

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 20, 2011

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11 HEARD BEFORE:

12 The Honorable Thomas F. Parker, Judge Trial Referee

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15  
16 APPEARANCES:

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18  
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  
29 Chinigo, Leone & Maruzo  
30 141 Broadway  
31 Norwich, Connecticut

32  
33  
34  
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38  
39 Cheryl C. Straub,  
40 Certified Court Reporter  
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1  
2 THE COURT: Counsel identify themselves for the  
3 record.

4 ATTY. LEONE: Don Leone for the defendants, Dr.  
5 Awwa and his professional corporation.

6 MR. TRAYLOR: Sylvester Traylor --

7 THE COURT: I said counsel.

8 MR. TRAYLOR: I have an appearance in the file,  
9 your Honor.

10 THE COURT: You're not a lawyer, you know.

11 Excuse me --

12 MR. TRAYLOR: Okay. You want --

13 THE COURT: Just sit down, please.

14 MR. TRAYLOR: You want pro se not to appear for  
15 themselves?

16 THE COURT: Sit down, please. Just sit down.

17 MR. TRAYLOR: I'm sitting. I'm moving down,  
18 downward.

19 THE COURT: Down is your direction.

20 MR. TRAYLOR: All right.

21 THE COURT: Okay. Mr. Berdick.

22 ATTY. BERDICK: Attorney Berdick. I'm  
23 representing the estate concerning the underlying  
24 civil litigation. I received notice yesterday in  
25 appearance form that my client wanted to represent  
26 himself in regard to the judicial complaint that's  
27 scheduled for today.

1 THE COURT: Okay.

2 ATTY. BERDICK: In all fairness --

3 THE COURT: In all fairness, I have to tell you  
4 you're still in the case for both plaintiffs.

5 MR. TRAYLOR: And I object to it.

6 THE COURT: You object. Okay.

7 Did you get that?

8 THE COURT REPORTER: Yes, your Honor.

9 THE COURT: Okay. Thank you.

10 ATTY. BERDICK: By rules of professional  
11 conduct in the allocation of the service of the  
12 reputation (sic) is not up to me.

13 THE COURT: Did you get that?

14 THE COURT REPORTER: Yes.

15 THE COURT: You're in the case for Sylvester  
16 Traylor, Administrator and you're still in the case  
17 for Sylvester Traylor in his individual capacity.

18 MR. TRAYLOR: Under what rights?

19 THE COURT: Excuse me?

20 MR. TRAYLOR: Under what rights?

21 ATTY. BERDICK: Sylvester, please sit down.

22 THE COURT: In light of the right of this robe.

23 ATTY. BERDICK: Your Honor, I apologize for my  
24 client's outburst.

25 Again, I'd like to insist I'm not trying to be  
26 disrespectful to the court.

27 THE COURT: Whatever. Put whatever you want on

1 the record.

2 ATTY. BERDICK: For the record, I'd like to put  
3 two things on. I want to respect the code of  
4 professional -- 1.2 so I will not be representing  
5 the client with regards to the judicial misconduct  
6 hearing today if it goes on. Two is after the  
7 hearing yesterday, I went back to my files and I  
8 discovered something that was germane to the judge's  
9 decision yesterday which I'd like to bring to the  
10 court's attention.

11 One of the exhibits that was marked where it  
12 had a blue 11, 28, 33 on the front page, I had  
13 something like that in my file yesterday. So what  
14 you showed me yesterday, my testimony might have  
15 been incorrect because that writing looked almost  
16 like a perfect copy of what was on your cover page  
17 as an --

18 THE COURT: Do you have Court Exhibit 1?

19 (The court reporter hands Court Exhibit 1 to  
20 the court).

21 ATTY. BERDICK: That marking on the cover of  
22 your sheet was done probably if not at my office, it  
23 was done by me or someone instructed by me.

24 THE COURT: Is that your handwriting?

25 ATTY. BERDICK: It may -- I'm not 100 percent  
26 sure but it could be because -- the reason I came to  
27 that is when I went back and looked at it, those

1 pages, I think it's 11, 27, and 33, they highlight  
2 things when I reviewed the transcript that if we had  
3 a hearing on the transfer to complex litigation,  
4 which we didn't have, they were points that I would  
5 make as an advocate for my client at that time. So  
6 I'd like to correct the record that I might have  
7 misstated, not willingly but after reviewing my  
8 file. I don't know if you had the original or a  
9 copy that was made when I reviewed it but I'm not  
10 sure of that but that was done either by me or  
11 someone instructed by me because normally I will  
12 paper clip the stuff that I do on transcripts but it  
13 could have been done by me or someone directed by  
14 me, your Honor, so --

15 THE COURT: Let me ask you did you direct  
16 anyone to have this brought to the secretaries'  
17 office?

18 ATTY. BERDICK: No, your Honor, and I talked to  
19 my client about that.

20 THE COURT: Never mind. Yes or no?

21 ATTY. BERDICK: No, your Honor. I don't think  
22 I did, you know, to be honest with you.

23 THE COURT: Okay. Okay.

24 ATTY. BERDICK: So if that changes your  
25 decision yesterday, I'd like to give that  
26 information.

27 THE COURT: I didn't make any decision

1 yesterday.

2 ATTY. BERDICK: Okay. I misunderstood, your  
3 Honor. Thank you, your Honor.

4 THE COURT: Are you ready to proceed now, Mr.  
5 Berdick?

6 ATTY. BERDICK: Yes, your Honor.

7 THE COURT: You're still representing both  
8 plaintiffs in this case today in this proceeding.

9 ATTY. BERDICK: Your Honor, I respect your  
10 decision but I'm not going to comply with part of  
11 it, you know what I mean? I'm putting it on the  
12 record I can't.

13 THE COURT: Well, I'm telling you, you  
14 understand --

15 ATTY. BERDICK: Yes, I do, the ramification.

16 THE COURT: And you understand that Mr. Traylor  
17 might find some fault with this at a later time  
18 against you?

19 ATTY. BERDICK: I understand, your Honor. I'm  
20 in an ethical dilemma, I realize that. I'm not  
21 saying you're wrong, I'm not saying I'm right. I've  
22 thought about this for ten hours, your Honor.

