

24              THE COURT: So Attorney Hatfield used your --

25              ATTY. BERDICK: No, I gave her my juris number.

26              THE COURT: She used your juris number, which  
27      is fine, I don't care, and you gave her your

1 password in addition to the --

2 ATTY. BERDICK: I typed in the password. I  
3 think I'd have to -- the password was in trouble  
4 because it was a long time since I used it. She  
5 somehow knows my password. Whether she typed it in  
6 or not, she's aware of that password.

7 THE COURT: Well, you need a password to submit  
8 it, don't you --

9 ATTY. BERDICK: Yes, you do.

10 THE COURT: -- in addition to the password  
11 (sic)?

12 ATTY. BERDICK: That's correct.

13 THE COURT: Let me ask you, does Mr. Traylor  
14 have your password?

15 ATTY. BERDICK: I don't think so.

16 THE COURT: Has he ever submitted any of this  
17 stuff electronically for you?

18 ATTY. BERDICK: No, your Honor.

19 THE COURT: What?

20 ATTY. BERDICK: No, your Honor.

21 THE COURT: Okay. And are you doing your own  
22 submittals now?

23 ATTY. BERDICK: The last one -- I still use her  
24 office sometimes but, yes, everything I've done, you  
25 know, has been submitted by me in this case. I  
26 mean, I took this case because the client needed  
27 representation or else the case -- my understanding

1 at the time -- I could be wrong, at the time was it  
2 was going to be dismissed by your Honor, you know,  
3 so I came in. I realized there was a hectic  
4 transition period which I'm finally getting up to  
5 speed with with all the motions prior to my being on  
6 record as the attorney in this case. I know there's  
7 a lot of tangential and relevant issues that bleed  
8 over into this case and I understand the court's  
9 concerns, you know. There is -- there is equities  
10 in your case, your Honor.

11 THE COURT: I don't have a case here.

12 ATTY. BERDICK: In your involvement in the case  
13 there's equities that I understand and appreciate  
14 and I'd like to go on the record to acknowledge my  
15 gratitude for giving me an extension for this  
16 hearing because of my hospitalization. I just want  
17 to put that on the record because I do appreciate  
18 it. You did help me out.

19 THE COURT: Mr. Leone, do you have any thoughts  
20 on anything we've covered up until now?

21 ATTY. LEONE: No, your Honor, none other  
22 than what I've already stated, your Honor.

23 THE COURT: You've indicated that you want --  
24 you had some question or concern about what the  
25 stated purpose of the hearing was today.

26 ATTY. LEONE: If your Honor please, I  
27 thought I heard your Honor indicate that the purpose

1 of today's hearing was to have a hearing pursuant to  
2 the practice book, 122(d) on a complaint that was  
3 filed to the Judicial Review Council which was dated  
4 June 15th. I've been provided -- I'm sorry, July  
5 15th.

6 THE COURT: No, I think it's June.

7 ATTY. LEONE: The only complaint that I have  
8 that Mr. Traylor filed against your Honor is one  
9 that is signed and sworn to on July 8th, 2010, so if  
10 there is -- if there is another complaint out there  
11 and the purpose of today's hearing is to have a  
12 hearing on that. I just want to ask the court if I  
13 can have a copy of that hearing -- complaint before  
14 the hearing starts because that's the only complaint  
15 I have, your Honor.

16 THE COURT: I don't have the exact date but  
17 about two orders ago I directed the clerk to give  
18 notice of this hearing. It was then I think going  
19 to be scheduled for December 21. Is that when you  
20 had your --

21 ATTY. BERDICK: That's my understanding.

22 THE COURT: -- eye problem?

23 ATTY. BERDICK: 10 a.m., December --

24 THE COURT: And she was to attach to it a copy  
25 of the Judicial Review complaint dated June 15. Did  
26 she --

27 ATTY. LEONE: The complaint that the clerk's

1 office sent me is the complaint that I referenced  
2 and it says received from Judicial Review Council  
3 dated July 12th.

