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IN THE CIRCUIT COURT OF THE 17TH  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

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MOHAMMED N. ISLAM, )  
 )  
Plaintiff, ) CASE NO.: 07-013797 09  
 )  
vs. )  
 )  
ALEXANDER W. ANDERSON, )  
 )  
Defendant. )

-----X

201 Southeast 6th Street  
Fort Lauderdale, Florida  
June 12, 2008  
11:10 o'clock a.m.

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APPEARANCES:

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BRUCE DAVID GREEN, P.A.  
By: BRUCE DAVID GREEN, ESQUIRE  
Appearing on behalf of the Plaintiff.  
  
ROIG, KASPEROVICH, TUTAN & WOODS, P.A.  
By: STEVEN R. WOODS, ESQUIRE, AND  
JENNA HACKMAN, ESQUIRE  
Appearing on behalf of the Defendant.

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The above-styled cause came on for  
hearing before the Honorable ROBERT ANDREWS,  
Presiding Judge, at the Broward County Courthouse,  
Fort Lauderdale, County of Broward, State of Florida,  
on the 12th day of June, 2008, commencing at 11:10  
o'clock a.m.

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THEREUPON:  
The following proceedings were had:  
THE COURT: Everybody put their appearance  
on the record, please.  
MR. WOODS: Steven Woods representing  
Alexander Anderson in this suit.  
MR. GREEN: Bruce Green for Mr. Islam.  
THE COURT: Proceed. Who are these  
people?  
MR. GREEN: These are the witnesses.  
MS. HACKMAN: Jenna Hackman for the  
Defendant.  
MR. WOODS: All right. Your Honor.  
Steven Woods, I represented Alexander Anderson  
in this lawsuit filed by Mohammed Islam. That  
lawsuit was dismissed, voluntarily dismissed on  
behalf of Mr. Islam recently, but these motions  
are pending as a result of the difficulties that  
we had getting discovery in this case.  
we have before you today a Motion For Rule  
to Show Cause as to non-party witness, Jackie  
Walker; one as to Michael Denker; and two as to  
Mark Izydore. I don't know how much you want me

24 to go through them. They are quite detailed.

25 THE COURT: Let's hear it.

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1 MR. WOODS: Okay. With regard to Michael  
2 Denker -- This is a personal injury case. With  
3 regard to Michael Denker, I was representing the  
4 Defendant, Alexander Anderson in this car  
5 accident case. The witness (sic) had a  
6 procedure known as a percutaneous diskectomy.

7 We were before Your Honor on a status  
8 conference, I kind of described the difficulties  
9 that we were having in getting discovery  
10 including some people that we subpoenaed that  
11 did not show. Michael Denker is one of those  
12 people. Michael Denker, Jackie Walker, and Mark  
13 Izydore were all represented as non-parties in  
14 this lawsuit by one attorney, not Mr. Green.  
15 Mr. Green filed an appearance once the contempt  
16 motions were filed. But the attorney was Steven  
17 Robins. He represented these three folks here  
18 along with the doctors and various other medical  
19 non-parties that we subpoenaed.

20 And we basically got the same thing with  
21 all three of these individuals from Mr. Robins.  
22 We served them. We wanted to take their  
23 depositions. Varying degrees, but at least a  
24 month with respect to all of them went by  
25 between the time of service and the time that

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1 their depositions were set. And then uniformly,  
2 Mr. Robins at the 11th hour, either on the day  
3 of the deposition or the Friday before the  
4 deposition would fax out a Motion For Protective  
5 Order and Notice of Appearance claiming that the  
6 depositions were cancelled as a result of his  
7 Motion For Protective Order. And they filed  
8 affidavits along with those motions alleging  
9 that they didn't know anything about anything.  
10 Essentially that they didn't have any  
11 connections with anybody and that we were just  
12 trying to harass them.

