



1 THE COURT: Is Nowacki here?

2 MR. NOWACKI: Present.

3 THE COURT: Okay. Oh, I am sorry. I sort of  
4 lost track of time here. We are going to take a 15  
5 minute recess, staff need time. So we'll start this  
6 at 12 o'clock.

7 You indicated that this would be 20 minutes.  
8 So Mr. Collins, Mr. Nowacki, we want you to hue to  
9 the 20 minutes.

10 (Court Recess)

11 (Court Resumes)

12 THE COURT: Okay. This is Suzanne Nowacki and  
13 Michael Nowacki. Counsel, do you want to identify  
14 yourselves?

15 MR. NOWACKI: Michael Nowacki, pro se.

16 THE COURT: Okay.

17 MR. COLLINS: Your Honor, good morning -- good  
18 afternoon. Attorney Kevin Collins for Suzanne  
19 Sullivan.

20 THE COURT: Okay. And I understand that this  
21 matter has been going on in front of Judge Novack  
22 and why is it coming in front of Judge Shay this  
23 morning?

24 MR. NOWACKI: Your Honor, we have issues in  
25 regards to the June 15<sup>th</sup> production that Your Honor  
26 ordered --

27 THE COURT: Okay.

1 MR. NOWACKI: -- in regards to compliance  
2 issues, that which the Court has ordered.

3 THE COURT: All right. But I mean is that --  
4 am I -- I guess I just want to know, am I glued to  
5 this particular issue or not?

6 MR. NOWACKI: You are going to be --

7 THE COURT: But it's here so it's your motion,  
8 right?

9 MR. NOWACKI: That is correct, Your Honor.

10 THE COURT: Okay. So why don't you tell me  
11 about what it is that --

12 MR. NOWACKI: Okay. I'd like to kind of go  
13 through the process since --

14 THE COURT: No. I don't want to go through the  
15 process, Mr. Nowacki. I don't have time.

16 MR. NOWACKI: All right.

17 THE COURT: It's going to be a short day. So  
18 we need to be directed to the motion or the pleading  
19 where the order was entered, whether there's a  
20 transcript or whatever, and then we need to hear  
21 from both of you as to whether or not there is  
22 compliance or what not.

23 So I don't need War and Peace, you know, I  
24 don't need this whole case chapter and verse, all  
25 right? I have a very distinct issue that I need to  
26 deal with and that's all I've got the time to do  
27 today.

1 MR. NOWACKI: I understand that, Your Honor.

2 THE COURT: Okay.

3 MR. NOWACKI: I haven't started yet.

4 THE COURT: I cut you off because you proposed  
5 to tell me something longer than you need to.

6 MR. NOWACKI: But I heard what you said.

7 THE COURT: Good.

8 MR. COLLINS: Your Honor, may I inquire? I  
9 don't know exactly which motion Mr. Nowacki is  
10 proceeding on.

11 THE COURT: That's what in my own -- whatever  
12 way, I --

13 MR. NOWACKI: 201. It's the motion for  
14 contempt that was filed on July the 2<sup>nd</sup> and it has to  
15 do with the non-compliance to the June 15<sup>th</sup> Court  
16 order.

17 THE COURT: Okay.

18 MR. NOWACKI: All right.

19 MR. COLLINS: Well, Your Honor --

20 MR. NOWACKI: And it relates -- excuse me, Mr.  
21 Collins. I believe --

22 THE COURT: Mr. Collins, you will get your --

23 MR. NOWACKI: -- that I have not finished yet  
24 and I would appreciate the courtesy that I will give  
25 you --

26 THE COURT: I --

27 MR. NOWACKI: -- when you have the opportunity

1 to respond --

2 THE COURT: Mr. Nowacki --

3 MR. NOWACKI: -- unless you --

4 THE COURT: Mr. Nowacki, okay, let's get the  
5 ground rules straight here, okay?

6 MR. NOWACKI: Okay.

7 THE COURT: I am fairly plain vanilla guy. I  
8 am a no nonsense guy. What's that?

9 MR. NOWACKI: I understand that, Your Honor. I  
10 am turning it off.

11 THE COURT: What is that? Turn it off.

12 MR. NOWACKI: I am turning it off. I didn't  
13 realize that it was still on when I went outside.

14 THE COURT: Okay.

15 MR. NOWACKI: I apologize. I am turning it  
16 off. It's off.

17 THE COURT: Okay, okay. This is the Court in  
18 which I preside. I take my responsibility very  
19 seriously, try not to do it with too heavy a hand,  
20 but if there's any colloquy between, it goes threw  
21 me. All right.