4 THE COURT: Well, that's the wrong one. What  
5 did you get, Mr. Berdick?

6 ATTY. BERDICK: I just want to refer to him so  
7 I don't -- I got the same thing he got I think but  
8 it wasn't the right one when I read the transcript  
9 for July 8th because when I read the transcript I  
10 said I don't know if she gave me the right notice  
11 that Judge Parker's talking about because I wasn't  
12 at the July 8th.

13 THE COURT: No, I know.

14 ATTY. BERDICK: I read the transcript and you  
15 made reference to a page 2, you know, whether that  
16 was the letter my client sent you or page 2 of the  
17 complaint --

18 THE COURT: Oh, just now I referred to page 2  
19 in connection with the October 18th hearing.

20 ATTY. BERDICK: No, I'm not talking about that  
21 page 2 reference, I'm talking about in the July 8th  
22 -- when I read through the transcript of July 8th,  
23 you talk about a page 2.

24 THE COURT: I'm going to take a brief recess.

25 (Whereupon, there is a recess in the  
26 proceedings.)

27 THE COURT: Would you hand this to each counsel

1 and let them look at it.

2 THE CLERK: Mark it as an exhibit first?

3 THE COURT: I'm going to make copies of that.

4 (The clerk complies.)

5 ATTY. BERDICK: Your Honor, I hate -- if I may  
6 speak?

7 THE COURT: Sure. Anything to enlighten.

8 ATTY. BERDICK: I'll try to, your Honor. To  
9 the best of my recollection, and, you know, it's not  
10 perfect -- I've been under some medications -- but I  
11 don't think I did get a copy of this, do you know  
12 what I mean?

13 THE COURT: I'm going to rectify that in the  
14 next two minutes.

15 ATTY. BERDICK: What's that?

16 THE COURT: I'm going to rectify that in the  
17 next two minutes.

18 ATTY. BERDICK: But I can't speak for Attorney  
19 Leone.

20 ATTY. LEONE: If I may, your Honor. During the  
21 recess I called my office to confirm the  
22 representations that I had made to the court  
23 earlier. The clerk's office did submit the  
24 complaint form but the complaint form that our  
25 office received was the complaint dated July 8th of  
26 2010, not the one that your Honor has just handed.

27 THE COURT: Well, I'm going to ask our clerk

1 here, our very able clerk -- don't get all  
2 embarrassed -- to take the piece of paper which Mr.  
3 Berdick has and which is handed towards you, detach  
4 the staple and make a copy of the last two pages of  
5 what you have. That is the actual complaint.

6 Make three copies while you're at it.

7 THE CLERK: Yes.

8 THE COURT: So each of you should have now a  
9 filled out complaint form which in the upper  
10 right-hand corner has received, June 16, 2010,  
11 Judicial Review Council.

12 ATTY. LEONE: Defense counsel does, yes, your  
13 Honor.

14 ATTY. BERDICK: Your Honor, I do. I have a  
15 copy of the document you're referring to, two pages.

16 THE COURT: Does it have in the upper  
17 right-hand corner of the first page --

18 ATTY. BERDICK: It has a time stamped received,  
19 Judicial Review Council, June 16th, 2010.

20 THE COURT: Okay. And that sheet has print on  
21 both sides?

22 ATTY. BERDICK: Well, not our copy does. Our  
23 copy has single sheets.

24 THE CLERK: I apologize. Let me go get that.

25 (Pause.)

