

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
FIRST MUNICIPAL DISTRICT
LECHNER AND SONS, f/k/a A.W. ZENGELER, INC., |
V | No. 07 MI 116723
AZTEC TRUCKING INC. |

2008 MAR 10 AM 8:30
RESPONSE TO JUDGE DONNELLY'S ORDER TO SHOW CAUSE

COMES NOW, Jaime Hernandez d/b/a Aztec Trucking INC., officer of the defendant corporation, proceeding Pro Se, files this Response to this Court's Order of January 28, 2008, with all written motions, orders, Notice of Appeal and exhibits combined and or incorporated herein, in construction with argument and statements to be made at hearing on February 10, 2008, and moves Judge Donnelly, or any judge sitting in his stead, to determine and adjudge this Respondent is not in contempt of this court's orders, as a matter of law and equity, and to consider this Response as part of Respondent's "Notice of Appeal" for action on the judgment at issue, and view and consider this response as a Cross Complaint as an affirmative defense, to lawfully empower this court to enter judgment against Petitioner, Petitioner's attorney and Scott Dillner, the third party Defendant, Hernandez d/b/a Aztec Trucking Inc., paid a cash retainer to, and for, Dillner's services as an Illinois licensed attorney.

In support of this Response, Appeal and Cross Complaint, Respondent Jaime Hernandez, d/b/a Aztec Trucking Inc., states the following;

1. Aztec Trucking Inc., should not be held in contempt of this Court's Orders due to the unlawful bifurcation, with knowledge and forethought, of the default judgment at issue in these proceedings, into a set of dual proceedings, contrary to Rule 135(a), absent any order or motion to create a supplementary action, and as an unlawful enforcement of a judgment, expressly stayed pursuant to 735 ILCS 5/2-1203(b), which all collection proceedings were stayed by operation of law, on 8/27/2007, with the Respondent filing a post judgment "1203" motion to vacate the default judgment, and all enforcement proceedings thereafter, stayed, would be unlawful, and that the unlawful enforcement of the default judgment at issue, is rendered void, and that, this court is prohibited from participating in an unlawful action of any party, by rule and Judicial Canon, and Hernandez moves the Court to view the enforcement orders entered by this Court in November of 2007, moot and unenforceable, that Respondent should not be held in contempt of orders issued as a result of the unlawful enforcement of a judgment, that same prohibited enforcement voids the judgment.

- A. Respondent acknowledges a contempt judgment entered by this Court is not appealable, but requests Judge Donnelly to view the actions of Petitioner as unlawful enforcement of a judgment as being shown cause sufficient not to hold this Respondent in contempt.
- B. Hernandez submits this Court's order of 11/19/2007, [tabbed exhibit #1, attached and enclosed], as face value evidence and a clear admission by Petitioner and Petitioner's attorney, the judgment could, and should have been vacated, and the

enforcement of said judgment is proceeding unlawfully and concurrent with, but separate from, the post-judgment hearings.

- C. The order entered by Judge Gorman, in this matter on 1/7/2008, [tabbed exhibit #2] evidences that as late as that hearing date, the judgment at issue could have been vacated, and is part of the subject matter of Aztec Trucking's Appeal Notice.
- D. The order of this Court, entered by Judge Gillespie on 9/5/07, [tabbed exhibit #3], is face value evidence the post-judgment motion to vacate, made as an oral motion at hearing on 8/27/07, was accepted by the court, and as a matter of law, Petitioner should have halted, or withdrawn all enforcement proceedings.
- E. Hernandez respectfully states his belief the Illinois Court of Appeals for the 1st Appellate District may reverse, void or nullify the judgment at issue for unlawful enforcement.
- F. Respondent asks the Court to consider if it would be fair and just to find this Respondent in contempt of reversible orders?

2. This matter was heard by Judge Donnelly on 1/28/08, whereat, the court denied Respondent to present the aforementioned arguments orally and present exhibits to the court, which may be a reversible judicial error of law, on appeal, for a denial of Hernandez's Right to due process. [U.S. Const, 14th Ammend.]

A. Pursuant to small claims court rules, all judges are required to here oral arguments and statements of facts.

3. Hernandez moves this Court take Judicial Notice of the entire Record and filings of this matter.

4. Aztec Trucking Inc., requests this Court take Judicial Notice of the Illinois Revised Statutes Agency statutes, Attorneys, Supreme Court rules and Illinois Code of Civil Procedure.