23 THE COURT: Go ahead. Call your first witness.

24 MR. TRAYLOR: I call your Honor.

25 THE COURT: Excuse me?

26 MR. TRAYLOR: I call you.

27 THE COURT: Well, you just sit down, please.

1 Mr. Berdick, call your first witness.

2 ATTY. BERDICK: In regard to what proceeding,  
3 your Honor?

4 THE COURT: This proceeding that brought you  
5 here today.

6 ATTY. BERDICK: Okay, your Honor. Then, in all  
7 due respect to the court and yourself, I cannot  
8 comply with that order.

9 THE COURT: Even on behalf of the estate?

10 ATTY. BERDICK: No, your Honor. From my  
11 understanding --

12 THE COURT: All right.

13 ATTY. BERDICK: -- it's not detrimental to the  
14 estate in my determination, the allocation, after my  
15 review last night. I'm not saying I'm 100 percent  
16 right in any rationale on reaching my decision today  
17 but I thought about this and I had the conclusion  
18 that I have.

19 THE COURT: I'm directing you to proceed with  
20 the purpose of the hearing today.

21 ATTY. BERDICK: Your Honor, with all due  
22 respect, again, in reference to --

23 THE COURT: Forget the respect.

24 ATTY. BERDICK: I'm not going to --

25 THE COURT: Forget the respect, just do what I  
26 tell you.

27 ATTY. BERDICK: Your Honor, I can't comply with

1       that. I don't have his agency. I'm no longer his  
2       agent as far as an attorney. It terminated as of  
3       four-something yesterday with regard to this part of  
4       the proceeding or this --

5                THE COURT: Well, that's not true. I'm  
6       ordering you, and Mr. Traylor cannot represent  
7       himself.

8                MR. TRAYLOR: Am I invisible, your Honor?

9                THE COURT: Excuse me. Would you sit down.  
10       When I want to hear from you, I'll talk to you.

11               MR. TRAYLOR: Okay. I'll wait on you.

12               THE COURT: Sit down. I'm not promising I'm  
13       going to ask for you.

14               MR. TRAYLOR: I'll wait right here.

15               ATTY. BERDICK: Yes, your Honor. Continue.

16               THE COURT: Your appearance is still effective  
17       for both plaintiffs and, if you're just going to say  
18       I'll blow off the court, that's fine and dandy but  
19       that could come back to hurt you.

20               MR. TRAYLOR: Are you threatening me, your  
21       Honor?

22               THE COURT: I'm not threatening -- Mr. Traylor,  
23       do you have a hearing aid?

24               MR. TRAYLOR: Do you have one?

25               ATTY. BERDICK: That's uncalled for. He's  
26       addressing me.

27               THE COURT: Okay. I asked for it.

1           ATTY. LEONE: I think it's appropriate and I'm  
2 going to ask the court to have a marshal in here in  
3 light of --

4           THE COURT: How many?

5           MR. TRAYLOR: How about four?

6           ATTY. LEONE: -- prior things that have gone on  
7 in this courtroom with respect to Mr. Traylor's  
8 conduct. I think it's appropriate to have a marshal  
9 in here.

10          THE COURT: Maybe. I've never asked for a  
11 marshal nor have I asked for four of them or asked  
12 for three of them or two of them.

13          ATTY. LEONE: I understand, your Honor.

14          THE COURT: I'll take a brief recess.

15          ATTY. LEONE: Thank you.

16          THE COURT: You may ask the marshal.

17          ATTY. LEONE: May I, your Honor?

18          THE COURT: Sure.

19                 (Whereupon, there is a recess in the  
20 proceedings.)

21          THE COURT: Mr. Berdick, have you had time to  
22 think over where we're going with this, the way you  
23 want it?

24          ATTY. BERDICK: Your Honor, since I took the  
25 recess, is that what you're referring to?

26          THE COURT: While I was out.

27          ATTY. BERDICK: Somewhat, yeah. I consulted

1 with my client on some other matters but, you know

2 --

3 THE COURT: Let me tell you this, and Mr.  
4 Traylor knows this: An order of the court must be  
5 obeyed until in due course it's set aside by the  
6 court itself or by an appellate court. It must be  
7 obeyed. You have to obey them even if you think I'm  
8 wrong.

9 ATTY. BERDICK: What order are you referring  
10 to?

11 THE COURT: The order that you proceed with  
12 this case and that you're still representing both  
13 plaintiffs in this case.

14 ATTY. BERDICK: Your Honor, that's not my  
15 understanding of the law.

16 THE COURT: Let me tell you --

17 ATTY. BERDICK: I have an oath to the law as  
18 well as to comply with the judges.

19 THE COURT: You see where that oath is going to  
20 take you. Are you going to proceed?

21 ATTY. BERDICK: No, your Honor, not as I  
22 understand it.

23 THE COURT: Marshal, will you take Mr. Berdick  
24 downstairs until he purges himself.

25 MR. TRAYLOR: No, no, no. Go ahead, go ahead.

26 (Pause.)

27 THE COURT: Mr. Berdick, I don't like doing

1 this.

2 ATTY. BERDICK: I know. I understand.

3 THE COURT: And this hearing I intend to  
4 continue today, tomorrow at least, so at any time if  
5 you inform the marshals that you've had a change of  
6 heart -- Mr. Traylor, I don't want to hear from you.

7 MR. TRAYLOR: I'm not speaking. I'm grabbing  
8 my stuff. I'm leaving.

9 THE COURT: No you're not.

10 MR. TRAYLOR: I'm not? Oh, okay, but you don't  
11 want to hear from me.

12 THE COURT: Now you're getting it.

13 (Whereupon, Attorney Berdick is escorted from  
14 the courtroom by the court marshal.)

15 THE COURT: Okay. Mr. Leone, what do we do  
16 now?

17 ATTY. LEONE: I don't know, your Honor. We're  
18 here on a complaint filed before the Judicial Review  
19 Board. There is no person, I guess, that the court  
20 is recognizing to pursue that complaint at the  
21 present time and I don't know how, quite frankly, we  
22 proceed.