26 ATTY. BERDICK: Your Honor, if I may, I don't  
27 know what your intention is by showing this but I'd

1       like to take the opportunity to point out something  
2       that's come to my attention from reviewing it for  
3       the first time that might be relevant to the court.  
4       My understanding from conversing with my counsel  
5       (sic) is with regard to the bottom of the first page  
6       is there a word with the letter A, in my order. In  
7       all fairness to the court, if you're preparing for  
8       this, your Honor, that incident took place on  
9       December 21st, 2009, vice paragraph 4, subsection 8,  
10      date that's in there June 15th, 2010, so in all  
11      fairness --

12                THE COURT: I'm well aware of the carelessness  
13      with which these complaints are filed.

14                ATTY. BERDICK: Well, I wanted to point that  
15      out. And the second point, if I may --

16                THE COURT: Yes.

17                ATTY. BERDICK: -- quite frankly, I wasn't  
18      prepared for this allegation here, this complaint,  
19      for today this morning. I'd really like to have as  
20      part of the reference material, if not evidence, is  
21      that the transcript for December 21st, 2009, but I  
22      just wanted to point those two points out.

23                THE COURT: Well, now do both of you have what  
24      appears to be three pages of the complaint form, the  
25      first one with the received in the upper right-hand  
26      corner, the second page starting out with provide  
27      copies of transcript and then -- well, the last part

1 of page 2 says, "I declare under penalties of  
2 perjury," and then the third page is the signature  
3 page? Do you each have that?

4 ATTY. LEONE: Yes, your Honor.

5 THE COURT: Now --

6 ATTY. BERDICK: Yes, your Honor.

7 THE COURT: -- if you notice on each page at  
8 the very bottom in the shaded, elongated box there's  
9 an indication, it says complaint against Judge  
10 Parker, page one of eight, second page says two of  
11 eight, then the third page says three of eight. I  
12 don't know the explanation for that and I'm sure  
13 that will be forthcoming. Mr. Berdick --

14 ATTY. BERDICK: Yes, your Honor.

15 THE COURT: -- you will have the burden of  
16 proof such as it is in this proceeding. How long do  
17 you expect to take?

18 ATTY. BERDICK: If we go forward today this  
19 morning, your Honor, it's probably going to take --  
20 I don't want to go forward this morning because of  
21 this recent development here because I don't have  
22 the transcript of the December 21st, 2009 hearing  
23 which is relevant concerning the bullet I just read  
24 on the statement of facts because that seems to be  
25 the allegation that my client's making in regard to  
26 his offense to the letter A during that proceeding  
27 but, if we were to go forward, probably 45 to 50

1 minutes would be the best estimate I could give at  
2 this time.

3 THE COURT: How many witnesses will you have?

4 ATTY. BERDICK: Given this, I will have my  
5 client definitely as one witness and I didn't --  
6 with the December 21st hearing I didn't prepare for  
7 additional witnesses because I wasn't aware of it.  
8 If we were going with the thing I thought we were  
9 going for, I was going to ask that the court  
10 consider Attorney Hall being called because my notes  
11 indicate that -- from the court that it was a  
12 continuation of the July 8th hearing, you know.  
13 That was my understanding.

14 THE COURT: If you're trying to confuse me,  
15 count it up as a success.

16 ATTY. BERDICK: Well, I apologize if I did  
17 that.

18 THE COURT: I'm not --

19 ATTY. BERDICK: I was just reading this thing.  
20 This hearing was originally scheduled for -- when I  
21 read that transcript to page 15, it seems to be  
22 going like there was going to be a hearing on  
23 judicial misconduct but it then pivoted into other  
24 things but, if we're not going to talk about that  
25 complaint that I was prepared to talk about then  
26 that's irrelevant, Attorney Hall would not be  
27 called. So my only -- if we go forward today, I

1 would be calling Sylvester Traylor, my client, to  
2 the stand and probably submitting the December 21st,  
3 2009 transcript which I do not have a copy so that's  
4 my fault because I do have that transcript in my  
5 office. I didn't bring it today because it didn't  
6 tie it up to the notice I had on what we were  
7 talking about.

8 THE COURT: All right.

9 Mr. Leone -- well, I'm going to continue this  
10 hearing until tomorrow morning at ten o'clock. I  
11 think it's unfair to both sides and while I've tried  
12 to lay this off on the clerk for sending you the  
13 wrong complaint, I don't know that I am not equally  
14 guilty, but I want you to have -- be able to come  
15 prepared with the right documents.