5. Respondent has filed a "Notice of Appeal and Request For Extension of Time" pursuant to Supreme Court Rule #303, [tabbed and lettered as attachment A], and as is evident in the Notice of Appeal, this hearing may be combined in the attached Notice of Appeal, and /or, Appealed pursuant to Rule 304, which would extend the time to file notice of appeal and file a motion to reconsider to April 10, 2008, before a docketing statement would be due with fee filing on May 12, 2008.

A. Hernandez moves this court take judicial notice of all filings, notice and orders as are the official record of this single cause of action.

B. Respondent moves this court grant a stay of enforcement of the instant judgment pending appeal pursuant to Rule 305.

C. Aztec Trucking moves the Court to grant a waiver of Appeal bond as Respondent is in business, will be in business, and believes the judgment will be reversed by the reviewing Court.

D. The filing of the Appeal Notice should be viewed by this Court as cause for not holding Jaime Hernandez in contempt of this court's orders.

6. Aztec, the Respondent, offers to the Court new evidence, [tabbed exhibit #4] as face value evidence, that Scott Dillner, attorney, was being paid a retainer for legal services concurrent with the time this default judgment was entered against J. Hernandez d/b/a Aztec Trucking.

A. This page is part of the public record in a Consolidated case of several MBE, trucking companies, 07 CH 26147, in the Circuit Court of Cook County Illinois, in which Jaime Hernandez d/b/a Aztec Trucking Inc., is a Pro Se' Plaintiff.

B. The only protection a client receives from paying an attorney a retainer is a guarantee of not having a default judgment entered against that client.

C. Scott Dillner is responsible and accountable for the default judgment, or payment thereof, should this default judgment not be voided or vacated by this court.

D. Scott Dillner may have falsely represented himself as Respondent's business agent, not attorney of record, causing Petitioner's attorney to plead such to this court regarding proper notice requirements.

ALTERNATIVELY,

John Lynch, as a "professional courtesy", may have conspired with Dillner, to falsify evidence of Scott Dillner's status as Aztec's attorney of Record.

E. Respondent moves the court to judicially ascertain the truth of Dillner's malpractice of law and deception.

F. As a matter of record in Petitioner's pleadings, Attorney Lynch did falsify evidence that Dillner was Aztec's business agent, and not Hernandez's Attorney, an action prohibited by both the "RPC" and the ILCS "Crimes and Punishment" sections.

G. In addition to being responsible for the default judgment, Illinois law and agency statutes permit and empower this court to enter a judgment against Scott Dillner, and his legal malpractice specialty insurance carrier, for an amount up to \$50,000.00, which Hernandez so moves the court to enter such award in favor of Hernandez and against Scott Dillner.

H. Lynch's unlawful actions empower this court to enter a judgment against Lynch, and his legal specialty insurance carrier an amount up to \$5,000.00, which this Respondent moves this court to enter judgment in favor of Aztec Trucking and against John Lynch.

I. The preceding attested to facts, should show this court Hernandez should not be held in contempt by this Court.

WHEREFORE, Respondent and Cross-complainant, moves this Court grant the following relief;

7. This Court decree Respondent Hernandez has shown good cause why he should not be held in contempt.

8. Determine and adjudge the default judgment entered against Hernandez is void for the unlawful enforcement proceedings and actions of the Plaintiff and Plaintiff's attorney.

Alternatively,

Adjudge and decree, if the judgment is upheld, that Scott Dillner be listed as the

judgment debtor, responsible and accountable for payment.

9. Adjudge and decree Scott Dillner, has violated and breached the ethical code of conduct for an attorney, and violated his agency and fiduciary obligations due Hernandez, and enter an award in favor of Jaime Hernandez and against Dillner in the amount of \$50,000.00.

10. Determine Petitioner and Petitioner's Attorney, have falsified evidence regarding notice requirements, and the unlawful bifurcation of a single action with an unlawful enforcement of a stayed judgment, and enter a judgment against John Lynch, and his legal malpractice insurance carrier, if any, for the amount of \$5,000.00.

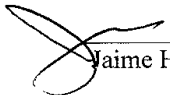
And in the alternative, if this court requires this matter goes up to Appeal;

11. Grant Movant Hernandez's motion for stay of enforcement.

12. Grant Hernandez's request for a waiver of Appeal Bond.

Wherefore, this affiant not sayeth further.

Sworn and Certified to be True,

 DBA Aztec Trucking Inc
Jaime Hernandez

Jaime Hernandez d/b/a Aztec Trucking Inc.
Pro Se'