23 THE COURT: Well -- recess just for a minute.

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

26 THE COURT: Would you mark in as Court Exhibit  
27 1 -- the next one is 2? Oh, no, no, no. Start with

1 3.

2 (The clerk complies.)

3 THE COURT: All right. Court Exhibit 3 is a  
4 complaint filed by Sylvester Traylor with the  
5 Judicial Review Council, it's dated February 8,  
6 2010. Also as a part of Court Exhibit 3 --

7 MR. TRAYLOR: Is it necessary for me to be  
8 here, your Honor?

9 THE COURT: Excuse me? I didn't hear you.

10 MR. TRAYLOR: Is it necessary for me to be  
11 here?

12 THE COURT: Yes.

13 MR. TRAYLOR: Would -- I will able to speak or  
14 --

15 THE COURT: No.

16 MR. TRAYLOR: Okay, but you want me to stay?

17 THE COURT: Do you want to go downstairs? I'll  
18 let you go downstairs.

19 MR. TRAYLOR: That's up to you.

20 THE COURT: Downstairs means in the company of  
21 a marshal.

22 MR. TRAYLOR: That's up to you. I'm not  
23 intimidated by you.

24 THE COURT: Court Exhibit 4 is a complaint  
25 filed by Sylvester Traylor with the Judicial Review  
26 Council against Thomas J. Parker. The complaint is  
27 dated February 17, 2010.

1                   Also, I would further describe Court Exhibit 3  
2 as being against Judge Parker.

3                   Court Exhibit 5 is a complaint by -- filed by  
4 Sylvester Traylor dated June 15, 2010, against Judge  
5 Parker.

6                   Court Exhibit 6 is a complaint filed by  
7 Sylvester Traylor dated July 8, 2010, against Judge  
8 Parker and it's a complaint filed by (sic) the  
9 Judicial Review Council. And also included in  
10 Exhibit 6 is a letter from the Judicial Review  
11 Council notifying the parties that the case has been  
12 dismissed.

13                   Mark these seriatim whatever the next numbers  
14 are.

15                   THE CLERK: Yes, your Honor.

16                   (The clerk complies.)

17                   THE CLERK: This is 7 (handing).

18                   THE COURT: Court Exhibit 7 is a complaint  
19 filed by Sylvester Traylor with the Commission on  
20 Human Rights and Opportunities which was received by  
21 the commission on November 14.

22                   THE CLERK: This is 8 (handing).

23                   THE COURT: Court Exhibit 8 is another  
24 complaint filed by Sylvester Traylor with the  
25 Commission on Human Rights and Opportunities which  
26 indicates it was received by the commission on June  
27 24, 2009.

1 THE CLERK: This is Exhibit 9 (handing).

2 THE COURT: Exhibit 9 -- Court Exhibit 9 is  
3 another complaint filed by Sylvester Traylor with  
4 the Commission on Human Rights and Opportunities  
5 which indicates it was received by the commission on  
6 October 19th, 2010.

7 MR. TRAYLOR: Your Honor, first of all, those  
8 documents you're reading as court exhibits, I think  
9 you would be wise to let me verify if these are  
10 accurate. The complaints against you I would agree  
11 but these are documents I'm not aware of that you're  
12 referring to.

13 THE COURT: Well, you know, I've seen a lot of  
14 your papers filed in this court and I think I  
15 recognize your signature.

16 MR. TRAYLOR: Well, I object unless I could  
17 verify it.

18 THE COURT: You what? I didn't hear you  
19 because you're not supposed to be speaking. You  
20 have an attorney who's presently in contempt of the  
21 court at your bidding and we'll proceed the way I  
22 want to proceed and you can take it up with the  
23 appellate authorities.

24 The next court exhibit -- did I do 9?

25 THE CLERK: I believe you did.

26 THE COURT: Court Exhibit 10 is a complaint  
27 filed by Sylvester Traylor with the Commission on

1 Human Rights and Opportunities indicating it was  
2 received by the commission on October 19th, 2009.

3 Court Exhibit 11 is a complaint filed by  
4 Sylvester Traylor which indicates it was received by  
5 the commission on October 19th, 2009.

6 THE COURT: Next number?

7 MR. TRAYLOR: Would the court provide us copies  
8 -- all parties copies of what you're marking?

9 THE COURT: There's a way of getting them. You  
10 can go to the clerk's office and pay the required  
11 fee. You have copies of all of these anyway.

12 MR. TRAYLOR: I don't know what you're marking.  
13 I asked you to show me copies of it but you refused  
14 that too.

15 THE COURT: Everything in due course.

16 Court Exhibit 12 is a 15 page complaint filed  
17 by Sylvester Traylor and in addition to the 15 pages  
18 of the complaint there are several pages of  
19 exhibits. The complaint indicates it was filed with  
20 the commission on April 6th, 2010. As I understand  
21 it, this complaint was the basis for seven cases  
22 before the Commission on Human Rights and  
23 Opportunities filed in the year 2010. One of the  
24 cases which Exhibit 10 was the predicate complaint  
25 -- wait a minute, is that ten? Excuse me -- in  
26 which Exhibit 12 was the predicate complaint to the  
27 Commission on Human Rights and Opportunities case

1 number 1040332 and, in that case, the complainant  
2 was Sylvester Traylor and the respondent was  
3 Connecticut Behavioral Health Associates.

4 Here. Mark that as exhibit number --

5 THE CLERK: 13.

6 MR. TRAYLOR: Are you giving each other eye  
7 signals here, you and Don Leone, your Honor?

8 THE COURT: I didn't hear you and -- I didn't  
9 hear you and I don't want to hear from you. See,  
10 apparently there's something wrong that you don't  
11 hear me. You're to be -- sit there and be quiet.

12 MR. TRAYLOR: I'm invisible.

13 THE COURT: Oh, no. I see you.

14 MR. TRAYLOR: Okay.

15 THE COURT: And the respondent also in this  
16 case with the last three digits of 332 about which I  
17 was just speaking, the -- Dr. Awwa may also be a  
18 respondent.

19 Exhibit 13 -- Court Exhibit 13 is a commission  
20 document entitled a Merit Assessment Review. It's  
21 dated August 17, 2010.