16 Do you have any thoughts, Mr. Leone?

17 ATTY. LEONE: No, your Honor. The only thing I  
18 would ask the court, could there be a brief recess  
19 -- no, that's fine. I will have to -- I was  
20 thinking of whether I have court appearances.

21 THE COURT: If we recess five or ten minutes  
22 here until tomorrow --

23 ATTY. LEONE: I was thinking of my court  
24 appearances tomorrow, if I have any court  
25 appearances.

26 THE COURT: Where would they have to be, here?

27 ATTY. LEONE: They would likely be here, your

1 Honor, but I don't know that I have any --

2 THE COURT: No, I know.

3 ATTY. LEONE: -- but I would be here. I will  
4 make arrangements to be here at ten o'clock, your  
5 Honor.

6 THE COURT: Well, we can take a recess if --

7 ATTY. LEONE: I would --

8 THE COURT: -- it's a short matter.

9 ATTY. BERDICK: I would suggest for judicial  
10 economy a 30 second phone call to find out his  
11 schedule for tomorrow. Mine is good in the morning.  
12 I have something in the afternoon. Ten o'clock  
13 doesn't seem to be a problem for me.

14 THE COURT: I think this hearing might be more  
15 than three hours.

16 ATTY. BERDICK: Okay, then it might -- I'd have  
17 to change something.

18 THE COURT: Yeah, okay. Make arrangements  
19 because I don't think we're going to finish  
20 tomorrow.

21 All right. You each have now the correct  
22 complaint, the June -- complaint dated June 15,  
23 2010?

24 ATTY. BERDICK: Yes, your Honor. There would  
25 be one additional thing if we go forward tomorrow,  
26 that the defendant -- plaintiffs would like is the  
27 December 21st, 2009 letter from the assistant

1 attorney general I think by the name of Kirsten  
2 Rigney because I think that surfaced during the  
3 hearing on the 21st. It might be, I'm not saying it  
4 is material.

5 THE COURT: This is a hearing about what  
6 happened on June 15 and the false representations  
7 made under oath by the complainant.

8 ATTY. BERDICK: Oh, that's what it is, your  
9 Honor?

10 THE COURT: Yeah.

11 ATTY. BERDICK: I'd like to go on the record to  
12 say I'm not prepared.

13 THE COURT: You will be between now and ten  
14 o'clock tomorrow. You have a copy or he has a copy  
15 of the December 21 transcript --

16 ATTY. BERDICK: That's correct, your Honor.

17 THE COURT: -- and he has a copy of the June  
18 15th transcript.

19 ATTY. LEONE: So if your Honor please, we're  
20 going to be doing both of those complaints in  
21 tomorrow's --

22 THE COURT: It's how he shapes his case.

23 ATTY. LEONE: Or is it contemplated by the  
24 court that if the complainant wishes to we're going  
25 to hear both of those?

26 THE COURT: I would think that could be  
27 possible -- would be possible.

1 Anything further?

2 ATTY. BERDICK: Yes, your Honor. We got off  
3 today, you know -- I kind of like really didn't have  
4 notice of what the beginning of this hearing -- what  
5 it turned out to be. I'm not complaining about it  
6 except to the fact it was a disservice to my client  
7 not to be able to speak to some of the issues that  
8 came out on the record. One, we didn't have notice.

9 THE COURT: Didn't have notice of what?

10 ATTY. BERDICK: Of the first part of this  
11 hearing this morning, your Honor.

12 THE COURT: Well, why do you have to have  
13 notice? It's just Mr. Traylor thinks he can file  
14 what he wants when he wants.

15 ATTY. BERDICK: I just want to put it on --

16 THE COURT: You're just surplus to him.

17 ATTY. BERDICK: -- as an advocate for my  
18 attorney (sic), it does involve due process  
19 implications not to have notice on certain things.

20 THE COURT: Now, if you think you need a full  
21 hearing and you file a motion and maybe we'll hear  
22 it and maybe we won't.

