

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

CASE No. 09-059301

STUART A. ROSENFELDT, individually,
and ROTHSTEIN ROSENFELDT, ADLER, P.A.
a Florida corporation,

Plaintiffs,

-vs-

SCOTT W. ROTHSTEIN, individually,

Defendant.

HEARING BEFORE THE HONORABLE
JEFFREY STREITFELD

Monday, November 23, 2009
2:06 p.m. - 2:43 p.m.

201 SE Sixth Street
Room 970
Fort Lauderdale, Florida 33401

Reported By:

Pamela J. Sullivan, RPR, FPR, CLR

Prose Reporting Agency, Inc.

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1 APPEARANCES:

2 HERBERT STETTIN, ESQUIRE, TRUSTEE
3 5401 Hammock Drive
4 Coral Gables, Florida 33156-2105
5 305.663.3374

6 KENDALL COFFEY, ESQUIRE
7 COFFEY BURLINGTON
8 Office in the Grove, Penthouse
9 2699 South Bayshore Drive
10 Miami, Florida 33133
11 305.858.2900

12 JOSEPH S. GELLER, ESQUIRE
13 STEVEN GELLER, ESQUIRE
14 GREENSPOON MARDER, J.
15 18851 [REDACTED] 29th Avenue
16 Suite 406
17 Aventura, Florida 33180
18 305.940.8440

19 CHARLES H. LICHTMAN, ESQUIRE
20 BERGER SINGERMAN, ATTORNEYS AT LAW
21 350 East Las Olas Boulevard
22 Suite 1000
23 Fort Lauderdale, Florida 333301
24 954.525.9900

25 MICHAEL J. PIKE, ESQUIRE, ESQUIRE
BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
303 Banyan Boulevard
Suite 400
West Palm Beach, Florida 33408
561.842.2820

(CONTINUED)

1 PROCEEDINGS

2 ---

3 THE COURT: Good afternoon.

4 MR. STETTIN: Good afternoon, Judge.
5 Herbert Stettin, the court-appointed receiver and
6 chief restructuring officer in this.

7 First thing I would like to report to the
8 Court -- and I know you had expressed interest in
9 this -- is the United States Trustee appointed me
10 as the Chapter Eleven Trustee on late Friday
11 afternoon.

12 THE COURT: Well, we welcome you, sir.

13 MR. STETTIN: May I give the Court a copy of
14 it? (Handing up to the Court.)

15 Procedurally what will happen next --

16 THE COURT: I guess you wish you had been out
17 of town when I called you; huh?

18 MR. STETTIN: Procedurally, what will happen
19 next in the bankruptcy is that there is a hearing
20 tomorrow before Judge Ray. He is expected to enter
21 an order approving that appointment. And when I
22 post the bond, I will then start acting as the
23 trustee -- in fact, I think I am entitled to act as
24 the trustee at this point, after the appointment by
25 the United States Trustee.

1 APPEARANCES CONTINUED:

2 WILLIAM R. SCHERER, ESQUIRE
3 JAMES D. SILVER, ESQUIRE
4 CONRAD & SCHERER, ATTORNEYS AT LAW
5 6333 South Federal Highway
6 Fort Lauderdale, Florida 33301
7 954.847.3362

8 WARREN R. TRAZENFELD, ESQUIRE
9 WARREN R. TRAZENFELD, [REDACTED]
10 3225 Aviation Avenue
11 Suite 700
12 Miami, Florida 33133-4741

13 Also Present:

14 Richard A. Pollack, CPA

1 There were a series of orders entered by
2 Judge Ray, as well. And I'll certainly be happy to
3 give you a copy of them. Essentially, he ordered
4 the appointment of a Chapter Eleven trustee. He
5 denied the objection of the United States Trustee
6 to my acting as the chief restructuring officer,
7 saying it was moot because there was going to be a
8 trustee.

9 THE COURT: I think I have some of those.

10 MR. STETTIN: He authorized me to make some
11 payments, including the ones we had talked about,
12 which are to pay the medical insurance for the
13 employees.

14 THE COURT: Yeah, I have these ones.

15 MR. STETTIN: Good. You've got them. Thank
16 you.

17 I have reported to Judge Ray, and if you will
18 give me a moment, I'll report to you essentially
19 where we are at this point.