22 Exhibit 14 is a commission document wherein  
23 Sylvester Traylor sought a request for early release  
24 of jurisdiction on the case number we were just  
25 talking about, the one with the case number ending  
26 in the three digits, 332.

27 Next exhibit, that is, Court Exhibit --

1 THE CLERK: That was 14.

2 THE COURT: -- 14. It's the request for early  
3 release for jurisdiction signed by Mr. Traylor but  
4 also a release of jurisdiction letter.

5 Did you have a message for someone, marshal?

6 THE MARSHAL: No, I'm getting the guy's  
7 property.

8 (Pause.)

9 THE COURT: Mark these in succeeding numbers.

10 THE CLERK: Yes, your Honor.

11 (Clerk complies.)

12 THE CLERK: This is 15, 16 (handing).

13 THE COURT: Exhibit 15 -- Court Exhibit 15 is a  
14 Merit Assessment Review of the commission and a  
15 release of jurisdiction letter from the commission  
16 pertaining to Sylvester -- the case before the  
17 commission bearing the last three numbers on its --  
18 the last three numbers of the case of the  
19 commission's case number is 333 and the respondents  
20 in this case, 333, are The Law Firm of Chinigo,  
21 Leone & Maruzo, LLP.

22 THE CLERK: These are 16 through 20  
23 (handing).

24 THE COURT: Last one was 14 I think.

25 THE CLERK: 15. We're up to 16.

26 THE COURT: Oh, okay. Court Exhibit 16  
27 involves a case with the last three digits in the

1 case number of 334. Case name before the commission  
2 is Sylvester Traylor vs. Richard Blumenthal; also  
3 contains a release of jurisdiction letter.

4 Court Exhibit 17 is a Merit Assessment Review  
5 of the Commission on Human Rights and Opportunities  
6 in the case bearing the end digits 335. The name of  
7 the case is captioned by the commission as Sylvester  
8 Traylor vs. The New London Police Department.  
9 Exhibit 17 also includes a release of jurisdiction  
10 letter.

11 Exhibit 18 -- Court Exhibit 18 is a Merit  
12 Assessment Review from the commission with the case  
13 number ending in 336. The name of the case before  
14 the commission is Sylvester Traylor vs. Connecticut  
15 State Division of Criminal Justice. It also  
16 includes a release of jurisdiction number -- a  
17 release of jurisdiction letter.

18 Court Exhibit 19 is a Merit Assessment Review  
19 with the case number ending in 337. The name of the  
20 case, according to the commission, is Sylvester  
21 Traylor vs. The Connecticut -- State of Connecticut  
22 Department of Public Health.

23 MR. TRAYLOR: For the record, your Honor, I  
24 would like to state that I object to you referring  
25 to another case that's pending before this court.  
26 Proceed if you like.

27 THE COURT: I'll note that. Did the court

1 reporter get that?

2 THE COURT REPORTER: Absolutely.

3 THE COURT: Thank you. Your objection is  
4 noted.

5 MR. TRAYLOR: Thank you.

6 THE COURT: Then we have 20 now?

7 THE CLERK: I think so.

8 THE COURT: Court Exhibit 20 for identification  
9 -- Court's Exhibit 20 is a Merit Assessment Review  
10 by the commission on the case ending with the digits  
11 338 before the commission. The case name is State  
12 of Connecticut Office of Chief Court Administrator  
13 and there's also a release of jurisdiction letter.

14 THE CLERK: 21 (handing).

15 THE COURT: Court Exhibit 21 is a copy of a  
16 complaint filed by Sylvester Traylor individually  
17 and as Administrator of the Estate of Roberta M.  
18 Traylor vs. The Town of Waterford. That action was  
19 returned to this court in January 2005, subsequently  
20 transferred to the Tolland Judicial District where  
21 it was eventually settled and withdrawn.

22 MR. TRAYLOR: Once again --

23 THE COURT: You may sit down, Mr. Traylor.

24 MR. TRAYLOR: -- I object to you reading from  
25 that case.

26 THE COURT: Sit down, Mr. Traylor.

27 Court Exhibit 22 is the copy of a complaint in

1 an action entitled Sylvester Traylor, Plaintiff vs.  
2 Daniel Steward, First Selectman for the Town of  
3 Waterford; Town of Waterford Police Department; Law  
4 Offices of Ryan, Ryan & Deluca, LLP; Attorney Donald  
5 Leone of Chinigo, Leone & Maruzo, LLP; Candice  
6 Weigle-Spier; and Thomas Linwood.

7 MR. TRAYLOR: Once again, I object to you  
8 entering that as an exhibit. It does not have  
9 anything to do with this proceeding.

10 THE COURT: Why don't you save your breath.  
11 You object to everything that's going on, right?

12 (No audible response.)

13 THE COURT: I'll take that as a yes, so please  
14 don't bother to say you object any more.

15 Exhibit 23 -- Court Exhibit 23 is a copy of a  
16 complaint which bears the date November 26th, 2010.  
17 It's a complaint which was filed with this court in  
18 November -- I don't have the exact date -- wherein  
19 Mr. Traylor attached this complaint, Exhibit 23 --  
20 Court Exhibit 23 to an application for a fee  
21 waiver. The name of the action is Sylvester  
22 Traylor, Plaintiff vs. Bassam Awwa, M.D. and  
23 Connecticut Behavioral Associates -- Health  
24 Associates, PC; Attorney Donald Leone of Chinigo,  
25 Leone & Maruzo, LLP; Robert and Neil Knowles on  
26 behalf of Advanced Telemessaging, Inc.; Richard  
27 Blumenthal, Connecticut Attorney General on behalf

1 of the State of Connecticut; Superior Court, City of  
2 New London, Joseph D'Alesio of the State of  
3 Connecticut Court Operations; Connecticut Criminal  
4 Division State's Attorneys, State's Attorney Michael  
5 L. Regan, Supervisory Assistant State's Attorney  
6 Lawrence J. Tytla, and Supervisory Inspector Phillip  
7 Fazzino; Dr. Robert Galvin, Commissioner for the  
8 State of Connecticut Department of Public Health;  
9 the Connecticut Medical Insurance Company; and  
10 Halloran & Sage, LLP, defendants.

