

22ND JUDICIAL DISTRICT COURT FOR THE PARISH OF ST. TAMMANY

STATE OF LOUISIANA


NO. 2012-10436

DIVISION "J"

SALVADOR J. LIBERTO, JR., WILLIAM M. MAGEE,  
AND JAMES G. COATE, JR.

VERSUS

DANIEL G. ABEL, LLOYD RAYMOND MARTIN, III,  
NICOLE EASTERWOOD MARTIN, CAROL ROBINSON,  
JOHN GEORGE LAMPO, ANDREA SMITH LAMPO, MARTIN E. REGAN, JR.,  
KENNETH A. KULIK, AND CRAIG HENRY STEWART, ET AL

FILED: December 5, 2012   
DEPUTY CLERK

MOTION TO LIFT STAY AND TO RESET RULE FOR  
PROTECTIVE ORDER AND FOR SANCTIONS

Now into court, comes Plaintiff, William M. Magee, who submits the following Motion to Lift Stay and to Reset Rule for Protective Order and for Sanctions.

I.

Daniel G. Abel, currently a licensed attorney in the State of Louisiana, is a party defendant to this pending litigation. Individually, and presumably on behalf of the other defendants, recently filed a Motion to Enforce Stay, which the court signed on November 29, 2012. As with other pleadings filed in this proceeding, Mr. Abel was not completely forthcoming in his representations to the court. This motion provides the court with a complete picture of the current proceedings and provides support for lifting the stay and allowing the pending matters to proceed.

II.

The one and only writ application that is currently pending in the First Circuit Court of Appeal is #2012-CW-1809 that was filed with the First Circuit on October 26, 2012. This writ application only relates to the Motion to Recuse that was denied by Judge Penza on May 30, 2012. Mr. Abel's first writ application on that issue was filed with the First Circuit on July 13, 2012. Mover filed a Motion to Dismiss for numerous procedural defects and violation of c

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rules on August 24, 2012. The First Circuit issued its "Writ Not Considered" ruling on September 25, 2012 and refused to consider the writ application due to the numerous procedural defects and rules violations in Mr. Abel's pleadings. However, the court gave Mr. Abel until October 26, 2012 to re-file his writ application on the recusal that would be in compliance with the rules of court. He once again filed his writ application solely on the recusal ruling with the First Circuit on October 26, 2012. Another Motion to Dismiss was filed by mover on November 13, 2012, for many of the same procedural defects and rules violations noted in the original filing. There was never any stay request granted for this writ application by either the trial court or the First Circuit.

### III.

On August 16, 2012, Mr. Abel filed another notice of intent to file writs on the issues related to the trial court's "9 August 2012 failure to consider the pending supervisory writ regarding Judge William Knight recusal order to be filed by the First Circuit Court of Appeal on 20<sup>th</sup> August 2012, as well as the pending Art. 971 Motion to Strike and each of the other 9 August motions identified in the order prepared by William M. Magee and signed on or about 14 August 2012." In the order signed by the court on this notice of intent to file writs, Mr. Abel included in his order that "This matter is STAYED pending rulings by the First Circuit Court of Appeal." The trial court set the date for filing the writ at September 15, 2012. Even though Mr. Abel, on September 8, 2012, forwarded a copy of a pleading to mover, which purported to show him requesting an extension of time to file his writ application with the First Circuit, a search of the First Circuit Court of Appeal records show that no such pleading was filed. This is so even though he alleged in his cover letter that "The original is filed with the First Circuit with copies to Judge William Knight and opposing counsel." This is yet another misrepresentation to the court and counsel.

### IV.

On September 17, 2012, Mr. Abel filed another notice of intent to file writ on the issue of the court quashing the subpoena requests for Judge Burris and Judge Devereux by order signed August 22, 2012. The court set the date to file the writ on October 4, 2012 by order dated September 19, 2012. Again, a check of the First Circuit Court of Appeal reveals that no writ

was ever filed. From September 25, 2012 through October 26, 2012 there was no pending writ application in the First Circuit Court of Appeal.

