SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

In the Matter of the Application of **Jose M. Arcaya, Ph.D., Esq.**

Petitioner

SUPPORTING DEPOSITION SUBPOENA OF ZOLTAN BOKA AND SCOTT GREENFIELD

Index No.: **16772/14**

-vs-

Zoltan Boka

Defendant

I am in receipt of Mr. Boka's motion to quash his subpoena and welcome the information accompanying that request. As I will indicate it has actually helped rather diminished my argument that he unfairly diminished my reputation. Indeed, that material, I believe, has worsened rather than advanced his defense.

1. In response to the defendant's claim that the reason for seeking this subpoena was merely to seek financial gain, its intention was to understand Mr. Boka's thinking when he decided to insert his malicious rating of me in Yelp. Thankfully, among other matters, he supplied the minutes of his April 1, 2014 hearing that shows exactly what took place during that Article 78 hearing.

2. A careful reading of that document reveals no hope ever existed to win his case along lines intended by Mr. Boka. Bright woman that she is, Judge Rakower was fully aware of the issues at play and ready to challenge every one of the arguments I made on his behalf (see pages 14-16.) Simply put, the case had no "there" there. Thus, I assert that no attorney could have ever won his case given the facts surrounding Mr. Boka's situation.

3. More specifically the judge noted that Mr. Boka had ample opportunity to develop and design his original research project (serving as a pre-Ph.D, examination) without immediate time pressures of any kind. She well-noted that Mr. Boka even had a second chance to complete the task if

the first submission failed. However, despite all the time in the world to complete the task properly, he failed again.

4. Mr. Boka's argued in that Art. 78 suit—highly edited by me—being the victim of a conspiracy, hatched by his professors and the counsel for the CUNY Ph.D., aimed at ejecting him from the Speech, Hearing, and Language (SHL) program.

5. However, he fails to explain why he had been similarly ejected in 2011 by the University of Louisiana at Lafayette (ULL) for insufficiency to do Ph.D. work in its Department of Communicative Disorders (DCD.) As in the CUNY situation, his ULL complaint reinstatement was heard throughout all university levels without success, then was argued in the lower Louisiana courts (lost), and finally appealed to Court of Appeal of Louisiana, Third Circuit. At that final point her charged unfairness against Dr. John W. Oller, Jr. (a world renown expert in language impairment matters), other DCD faculty members, and related ULL officials. Again, he lost for good.

6. Of particular interest regarding the ULL and Dr. Oller matter, the Third Circuit not only sustained the lower court's position, but went as far questioning Mr. Boka's contact with reality ("…*Mr. Boka conflated the suits [against two of his LLU professors] making arguments pertaining to the other and even involving parties not present in the current litigation.*"; see Exhibits #7, #8, and #9 in my original complaint.) Although in his "quashing of subpoena" response—supposedly referring to quashing his deposition order—he mentions everything lacking in me, no response is generated regarding my observation of Mr. Boka's pre-CUNY Ph.D. history.

7. Unfortunately that train of confusion appears to continue until the present day: believing that everyone is against him, blaming others for his own problems, and seeking retribution when his questionable behavior is brought to light by others (e.g., professors in his two, failed separate Ph.D. programs.) Despite that his case was a loser enterprise—although I tried my best to improve it in

every way possible—he persisted tilting windmills. I became his fall guy for not making possible such matters as sanctioning the CUNY Ph. D. legal counselor for conniving against him with faculty members, obtaining $87, 000 or in compensation for time wasted while pursuing his 2014 suit, immediate reinstatement back into the CUNY Ph.D. Speech, Language, and Hearing Department, etc. Instead, he blames me for being "unprepared" and "bumbling" without providing any counter-measure that could have undone Hon. Rakower's firm control of the courtroom and the issues at hand.

8. Mr. Boka (pg. 7 of his document) maintains I should argued his need to be "*provided with clear, written, detailed expectations and requirements for each assigned paper...etc.*" However, that directive (drawn from Dr. Sarah Bronson neuropsychological examination) was not intended to help him pass the qualification examination, but him master the entirety of all that constitutes a Ph.D. education. The report, as far as could tell, was aimed at providing him with accommodations in the classroom.

9. The qualifying Ph.D. examination, requiring the creation of an original research proposal that would be followed-up by measurements of real individuals, was left up to the student. Moreover, it was a take-home activity with no need for extra-time, absence of books, or even commiseration with fellow students. The result was that Mr. Boka received negative feedback after the first exam and also on the second. In my lawsuit I noted having warned him that the failure-of-accommodation argument would probably fail (see Exhibit #5 accompanying the original summons and complaint.)

10. On another front he also charges me making fun of his medical condition because of my 4/10/14 email "*Memory problems*" quip. However, in no way could that statement been have been confused with mockery. Dr. Bronson's June 11, 2012 neuropsychological report, to which Mr. Boka refers when requesting accommodations, clearly indicates that nothing being wrong with his memory.

As is noted in the very first page of that document, Dr. Bronson reports his "Working Memory Index" as falling "Very Superior" range (WMI = 141). It was far from Mr. Boka's area of weakness. Being trained in neuropsychology myself—as part of my other NYS licensed psychologist profession—I knew that Boka's brain problem, instead, concerned spatial-visual matters. Thus, had I called him as a "lost puppy" or something along those lines, then a mockery charge might have been relevant. In this case it was not. Instead, my statement was ironic, fueled by the frustration of not receiving just compensation for my long hours of work on his behalf.