11 Exhibit 24 is a copy of a complaint filed --  
12 recently filed in this court entitled Sylvester  
13 Traylor, Plaintiff vs. Bassam Awwa, M.D. and  
14 Connecticut Behavioral Health Associates, P.C.;  
15 Attorney Donald Leone of Chinigo, Leone & Maruzo,  
16 LLP --

17 MR. TRAYLOR: Your Honor, you just read that  
18 one. It's the same complaint.

19 THE COURT: Is there something wrong with you?  
20 Didn't I tell you to just be quiet? You're allowed  
21 to be here because this involves you very seriously  
22 --

23 MR. TRAYLOR: Right.

24 THE COURT: -- but you cannot represent  
25 yourself in this proceeding and that's because I  
26 said so and any order I give is effective until  
27 somehow it's rescinded on appeal or some other way,

1 all right? So just please be quiet.

2 Robert and Neil Knowles on behalf of Advanced  
3 Telemessaging, Inc.; Richard Blumenthal, Connecticut  
4 Attorney General; and on behalf of the State of  
5 Connecticut Superior Court, City of New London,  
6 Joseph D'Alesio of the State of Connecticut Court  
7 Operations; New London Criminal Division State's  
8 Attorneys, State's Attorney Michael L. Regan,  
9 Supervisory Assistant Attorney Lawrence J. Tytla,  
10 and Supervisory Inspector Phillip Fazzino; Dr.  
11 Robert Galvin, Commissioner for the State of  
12 Connecticut Department of Health; Connecticut  
13 Medical Insurance Company; Halloran & Sage, LLP.

14 It appears that Exhibit 24, the complaint is  
15 dated November 26 and, without close examination, it  
16 appears to be the same complaint as was Exhibit 23  
17 -- Court Exhibit 23.

18 The court is going to adjourn.

19 Mr. Leone, have you any thoughts of what  
20 the court's options are at this point regarding  
21 representation of the plaintiffs and what I should  
22 do?

23 ATTY. LEONE: Well, if your Honor please, as I  
24 understand the present situation, your Honor has  
25 ordered previously and reiterated that order today  
26 that Mr. -- I'm sorry, Attorney Berdick has an  
27 appearance and is the only person authorized by this

1 court to represent both Mr. Traylor and the Estate  
2 of Roberta Mae Traylor relative to today's hearing;  
3 that's my understanding. In light of Mr. -- excuse  
4 me, Attorney Berdick's refusal to obey the court's  
5 order, I suppose all of the remedies that are  
6 available to the court when any person/entity  
7 disobeys a direct court order are available to the  
8 court, which are any number of things and sanctions  
9 up to dismissal of the case.

10 Having said that, your Honor, I believe the  
11 case law is fairly clear -- not fairly clear, I  
12 think it is clear that the court has discretion how  
13 to proceed. Other than those comments, your Honor,  
14 I don't know how else I can guide the court or  
15 assist the court in deciding how best, if at all, we  
16 should proceed further.

17 MR. TAYLOR: Your Honor, can I have time with  
18 my attorney before you -- after -- so he can decide  
19 what he wants --

20 THE COURT: You're going to speak to him as  
21 administrator only.

22 MR. TRAYLOR: That's fine. However you want to  
23 characterize it, I would like to speak to him and  
24 determine how he wants to --

25 THE COURT: Sure. Take him downstairs.

26 THE COURT: We're going to adjourn until two  
27 o'clock. I'm sorry, Mr. Leone, this proceeding has

1           gone today not as I envisioned it and I have more  
2           exhibits to put in. The clerk will be here with the  
3           exhibits and we'll put them out on the table and you  
4           are free to look at them. You too, Mr. Traylor.

5           MR. TRAYLOR: I'd like copies of whatever  
6           you're marking as exhibits, your Honor.

7           THE COURT: Is that a formal request?

8           MR. TRAYLOR: Yes, your Honor.

9           THE COURT: It's denied. You may have copies  
10          in the normal chain of events.

11          MR. TRAYLOR: I'll file a fee waiver.

12          THE COURT: Oh, a fee waiver.

13          MR. TRAYLOR: I'm to commence at two o'clock?

14          (Pause.)

15          MR. TRAYLOR: For the record, Judge Parker's  
16          phone has gone off.

17          THE COURT: That was real helpful. Thanks.

18          MR. TRAYLOR: So I'll talk to my attorney, see  
19          how we proceed with this, your Honor. For the  
20          record, also I cautioned I wanted him to stay when  
21          you insisted him to --

22          THE COURT: Never mind. I don't want to hear  
23          about that.

24          MR. TRAYLOR: So but I'll speak to him and --

25          THE COURT: You can tell that at the appellate  
26          court.

27          MR. TRAYLOR: -- talk to him about how I'm

1 going to proceed with this. Okay. Thank you.

2 THE COURT: You will be here at two o'clock.

3 MR. TRAYLOR: I'll be here.

4 THE COURT: You're ordered to be here at two  
5 o'clock.

6 MR. TRAYLOR: I have no doubt I will be here at  
7 two o'clock.

8 THE COURT: If there's any doubt, we'll take  
9 care of it.

10 MR. TRAYLOR: It will be an honor to be here.

11 THE COURT: Mr. Leone, I'm concerned. Are you  
12 suggesting that you might be making a motion to  
13 dismiss?

14 ATTY. LEONE: I don't know what I'm going to  
15 do.

16 THE COURT: All right. Well, I don't know --

17 MR. TRAYLOR: Are you leading him, your Honor,  
18 to make a motion to dismiss?

19 THE COURT: Excuse me?

20 MR. TRAYLOR: Are you leading him? Are you  
21 directing --

22 THE COURT: No, I'm not directing him.

23 MR. TRAYLOR: He's the attorney.

24 THE COURT: That's why I'm speaking to him.

25 MR. TRAYLOR: Oh, oh.

26 THE COURT: Adjourn court, please.

27 (Whereupon, there is a recess in the

1 proceedings.)

2 THE COURT: Marshal, can you take the  
3 restraints off, please.

4 (Pause.)