V.

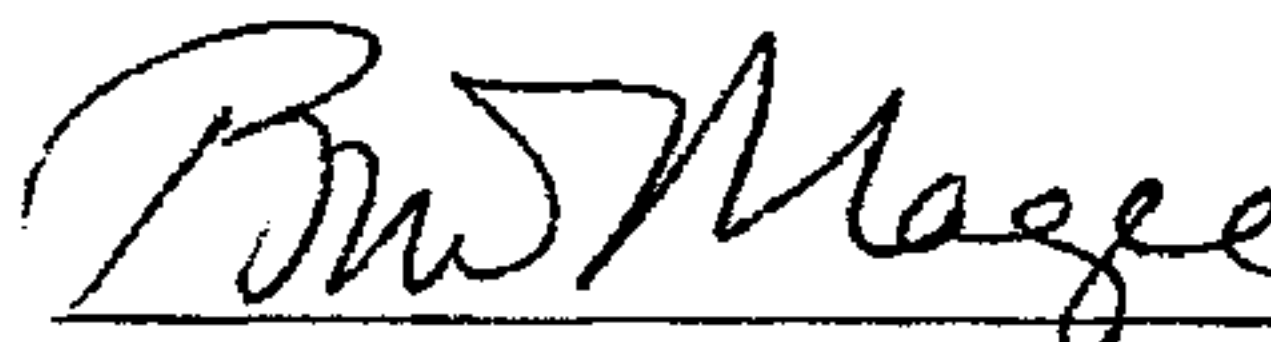
This case was originally filed on January 24, 2012. Through Mr. Abel's extensive delay tactics, we are now in the 11<sup>th</sup> month since filing and no discovery has been conducted. Memories fade, people pass on, and evidence is lost in the passage of time. There is no just reason for a stay to be imposed on this proceeding at least for the purposes of conducting discovery. When the first stay was requested by Mr. Abel, the only pending writ application was the one seeking review of the denial of his recusal motion. That writ was dismissed on September 15, 2012 due to Mr. Abel's own ineptness or intent in failing to follow the rules or court for filing writs. His second writ application on that issue is clouded with many of the same procedural defects. He presented no evidence at the recusal hearing on which the Court of Appeal could overturn the ruling of the trial court. One thing Mr. Abel has been successful at is to delay, delay, delay, mostly with the court's approval.

It is now time to allow plaintiffs to move forward with attempting to discover how many people were truly behind this smear campaign orchestrated by Mr. Abel against these plaintiffs and others so all the perpetrators of this scheme he concocted can be called to task and held responsible for their behavior.

It is respectfully requested that the stay be lifted and this matter be allowed to proceed forward with discovery and other necessary pleadings.

WHEREFORE, mover requests the court to issue a rule to show cause to Daniel G. Abel to appear before the court and show cause if he has any why the Court should not lift the stay order in this proceeding to allow discovery to proceed in this case, and to re-set the motion for protective order and for sanctions.

Respectfully submitted,



WILLIAM M. MAGEE, *in proper person*  
207 E. Gibson Street  
Covington, LA 70434  
Telephone: (985) 893-7550  
Facsimile: (985) 893-7596

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*[Signature]*  
MALISE PRIETA, CLERK  
DEPUTY

ORDER

CONSIDERING THE FOREGOING MOTION;

IT IS ORDERED, that Daniel G. Abel, appear before the court on the 9<sup>th</sup> day of January, 2013, and show cause if he has any why the court should not lift the stay order in this proceeding to allow discovery to proceed in this case, and to re-set the motion for protective order and for sanctions and further why he should not be cast with all costs of this proceeding.

Covington, Louisiana, this 11<sup>th</sup> day of December, 2012.

*[Signature]*  
JUDGE

PLEASE SERVE:

Daniel G. Abel  
2421 Clearview Parkway, Suite 106  
Metairie, Louisiana 70001