11. Thus, a more ridiculous assertion could not be made than Mr. Boka's claim that the memory quip was a deliberate effort on my part to *"attempt to mock or exploit his condition...akin to telling a man with hearing problems that he must have misheard you when he didn't...The respondent was well within his right to conclude that the Petitioner's comment was ...an underhanded reference to Respondent's medical issues."* It would be equivalent to making fun of Michael Jordan by "underhandedly" claiming him a lousy basketball player when all facts point distinctly in another direction.

12. Regarding the matter of whether "absolute scumbag" should be deemed defamation per se rests with the present court. Mr. Boka trots out a series of cases indicating the word "scum" and "scumbag" do not fall in that category. However, by adding the word "total" he impugns everything about me, including character and capacity to carry-out legal work. It coincides well with the Dillon-standard of defamation per se: a maliciously intended attack on my professional capabilities, an all-encompassing put-down (i.e., "absolute scum", not just "scumbag" or "scum"), questionable evidence supporting the denunciation (my memory quip), and outlandishly using my statement "Memory problems " completely out of context.

13. Beyond all of the preceding there is a strong whiff in this case of intimidation. Two days after serving Mr. Boka with my summons and complaint I was called by an unknown individual, Scott Greenfield. He claimed to be well-known blogger arena. He also stated that his call was intended to be friendly advice that I should not continue with this case lest, if I won, then the consequence would be that "hundreds of thousands" individuals bent on keeping the internet "free" would attack internet presence.

14. He claimed that the "gang" would never see the light of my website, profile, or any anything related to my person on the internet. It would follow therefore, Greenfield indicated, that my professional standing would be at an end. He added that not being part of that group, but took it on himself to call me because another blogger told him that danger was on my horizon (or words to that effect.) After listening to all that he said, I told Mr. Greenfield that I would call him back following the finishing of work that then needed my attention.

15. A couple of hours later I returned his call, asserting that I was still going forward with the lawsuit. I also thanked him for his "warning", but left with the deep suspicion that he probably was talking for himself, not for someone else (the mysterious second blogger.)

16. In any case, his call was made on 11/21/14 which I then traced back to Greenfield's office—ironically quite close to my own. I was surprised to discover that, beyond being a blogger, Greenfield was also was also a licensed NYS attorney.

17. On 2/26/15 he was served with a Notice to take Deposition Upon Oral Examination. Its purpose was to determine what he knew of that supposed cyber gang. I also sought information about any dealings he might have had with Mr. Boka. However, he summarily refused to accept the subpoena (the process server reported that Mr. Greenfield ordered that it be given to his secretary while he sequestered himself behind his closed, office-door) Soon after that failed summons he called me,

declaring that he would not attend my March 19th deposition request. He also warned me that if I insisted in pursuing the matter, he would seek sanctions "pursuant to Rule 130-1.1 et seq., of the Rules of the Chief Administrative Judge. That message was followed-up with written correspondence stating the same (see Exh. #1).

18. Abandoning any further attempt to have him testify, I wrote instead to the Supreme Court, Appellate Division, First Judicial Department requesting that Attorney Greenfield be investigated relative to his associates and the threat he delivered. Again, while I have no evidence that he was part of that illegal gang, as a lawyer Greenfield still should not have served as a conduit for that criminal enterprise. Rather than calling me Greenfield should have contact the Attorney General's office or the police to denounce what he had learned. Because of his failure to uphold the principle of propriety as a server of the law, I lodged a complaint the First Department's Discipline Committee (see dr1-103 [1200.4]. "Discovery of information to authorities.") (See Exh. #2).

19. Furthermore the Greenfield exchange causes me to suspect Mr. Boka involvement in the 11/21/14 phone call. How did Greenfield or the "other blogger know so readily of the Boka lawsuit? The call came two days after the Boka summons. Only two possibilities explain what happened: either Mr. Boka asked Greenfield to carry-out the intimidation himself or got another blogger to pass the word on to Greenfield—"Get Arcaya."

20. If only to explore that matter more thoroughly I assert that my deposition request should be quashed. More than ever it is needed to discover the machinations bent on frustrating or destroying my lawsuit.

21. With respect to the fee business (VI. Fiduciary Claims), Mr. Boka does not complain in his 04/01/14 email where I request further payment (Exh. 4 of original complaint.) He instead denounces Judge Rakower for making inaccurate claims, failing to pay attention to the Bronson report,

failing to investigate if CUNY complied with NYC human rights, etc. Further while acknowledging having paid me just $6000, he does not challenge my request for the final $2000 still due. Also his last pay-out check is absent any "final payment" notation, as is customary with the ending of most contracts. Thus, Mr. Boka knew that more money was due me given my lengthy service to his cause, but withheld payment because he did not get his on this case.

22. Time pressures at this point limit me from writing a longer response to Mr. Boka's claim. I must have assurance that the requested deposition can take place on March 19th of this year at 10:00 AM. In the meantime I will keep Honorable Taylor of all happenings occurring in the meantime. At the very least I certainly expect that Mr. Greenfield will not be happy with this turn of events.

Dated: March 11, 2015
New York, New York

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