5 THE COURT: Mr. Berdick, what occurred this  
6 morning, I'm not sure that you appreciate the  
7 seriousness of the -- what occurred this morning.  
8 You could be found in criminal contempt. Criminal  
9 contempt. The shorthand is you disobeyed an order  
10 of this court right in the presence of the court, so  
11 there's no need for any further trial, anything  
12 else. The court could find you in criminal  
13 contempt. Criminal contempt, by statute, you could  
14 go to jail for six months and be fined \$100. That's  
15 serious stuff, particularly for an attorney.

16 Now, you apparently think because Mr. Traylor  
17 purported to file an appearance last night in lieu  
18 of your appearance, well, Mr. Traylor's now free to  
19 act as his own lawyer and you're off the hook from  
20 representing him in his individual capacity. Not  
21 so. And Mr. Traylor realizes that too because he  
22 attached to his appearance an order of this court  
23 entered on September 10th of this year -- of 2010  
24 and the last five or six paragraphs of that order  
25 shows why his appearance yesterday doesn't instantly  
26 free you of your obligations to continue to  
27 represent him. Do you understand that?

1           ATTY. BERDICK: No, your Honor, I didn't see  
2           that attachment. I understand what you're saying  
3           but you're asking me a question in my belief that  
4           you think I have comprehended what you have stated;  
5           that's not the case. I did not see that attachment.

6           THE COURT: Well, take a look at it.

7           ATTY. BERDICK: Okay.

8           THE COURT: The last five or six and what I  
9           have handed to the clerk for her -- for which the  
10          clerk has now handed it to Mr. --

11          ATTY. BERDICK: Berdick.

12          THE COURT: -- Berdick is an order of this  
13          court entered on September 10th. Also is the  
14          appearance that Mr. Traylor filed yesterday and  
15          attached to it was this order which he refers to in  
16          his appearance, and that order entered on September  
17          10th cites and states that such an appearance by Mr.  
18          Traylor which occurred back in August or early  
19          September doesn't take effect for at least ten days.

20          ATTY. BERDICK: Well, I appreciate your telling  
21          me.

22          THE COURT: And beyond the rules, I think it's  
23          about time that this court stopped the nonsense and  
24          whether or not any objection is filed or not by you,  
25          the defendant also has a right to object and the  
26          court has a right to object because this case has  
27          been dawdling around through the efforts of Mr.

1 Traylor. He's playing games with the court by his  
2 in and out appearances. You know, you're the third  
3 or fourth lawyer in this case and of course none of  
4 the lawyers are any good compared to the lawyering  
5 ability of Mr. Traylor.

6 MR. TRAYLOR: Your Honor, that's why I  
7 voluntarily -- that is the reason why I filed an  
8 appearance because of statements like that by this  
9 bench, that's the request I filed to ask for  
10 disqualification because of various statements like  
11 that against my character. Now, if you want to  
12 proceed, we can go forward on my behalf.

13 THE COURT: Oh, do I have to take your wishes  
14 as what's going to run this courtroom?

15 MR. TRAYLOR: No. Those are your wishes, your  
16 Honor.

17 THE COURT: Well, I don't have any wishes. We  
18 were here to proceed as required by the statute or,  
19 excuse me -- yeah, by the rule which has been  
20 continued several times and you refuse to go  
21 forward. Now, if you're willing to go forward, I'll  
22 hold in abeyance any further proceedings on the  
23 contempt. I'm not saying I've decided not to hold  
24 you in contempt but we'll hold it in abeyance and  
25 see how we do. Are you willing to proceed in  
26 accordance with the court's order -- orders?

27 ATTY. BERDICK: Your Honor, not as stated

1       because that's not the issue. I recognize there's  
2       an order now, I'm aware of this, but there's other  
3       obligations I have as an attorney. Yesterday he  
4       terminated a basic agency contract that underlines  
5       all the attorney-clients' contracts we have. I was  
6       terminated as his representative to be an attorney  
7       to argue on his behalf. If you're ordering me, I  
8       have to say no. If he's willing to engage me as an  
9       attorney, that affects the dynamics of my rational  
10      decision making then I will be in compliance of 1.2  
11      of the code.

12                THE COURT: The rules are --

13                ATTY. BERDICK: I'm not trying to be in  
14      contempt of the court. I have other competing  
15      obligations as an attorney.

16                THE COURT: When you entered an appearance --

17                ATTY. BERDICK: Yes.

18                THE COURT: -- you were well aware of the rules  
19      regarding appearing.

20                ATTY. BERDICK: Yes.

21                THE COURT: And when he entered an appearance,  
22      you just don't disappear because of someone's whim.

23                ATTY. BERDICK: That's why I'm here, your  
24      Honor.

25                THE COURT: It has to be with the permission of  
26      the court so you can disregard to a certain extent  
27      what Mr. Traylor has said. The rules say you're out

1           when the court lets you out and you're not let out.  
2           You have not been let out, you still represent the  
3           estate or Mr. Traylor as an administrator and you  
4           still represent Mr. Traylor in his individual  
5           capacity. Are you willing to proceed?

6                     MR. TRAYLOR: Yes.

7                     ATTY. BERDICK: Are you forcing me to proceed,  
8           your Honor? Is that what we're getting to, back to  
9           the contempt? That's how I view it. If I'm wrong  
10          on that, please enlighten me.

11                    THE COURT: Well, I believe you are.

12                    MR. TRAYLOR: Well, your Honor, I'll make it  
13          easy. I'll withdraw my appearance.

14                    THE COURT: Excuse me, Mr. Traylor. You keep  
15          your mouth shut.

16                    MR. TRAYLOR: I'll withdraw my appearance.  
17          Does that make it easier for you? Then he can  
18          refile his appearance.

19                    ATTY. BERDICK: Sorry about that, your Honor.  
20          Continue, please.

21                    THE COURT: Are you willing to proceed and  
22          do your duties in accordance with the appearance you  
23          have on file?

24                    ATTY. BERDICK: No, your Honor. It's not  
25          because I'm trying to be in contempt of the court,  
26          it's just my understanding of the conflict I'm in.