22 So I don't need you to tell Mr. Collins the  
23 rules of the road and I don't need Mr. Collins to  
24 tell Mr. Nowacki the rules of the road. All right.

25 So anything that you have to say, you direct it  
26 threw me and you two leave each other alone. Okay.  
27 History in this case, I know. No dog in this fight,

1           okay.

2           So you just need to focus on the particular --  
3           okay. So June 15<sup>th</sup>, apparently I entered an order,  
4           all right, a discovery order. Okay. Do we have a  
5           transcript of that? Do I know -- what is it that I  
6           had -- what did I order?

7           MR. NOWACKI: I do, Your Honor. What you  
8           ordered was a series of things out of the Practice  
9           Book that required without a date specific order  
10          that was to be delivered.

11          There was nothing in the Court order that dealt  
12          with the subject of the date by which these  
13          materials were to be turned over to me. And that  
14          became an issue in as much as the Court in the  
15          colloquy portions indicated that there was not a  
16          requirement to be made by this Court for a  
17          confidentiality order.

18          In fact, there's specific comments by Your  
19          Honor that said on page two of the transcript that I  
20          am not ordering that; that the record will not be  
21          sealed.

22          So I waited until which point in time I got a  
23          copy of this transcript on June the 26<sup>th</sup> to make sure  
24          that I understood completely what Your Honor had  
25          said on that day before I approached Mr. Collins  
26          about delivering the production.

27          Mr. Collins on June the 26<sup>th</sup> sent me an email.

1           No confidentiality order, no production. I quoted  
2           him from the transcript that I had received and he  
3           continued the mantra that he was not going to turn  
4           that over to me.

5           I said, Kevin, I'll take a look at the  
6           confidentiality order, which he sent me on June the  
7           29<sup>th</sup>. On June the 29<sup>th</sup> I reviewed that and I asked  
8           for a cut out that would exclude matters that I  
9           could turn over with the evidence that was being  
10          provided to me to the Internal Revenue Service for  
11          tax fraud.

12          As you know, on page 29 of that transcript on  
13          that day that we were in Your Honor's court --

14          THE COURT: I don't know.

15          MR. NOWACKI: -- on June 15<sup>th</sup>.

16          THE COURT: That's what I am trying to tell  
17          you, Mr. Nowacki, is is that I have slept since then  
18          and that's been quite a number of weeks so. Okay.

19          MR. NOWACKI: All right. I will hand Your  
20          Honor a copy of the transcript. And the transcript  
21          says on page 29 that Ms. Nowacki at that point in  
22          time could have gone down to the Swiss -- take a  
23          train ride for 40 minutes to go to Swiss Bank to get  
24          the money of \$132,100 that was sent to her via wire  
25          transfer when we were still married.

26          That is an absolute fabrication meant to  
27          mislead this Court.

1 THE COURT: Mr. Nowacki, you know --

2 MR. NOWACKI: All right.

3 THE COURT: -- unless we kind of get off --

4 MR. NOWACKI: Here's the issue as it relates to  
5 production.

6 MR. COLLINS: Your Honor, may I --

7 MR. NOWACKI: The issue --

8 MR. COLLINS: I still don't know what motion we  
9 are proceeding on.

10 THE COURT: He --

11 MR. NOWACKI: On the contempt motion.

12 MR. COLLINS: All right. By the way, there  
13 have been superseding orders since then. That was  
14 going to be my point before. So Judge Malone has  
15 issued a protective order relative to the production  
16 ordered by Your Honor. That's a matter in the Court  
17 record.

18 He set a date by which production was to be  
19 made. That was September 10<sup>th</sup>. That was done. This  
20 doesn't even give me thirty days from Your Honor's  
21 order. It's dated July 6<sup>th</sup>, I think, 2009.

22 The point that I would make is this motion is  
23 old news. It's an attempt to bring matters before  
24 this Court which are not properly before this Court.  
25 That has been gone over ad nauseum before Judge  
26 Novack.