13 If they wanted to take that position they  
14 needed to get that before the Court. And the  
15 Court could decide whether that was the case or  
16 not. And then if the Court decided to allow the  
17 depositions to go forward then they were free to  
18 answer however they wanted to answer. If they  
19 wanted to answer that they didn't know anybody  
20 and they didn't know anything, so be it. But  
21 that never happened. We just got these 11th  
22 hour motions for protective order claiming  
23 basically that they have no involvement in this.

24 We don't believe that that's the case or  
25 at least we believe we had a good faith basis

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1 for taking their depositions to find out more  
2 about the medical expenses and the procedure  
3 that was utilized in this case.

4 And so that happened with regard to Mr.  
5 Denker, that happened with regard to Jackie  
6 Walker. We served her, we got the same Motion  
7 For Protective Order from Mr. Robins at the  
8 last - 11th hour kind of thing. I think we got

9 it on a Friday before a Monday deposition.

10 And just incorrectly claiming that because  
11 he filed a Motion For Protective Order that the  
12 depositions were off, which of course that  
13 doesn't automatically cancel a deposition.  
14 Nobody from Mr. Robins' office contacted us to  
15 try to schedule any kind of emergency hearing on  
16 a Motion For Protective Order, just it's off and  
17 then nobody appeared.

18 With regard to Mark Izydore, the same  
19 thing happened. He was the first one. We got  
20 his Motion For Protective Order at 8:00 in the  
21 morning while I was on my way to his deposition  
22 from Mr. Robins over the fax machine. And  
23 clearly that was some game plan because it came  
24 across with a fax cover that says: in case you  
25 didn't get what I mailed you on Friday - well,

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1 it was 8:00 in the morning on Monday. That was  
2 intentionally calculated, I believe by Mr.  
3 Robins to not have this brought before the Court  
4 or not give anybody time to do anything.

5 So of course, nobody appeared for that  
6 deposition. And then we filed a second motion  
7 with regard to Mark Izydore. That motion is  
8 because of the content of Mr. Izydore's  
9 affidavit that was attached to the Motion For  
10 Protective Order. And we have filed that  
11 affidavit and then we filed some information  
12 that we've attached to the second motion, which  
13 shows that that's a misleading affidavit.

14 The affidavit of Mr. Izydore is attached  
15 and it essentially - and pertinent part, you  
16 know, it indicates that he's not employed by any  
17 doctor, medical facility, or company that  
18 provided any product, service, or treatment to  
19 the Plaintiff. And he's not a shareholder,  
20 officer, director, managing member, managing  
21 agent of any doctor's office, medical facility,  
22 or company that provided any product, service,  
23 or treatment to the Plaintiff.

24 We filed just a couple other things,  
25 rather than getting into all the detail of this.

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1 We filed what we think is sufficient to show  
2 that that's a misleading affidavit.

3 Doctor Kugler, who performed the procedure  
4 on Mr. Islam in this case, happened to have been  
5 deposed after - in a separate case, separate  
6 attorney, all that, but we found that  
7 deposition. And Doctor Kugler was deposed after  
8 Mr. Izydore filed his affidavit. And we've  
9 outlined that in the motion. And Doctor Kugler  
10 made it clear - he was talking present tense -  
11 after Mr. Izydore had already represented he  
12 didn't work for any of these individuals - that  
13 Mr. Izydore oversees his practice and performs  
14 services for him, et cetera.

15 We've outlined exactly some of the  
16 pertinent testimony about Mr. Izydore working in  
17 his office. And that was after Mr. Izydore  
18 filed the affidavit.