27                    THE COURT: What's the conflict?

1           ATTY. BERDICK: He withdrew my right to --

2           THE COURT: He fired you.

3           ATTY. BERDICK: The scope of his -- for me to  
4 represent him was received from his judicial  
5 complaint hearing that we're having today that we  
6 started yesterday, it terminated last night. I'm  
7 not allowed under basic agency law, the principal  
8 says no longer can you be my attorney to represent  
9 me in that matter, that's how I see it. I'm not  
10 saying you don't have your rights to do what you're  
11 doing. There's just a conflict. You're not  
12 obligated by my obligations, I am, and I understand  
13 that. I know why -- I'm not saying you're wrong,  
14 I'm just saying I'm in a bind, that's all I'm  
15 saying.

16           And I am the third or fourth, whatever,  
17 attorney but let's make judicial notice -- I make a  
18 request there's been a lot of judges assigned to  
19 this case as well besides attorneys, so if I may put  
20 that on the record. I'm not trying to be bolsterous  
21 (sic) here. This thing is complicated, I understand  
22 that, but I didn't start this thing yesterday, last  
23 night it came to me -- you know, it was presented to  
24 me in appearance form, a copy of it. I let opposing  
25 counsel know about it as soon as I could and I  
26 didn't have this sheet that you just handed me today  
27 and then --

1           THE COURT: You only get what he wants you to  
2     get.

3           ATTY. BERDICK: Roger, but the state I'm in  
4     right now, I would need to settle down and look at  
5     this and give it some thought. You've given it to  
6     me, I just was down in the hoosegow for two hours,  
7     whatever. I can't come up here and say, hey, is my  
8     client under duress to do this or am I being forced  
9     because I want to go back to my wife tonight and so  
10    I say yes and go on. You put me in a tough spot and  
11    I'll go back to my previous rational thought and say  
12    no, I'm being asked to do something -- I'm not  
13    rational now. I'm not going to change. I have to  
14    go on my thought process when I showed up here this  
15    morning. I'm sorry. I apologize too.

16           THE COURT: So you don't know whether you're  
17    going to comply with the court's order or not?

18           ATTY. BERDICK: Your Honor, I do. Given the  
19    constraints I perceive I'm in right now, it would  
20    change -- if my client wants me to represent him in  
21    this thing, that allows me to do -- that would  
22    affect my decision making going forward. I wouldn't  
23    have that conflict with the code so then I would say  
24    yes.

25           It's not your order I'm having a problem  
26    with, it's your order in conjunction with the code  
27    1.2. My scope of representation was curtailed last

1 night.

2 THE COURT: Did you have a retainer agreement  
3 with Mr. Traylor?

4 ATTY. BERDICK: Yes, I do and I did.

5 THE COURT: Do you have a copy of it here?

6 ATTY. BERDICK: It's down in the hoosegow with  
7 my other inventoried belongings. It's actually the  
8 original but --

9 THE COURT: Excuse me?

10 ATTY. BERDICK: It's not a copy, it's one of  
11 two originals. One goes to the client and one's for  
12 me.

13 THE COURT: You're faced with a very simple  
14 question.

15 ATTY. BERDICK: I understand.

16 THE COURT: Are you going to comply with the  
17 court's order to proceed today with what brought us  
18 here, the hearing on the disqualification issue  
19 prompted by Mr. Traylor's July -- June 15, 2010  
20 complaint to the Judicial Review Council?

21 ATTY. BERDICK: I am if I have -- if he  
22 retracts his appearance form in regard to today's  
23 hearing, your Honor, my client. That's the only way  
24 I can.

25 THE COURT: He seems to be nodding his head and  
26 saying and he told me a few minutes ago that he'll  
27 withdraw his appearance that he made yesterday --

1 filed yesterday.

2 ATTY. BERDICK: I would even though other  
3 concerns bother me. Is he being under duress for my  
4 benefit to get me out? That leaves another issue  
5 that he can argue but -- I would be able to go  
6 forward but I know it's going to raise the internal  
7 issue for the court and myself. He could raise that  
8 as an issue, I did that under duress for your  
9 benefit but be that as it may.

10 THE COURT: How long do you think it will take  
11 you to get out of duress?

12 ATTY. BERDICK: I'll be out of duress probably  
13 in a couple hours probably, you know, but the court  
14 -- it would probably be better if there's a time gap  
15 so I can consult with my attorney -- my client and  
16 say, hey, did you concede that because I'm in lockup  
17 status or did you concede it because it's in your  
18 best interest for me to go forward. With that  
19 caveat, yes. If he withdraws the appearance, I  
20 would go forward and represent him in the judicial  
21 misconduct proceeding that's part of this ongoing  
22 litigation.

23 THE COURT: You understand that the proceeding  
24 on the disqualification issue that we're here for  
25 yesterday or mainly today and we came here  
26 originally yesterday is a part of the case, the  
27 malpractice case?

1           ATTY. BERDICK: I am now, your Honor, but I  
2 wasn't. At the time I was retained I was not aware  
3 of that. There's many complaints that were out  
4 there that I was not aware of in this particular  
5 complaint, you know. My recollection is I came  
6 onboard sometime in September. I could be wrong.

7           THE COURT: No, it was October 18th, give or  
8 take a day.

9           ATTY. BERDICK: Okay. That -- I wasn't aware  
10 of these outstanding judicial complaints so, to be  
11 quite frank with you, I was kind of surprised that  
12 this thing surfaced.

13          THE COURT: Well, you might have been aware of  
14 it had you ever looked at the file.

15          ATTY. BERDICK: Roger.

16          THE COURT: Okay. Well, I'm going to give you  
17 until 3:30 to find out whether you're in or out of  
18 duress and you may confer with Mr. Traylor.

19          ATTY. BERDICK: Thank you, your Honor.

20          THE COURT: Mr. Traylor, I don't want to hear  
21 from you.

22          MR. TRAYLOR: Well, I thought you was about to  
23 get up.

24          THE COURT: Excuse me, sir. I don't want to  
25 hear --

26          MR. TRAYLOR: I'm not saying anything. I  
27 thought you was about to leave so we can go out

1           there and talk.