23 ATTY. BERDICK: I don't anticipate that, your  
24 Honor.

25 THE COURT: How are you prejudiced?

26 ATTY. BERDICK: It's basically a constitutional  
27 issue, your Honor, to have adequate notice to

1       prepare for a hearing or, you know, to prepare  
2       actually.

3               THE COURT: Well --

4               ATTY. BERDICK: It's a fundamental right.

5               THE COURT: If you were deprived of anything  
6       you want to say to me, you can say it tomorrow.

7               ATTY. BERDICK: Just putting it on the record,  
8       that's all. Thank you.

9               Your Honor, if I could have a moment, my client  
10       wants --

11               (Whereupon, there is a discussion off the  
12       record.)

13               ATTY. BERDICK: Your Honor, my client's  
14       conferred to me just recently that he'd like to put  
15       it on today because it came up in the beginning of  
16       today's hearing that he was instructed by the  
17       appellate court of Connecticut to deliver a copy of  
18       one of the documents, one of the exhibits that you  
19       referred to earlier.

20               THE COURT: The motion for articulation?

21               ATTY. BERDICK: Okay.

22               THE COURT: Excuse me. You didn't get that  
23       order from the appellate court?

24               ATTY. BERDICK: No, I didn't.

25               THE COURT: You call somebody tomorrow or  
26       whenever you want to have a hearing on this that he  
27       was instructed because the appellate court does that

1           itself so, if he lays that off on the appellate  
2           court, bring the correct person here.

3           ATTY. BERDICK: As far as the other exhibit,  
4           we'll address that tomorrow, your Honor. I guess I  
5           don't want to antagonize the court. If we're going  
6           to have this tomorrow, the only thing I'm not really  
7           sure about -- I'm not the sharpest knife in the  
8           drawer after this medication -- Attorney Leone  
9           refers to two complaints. Could he go on the record  
10          what the two complaints are that may be on the  
11          record tomorrow and clear that up?

12          THE COURT: First they weren't complaints, they  
13          were motions, I gather, in which he sought to inform  
14          the court and perhaps have the court intervene in  
15          Mr. Traylor's alleged habit of filing papers with  
16          the court and not serving them on Mr. Leone or his  
17          office.

18          ATTY. BERDICK: I apologize, I misunderstood.

19          THE COURT: Is that correct, my  
20          characterization?

21          ATTY. LEONE: Yes, your Honor.

22          THE COURT: And he said he thought he -- I  
23          don't know that he used this motion but he claimed  
24          those motions, in other words, to get them up before  
25          me or some judge now or in the near future.

26          ATTY. BERDICK: So the only thing we're going  
27          to deal with tomorrow is the one you handed out,

1           that complaint as far as the complaint not, you  
2           know, -- as far as the complaint?

3                   THE COURT:  The issues raised by the June 15th,  
4           2010 complaint to the Judicial Review Council  
5           wherein, according to you, although Mr. Traylor says  
6           it occurred on June 15, you say it occurred on  
7           December 21, 2009, and so you go with that wherever  
8           you want to go and we'll see whether --

9                   ATTY. BERDICK:  Yes, your Honor.  Thank you.

10                  THE COURT:  Anything further?

11                  ATTY. LEONE:  No, your Honor.

12                  (Pause.)

13                  THE COURT:  Adjourn court, please.

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CERTIFICATION

I, Cheryl C. Straub, Certified Court Reporter, do hereby certify that the within and foregoing is an accurate transcription and the electronic version required by statute to the best of my ability of my stenographic notes taken in the matter of Sylvester Traylor, et al vs. Bassam Awwa, et al, heard on the 19<sup>th</sup> day of January, 2011, before the Honorable Thomas F. Parker, a Judge Trial Referee in the Judicial District of New London at New London, Connecticut.

Certified this 25<sup>th</sup> day of April, 2011.

Cheryl C. Straub,  
Certified Court Reporter