27 All I am saying if Your Honor wishes to hear

1           it, fine, but we are not in contempt of anything by  
2           this date because Your Honor didn't set a date by  
3           which to produce and in any event didn't even --  
4           thirty days didn't even elapse since Your Honor's  
5           orders.

6           If Mr. Nowacki's position is certain things  
7           were not produced pursuant to Your Honor's orders,  
8           that's fine, however, the date for production wasn't  
9           till September 10<sup>th</sup>. So he could not on July 6<sup>th</sup>  
10          know what he needs or wants or what is not in  
11          compliance with Your Honor's orders because  
12          production wasn't ordered by Judge Malone until  
13          September 10<sup>th</sup> and that was subject to a protective  
14          order.

15          So all of this is premature. If he wants to  
16          come in here and say we didn't comply with Your  
17          Honor's order, I need a new motion and I need to  
18          know what it is I haven't complied with because no  
19          production was ordered nor done by the date of this  
20          motion.

21          That's my point.

22          THE COURT: Mr. Nowacki, Mr. Collins' point is  
23          that Judge Malone entered a superseding order  
24          specifically directed to the production and he did  
25          that a couple of months after I entered my order,  
26          which did not have a date in it and apparently did  
27          not have a provision for protective, protective

1 order so.

2 MR. NOWACKI: All right.

3 THE COURT: Is Mr. Collins misstating the fact?

4 MR. NOWACKI: The reason why --

5 THE COURT: That's a yes or a no.

6 MR. NOWACKI: Okay. That is a yes or a no.

7 The answer is yes, that is true. However, at the  
8 point in time of July the 2<sup>nd</sup> when I filed this  
9 motion it was apparent to me that there was no  
10 intention for Attorney Collins to ever provide the  
11 production because I refused to sign the  
12 confidentiality agreement that he sent to me because  
13 he would not put in the confidentiality agreement a  
14 provision that would allow me to turn the production  
15 over on matters of tax fraud.

16 And this Court has been participating  
17 unknowingly in the hiding of tax fraud. All right.  
18 And I will explain to you exactly how --

19 THE COURT: No.

20 MR. NOWACKI: -- it was done.

21 THE COURT: No, absolutely not.

22 MR. NOWACKI: Okay. All right. So --

23 THE COURT: No. I asked you --

24 MR. NOWACKI: -- here --

25 THE COURT: Mr. Nowacki, I asked you a very  
26 specific question and I thank you for your candor,  
27 although I think you kind of reversed the positive

1 and the negative, but Mr. Collins did not misspeak.  
2 Mr. Collins indicated that Judge Malone, who has co-  
3 equal jurisdiction with this Court here, entered  
4 what was considered a superseding order.

5 That means everything that went before is moot.  
6 And I have to tell you that discovery is a process,  
7 it's sometimes a messy process, and because people  
8 don't always get what they want many times they have  
9 to come back repeatedly.

10 But ultimately in, you know, probably three-  
11 quarters or eighty percent of the cases by the time  
12 a case reaches the trial the discovery issues have  
13 all been resolved, you know, in one fashion or  
14 another so.

15 MR. NOWACKI: Here are the open issues --

16 THE COURT: So the --

17 MR. NOWACKI: -- in discovery.

18 THE COURT: No, no. So the issue then is my  
19 order went by the boards, Judge Malone's order  
20 superseded. If you have a beef with Mr. Collins  
21 with regard to Judge Malone's order then we can deal  
22 with that, but we deal with that with a separate  
23 motion, not a motion addressed to a motion that has  
24 already been -- the issue is moot.

25 MR. NOWACKI: Okay.

26 THE COURT: All right. So that's my ruling.

27 MR. NOWACKI: Well, Your Honor --

1 THE COURT: You can have your transcript back.

2 MR. NOWACKI: Your Honor --

3 THE COURT: This hearing is --

4 MR. NOWACKI: I --

5 THE COURT: Mr. Nowacki, the hearing is  
6 concluded. I'll call for a marshal if you do not  
7 back off, you know, and take your -- all right.

8 It's moot. That's my finding.

9 MR. COLLINS: Thank you, Your Honor.

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