2                   THE COURT: Mr. Berdick is still in custody.  
3           We will vacate the courtroom. You don't have to go  
4           downstairs, Mr. Traylor, unless you want to. The  
5           marshals can take you downstairs but you and Mr.  
6           Traylor will have until 3:30 to converse and  
7           strategize and do whatever else you want to do. And  
8           at 3:30 I'll come in and ask you whether you're  
9           going to comply with the court's order or not. If  
10          you're not --

11                   ATTY. BERDICK: Thank you, your Honor.

12                   THE COURT: And you're going to represent -- I  
13          will ask you whether you're under duress.

14                   ATTY. BERDICK: Yes, your Honor. Thank you. I  
15          appreciate that.

16                   THE COURT: Okay. Anything else, Mr. Leone?

17                   ATTY. LEONE: No, your Honor.

18                   THE COURT: We're all on sort of uncharted  
19          waters here. I would ask that everybody except Mr.  
20          Traylor and Mr. Berdick vacate this courtroom so  
21          they can use it as -- for their conversations.

22                   MR. TRAYLOR: Excuse me, your Honor. We just  
23          need two appearance forms -- I mean, one so he can  
24          file with --

25                   THE COURT: I'll thoroughly canvass you on the  
26          record if we're going to proceed.

27                   MR. TRAYLOR: So he can file it in lieu of me

1           then that would be it.

2           THE COURT: No, we're not playing that game.

3           (Whereupon, there is a recess in the  
4 proceedings.)

5           THE COURT: Mr. Berdick, what's it going to be?

6           ATTY. BERDICK: Your Honor, after conferring  
7 with my client, under protest I decided to go  
8 forward under the conditions you stated. The reason  
9 I'm under protest I'm going forward -- part of it is  
10 consideration drawing from the case from my  
11 understanding consulting with him is out of the  
12 situation that I find myself in if I would decide  
13 otherwise.

14          THE COURT: Do you think you're mentally  
15 capable of making such a decision?

16          ATTY. BERDICK: Yes, your Honor, if you gave me  
17 sufficient time. I'm not 100 percent but most of  
18 the days I'm not 100 percent.

19          THE COURT: But you feel you're competent  
20 enough to make kind of an important decision for you  
21 and your client?

22          ATTY. BERDICK: Exactly, that's correct, and I  
23 appreciate the time you gave me to deliberate and  
24 converse with my client.

25          THE COURT: Now, Mr. Traylor, you're  
26 withdrawing your appearance that was filed  
27 yesterday?

1 MR. TRAYLOR: Yes, I am, your Honor.

2 THE COURT: And you're doing it on the record  
3 now --

4 MR. TRAYLOR: Yes, your Honor.

5 THE COURT: -- twenty of four --

6 MR. TRAYLOR: Yes, your Honor.

7 THE COURT: -- today, Thursday, the 20th of  
8 January?

9 MR. TRAYLOR: As long as Attorney Berdick can  
10 file his appearance in lieu of mine, that's not a  
11 problem.

12 THE COURT: He needn't file. His appearance  
13 has never -- he's never disappeared, so to speak.  
14 Your attempt yesterday is a nullity as of now.

15 MR. TRAYLOR: But --

16 THE COURT: It will not take effect for ten  
17 days.

18 MR. TRAYLOR: But my question is on the  
19 judicial website my appearance is already there in  
20 lieu of his.

21 THE COURT: The judicial website is wrong.

22 MR. TRAYLOR: Will they put it back?

23 THE CLERK: I can do it right here right now.

24 THE COURT: No, we'll take care of it later.

25 MR. TRAYLOR: Okay. That was it. I agree,  
26 yes.

27 THE COURT: And you want it to be withdrawn as

1 if it was never filed yesterday?

2 MR. TRAYLOR: That's correct.

3 THE COURT: All right. Under those conditions,  
4 you're ready to proceed?

5 ATTY. BERDICK: Yes, your Honor. Under the  
6 conditions stated, I am.

7 THE COURT: All right. I'm going to continue  
8 until tomorrow morning at 10 o'clock this hearing.  
9 I'm not going to reraise what we did in your  
10 absence. You were given the opportunity to present  
11 your case in chief which you declined to do,  
12 therefore, we proceeded.

13 MR. TRAYLOR: Excuse me. We never declined.

14 THE COURT: Mr. Traylor --

15 ATTY. BERDICK: Sit down.

16 MR. TRAYLOR: -- and deliver evidence.

17 THE COURT: Mr. Traylor, excuse me. You just  
18 withdrew any excuse you might have for thinking you  
19 could speak to me. You just withdrew as of roughly  
20 twenty of four. That appearance you filed yesterday  
21 is a nullity. Mr. Berdick is the sole attorney for  
22 the estate and for Sylvester Traylor as -- in your  
23 personal or individual capacity.

24 So we shall proceed tomorrow at ten. Mr.  
25 Berdick, you're in the driver's seat.

26 Mr. Leone, anything further?

27 ATTY. LEONE: No, your Honor.

1 THE COURT: Anything further?

2 ATTY. BERDICK: No, your Honor. I have nothing  
3 further to add.

4 THE COURT: You'll be here. Mr. Traylor and  
5 Mr. Berdick are ordered to be here at ten o'clock  
6 tomorrow morning; you understand that? Of course if  
7 you read on TV or wherever it is that the court's  
8 opening at a later date -- a later time tomorrow  
9 than ten o'clock then the order is to be here  
10 instead of ten o'clock whatever the postponement  
11 time.

12 ATTY. BERDICK: Yes, your Honor. Understood.

13 THE COURT: Anything further? We'll adjourn  
14 until tomorrow morning at ten o'clock or such later  
15 date as the snow occasions.

16 (Whereupon, there is a recess in the  
17 proceedings.)

18 THE COURT: You're hereby released from  
19 custody, Mr. Berdick.

20 ATTY. BERDICK: Thank you, your Honor.

21 THE COURT: You better thank the marshal for  
22 making me say that.

23 ATTY. BERDICK: Thanks.

24 THE COURT: See you tomorrow.

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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 20<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

\*\*\* Photocopied Transcripts Are Not Certified \*\*\*