20 THE COURT: I'll give you as much time as
21 you'd like.

22 MR. STETTIN: Jurisdiction, in fact, is in
23 the bankruptcy court over the assets of the debtor.
24 That's the Rothstein, Rosenfeldt and Adler firm.
25 This Court's continuing jurisdiction will be,

1 in my opinion over two things. The first will be
2 tomorrow at hearing we're going to ask whether or
3 not Judge Ray wants to have this Court fix the
4 professional fees for myself and the accountants
5 that I had retained under your order for their
6 services during the receivership. It seems to me
7 it's appropriate to do that, but it's Judge Ray's
8 call. If he does that, then this Court would set
9 those fees, and they would be paid by me, as
10 trustee of the bankruptcy estate.

11 The second thing would be there's already at
12 least one pending suit that I know is in this
13 division, filed by Mr. Scherer. There probably
14 will be others that will come before you. As long
15 as they don't name the debtor and they don't
16 involve the assets, which are only those of the
17 debtor, then it's entirely appropriate for this
18 Court to continue its jurisdiction over those
19 cases. And, in fact, there may be some instances
20 where we would welcome that, as well. We think
21 it's appropriate to do that.

22 THE COURT: Well, that's really the
23 fundamental issue, because the pending lawsuits,
24 including the recently filed Tome (phonetic) by
25 Mr. Scherer, does name the firm as a Defendant.

1 MR. STETTIN: It does not.

2 THE COURT: It does not?

3 MR. STETTIN: Does not. He was careful to do
4 that.

5 THE COURT: All right.

6 MR. STETTIN: One of the orders that you'll
7 have there is an order enforcing the stay imposed
8 by Section 362 of the Bankruptcy Code against any
9 actions taken against the debtor or its property.

10 THE COURT: Okay.

11 MR. STETTIN: Mr. Scherer was very careful
12 not to name the debtor.

13 THE COURT: Okay. Well, there are others
14 that do.

15 MR. STETTIN: There are. They will be
16 stayed, as against the debtor. But if they name
17 other Defendants who are not in bankruptcy, there's
18 is no stay.

19 THE COURT: Well, have you -- I assume it's
20 premature, but have you set a time when you are
21 going to report to the Court in the bankruptcy
22 whether or not adversary claims against the law
23 firm will or will not be allowed to proceed in
24 state court?

25 MR. STETTIN: I'm not sure. It's the subject

1 of a report to the Court. But I can tell you that
2 it's an active discussion right now. And our view
3 of it is that there are some claims that should be
4 brought in in this court.

5 THE COURT: All right. So you're going to
6 wait and see, and then --

7 MR. STETTIN: It will work out over time.

8 THE COURT: -- evaluate that on a
9 case-by-case basis?

10 MR. STETTIN: Yes, sir.

11 THE COURT: And no particular timetable on
12 that?

13 MR. STETTIN: Not a particular timetable, but
14 it will be fairly soon. There are so many
15 investigations going on now from the authorities,
16 as well as the bankruptcy estate, as well as
17 others. I wish I could be more specific, but I
18 think it would be premature to start speaking about
19 them now.

20 I can tell you that we are -- and this is
21 important -- we are heavily involved in making sure
22 that clients' rights of the firm are being
23 protected.

24 We met with the Florida Bar. They're in full
25 agreement with what we're doing, and that would be

1 to ensure that the files taken by lawyers who were
2 formerly with the firm and now want to take those
3 files with them, we're making sure that they get
4 copies of those files. We're making sure that the
5 lawyers' calendars are made available to them.

6 We're also making sure that, to the extent we
7 can, if there's any money owed the firm, we're
8 trying to make sure that, when we turn the files
9 over, we can have some arrangement as to payment.

10 Those clients whose lawyers are not
11 continuing, we're making arrangements to notify
12 them, as I think the law requires, of their option
13 to hire another lawyer to represent them, and it's
14 in their interest to do that.

15 We're also making sure that any clients who
16 are owed money by the firm, and there are a number,
17 are given the opportunity to file a claim in the
18 bankruptcy estate, so that they can protect their
19 interests.

20 THE COURT: Well, my understanding is that at
21 this point all of those issues are no longer within
22 my jurisdiction.

23 MR. STETTIN: I think you're right.

24 THE COURT: The issue of the continuation of
25 the law firm, how, when and under what

1 circumstances it should be dissolved --

2 MR. STETTIN: It won't be dissolved.

3 THE COURT: -- will be done by Judge Ray.

4 MR. STETTIN: Essentially, yes.

5 THE COURT: What do you mean, essentially?

6 MR. STETTIN: Well, whether or not the firm
7 should be dissolved may be a decision that will be
8 made when, later in the case, whether or not a plan
9 of reorganization would be proposed.