19 The other thing that was attached and

20 verified by the notary who actually notarized  
21 his signature, was an exclusive management  
22 agreement between Doctor Kugler and Palm Beach  
23 Practice Management, that is attached for Your  
24 Honor. That had a term of three years, which  
25 expired in 2007. But even though Mr. Izydore

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1 isn't like named as a party to the contract,  
2 it's clear - there's a paragraph in the contract  
3 that says - and this is with Doctor Kugler who  
4 performed the surgery - In Paragraph 16 of that  
5 contract it says: Personnel: Gary D. Carol and  
6 Mark Izydore agree to be personally involved in  
7 manager's performance of its duties to J.L.K.,  
8 that's Doctor Kugler under this agreement.  
9 Their individual signatures below are being  
10 given as evidence thereof. Mr. Izydore further  
11 agrees to be present at J.L.K.'s practice  
12 location on Palm Beach Lakes Boulevard, West  
13 Palm Beach or 3618 Lantana Road in Palm Beach  
14 County, all or part of four out of five  
15 business days each week, that's Monday through  
16 Friday. And Mark Izydore signed that.

17 And so, it's clear, you know, Doctor  
18 Kugler - even after Mr. Izydore signed and filed  
19 that affidavit to the Court attempting to make  
20 it look like he had no connection with Doctor  
21 Kugler, Doctor Kugler is off in another case  
22 testifying in the present tense that Mr. Izydore  
23 helps oversee him in the running of his  
24 practice. There are, you know, extreme lengths  
25 that have been gone to in this case to fort our

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1 discovery and basically obstruct the  
2 administration of justice in this case. And  
3 that's why we have filed the motions.

4 Mr. Izydore's affidavit was clearly an  
5 attempt to mislead the Court, and he evaded  
6 service, didn't show up for a deposition. And  
7 all three of them have the same lawyer. And he  
8 filed these last minute motions for protective  
9 order and nobody appeared in response to my  
10 subpoenas in this case.

11 THE COURT: Response, Bruce?

12 MR. GREEN: Your Honor, this is a criminal  
13 proceeding, I take this as opening argument of  
14 Counsel. I would like the parties that are  
15 going to be testifying sworn in. I want  
16 jeopardy to attach and then I'll make my  
17 argument.

18 THE COURT: I'm going to refer this to the  
19 State Attorney's Office. I don't think it  
20 really -- at this moment I'm going to defer on  
21 the indirect criminal contempt. I'm going to  
22 send it up to the State Attorney's Office to  
23 determine whether criminal charges should be  
24 filed against him.

25 MR. WOODS: Very well.

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1 THE COURT: Give me everything you've got.

2 MR. WOODS: Here are the motions.

3 THE COURT: Give me the trial transcripts  
4 that you say support the position that they have

5 committed perjury in an affidavit to the Court.  
6 MR. GREEN: Well, at this moment, Your  
7 Honor, you may choose to do that, you may. But  
8 these motions that resulted in the issuance of  
9 the orders to show cause that we are actually  
10 here before the Court on this morning, are  
11 legally insufficient.

12 THE COURT: why?

13 MR. GREEN: Because there's no affidavit  
14 as required by Rule 3.840A, none of them. And  
15 there's an abundance, I mean, I'll share it with  
16 you. I mean --

17 THE COURT: I'll take your word for it,  
18 Bruce. You've practiced before me. I trust  
19 you.

20 MR. GREEN: Absent the affidavit, the  
21 Court cannot rely on the unsworn motion of  
22 Counsel to issue an indirect order to show  
23 cause.

24 THE COURT: That's why I'm not going to be  
25 ruling today. It's deferred pending him

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1 replying in written form. You send me over a  
2 memorandum saying why it's deficient, he has  
3 five days to respond. In the interim I'll send  
4 this to the State Attorney's Office.

5 MR. WOODS: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 (Whereupon, the taking of the deposition  
8 was concluded at or about 11:25 o'clock a.m.)  
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1 CERTIFICATE

2  
3 STATE OF FLORIDA )  
4 ) SS:  
5 COUNTY OF BROWARD)

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7 I, TERRI L. WRIGHT, Certified Shorthand  
8 Reporter, certify that I was authorized to and  
9 did stenographically report the foregoing  
10 proceedings and that the transcript is a true  
11 record.

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13 Dated this 12th of June, 2008.  
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TERRI L. WRIGHT  
Certified Shorthand Reporter

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