10 THE COURT: But all of that is no longer
11 within this court.

12 MR. STETTIN: You're right.

13 THE COURT: The only aspects of that, really,
14 that remain are if Judge Ray should decide
15 accordingly, I will make a determination as to what
16 you should be paid during the time that you, the
17 CPA firm and Berger Singerman were working under
18 this Court's jurisdiction. At that point, I assume
19 you're going to voluntarily dismiss this action.
20 Or do you want to stay?

21 MR. STETTIN: I had not really considered the
22 prospect of dismissing the action. It's probably
23 correct to say that. I would like the opportunity
24 to talk to the lawyers about it first.

25 THE COURT: Well, at least you'll be stayed.

1 MR. STETTIN: Yeah. Yes. Oh, it is stayed
2 now.

3 THE COURT: Well, that I understand. But I
4 mean formally stayed.

5 MR. STETTIN: Yes.

6 THE COURT: Other than unless the bankruptcy
7 court should dismiss for some reason, in which case
8 this could come back. I think this case should be
9 dismissed, truly.

10 MR. STETTIN: I understand. And I'll make
11 that point when we speak to my counsel.

12 THE COURT: So I have other parties here. Is
13 there someone who wishes to be heard on any motion
14 this afternoon?

15 MR. JOSEPH GELLER: Yes, Your Honor.
16 Joseph Geller of Greenspoon, Marder.

17 THE COURT: Yes, sir.

18 MR. JOSEPH GELLER: Accompanied today by my
19 brother, Steven Geller.

20 We have filed on behalf --

21 THE COURT: Younger or older?

22 MR. JOSEPH GELLER: That's my younger
23 brother.

24 THE COURT: Okay.

25 MR. JOSEPH GELLER: We filed on behalf of a

1 Florida political committee as CCE, known as
2 Floridians for a Stronger Tomorrow.

3 THE COURT: Right.

4 MR. JOSEPH GELLER: That entity received a
5 \$50,000 personal contribution from Mr. Rothstein,
6 was not from the firm. But we have sought this
7 Court's permission to deposit those funds by way
8 of --

9 THE COURT: Not appropriate. It's not
10 appropriate.

11 MR. PIKE: I'm sorry, Judge.

12 THE COURT: If you need time to chat, I'll
13 certainly give you that chance.

14 Well, okay. So what is the position of the
15 law firm and receiver now, the trustee?

16 MR. JOSEPH GELLER: Well, I'll let them speak
17 for themselves, Judge. Just to say that we filed a
18 complaint and also a motion for interpleader.

19 THE COURT: Uh-huh.

20 MR. JOSEPH GELLER: Who those funds properly
21 should go to at this point is certainly beyond our
22 decision-making ability. It's our belief that
23 these monies should be subject to the jurisdiction
24 of this Court by being placed in the registry of
25 the Court. And at that point the committee would

1 be relieved of further responsibility.

2 THE COURT: I need your papers. I have no
3 motion, notice of hearing.

4 MR. JOSEPH GELLER: Okay. Your motion and --
5 okay. I don't believe -- let me see if I have a
6 copy of the notice of hearing, as well. I know it
7 was furnished to your office. Yes, I do.

8 Now, it may be the case, Judge, from what I
9 heard, because when we filed there was no
10 bankruptcy, that having named RRA in an abundance
11 of caution, which is what we did, is an impediment
12 to our going forward. If necessary, we could -- I
13 don't know that they have any rights to these
14 funds. And if the Court deemed it necessary, we
15 could dismiss them.

16 There is -- again, I don't want to speak for
17 any of the myriad of wonderful lawyers --

18 THE COURT: Well, have you spoken to them?

19 MR. JOSEPH GELLER: I had a brief
20 conversation. Apparently, there is some interest
21 in having the funds placed other than in the
22 registry of the court, to avoid the apparently not
23 inconsiderable fee for a deposit into the registry
24 of the court, though I believe Your Honor has the
25 authority to waive that fee in a case like this,

1 where it is in the public interest and not private
2 interest.

3 We are waiving our costs and fees, we've
4 waived reimbursement for the filing fee, we've
5 waived reimbursement for any costs or fees
6 associated with this. That's being borne by the
7 political committee in an effort to maximize the
8 amount of recovery that is available to whoever it
9 may be ultimately determined is entitled to these
10 monies.

11 I believe Your Honor has the authority in
12 such a case to waive the fee for a deposit, whether
13 some alternative private trust account, as I
14 believe you'll hear is being considered, would
15 serve the other purpose my client seeks here, which
16 is to be relieved of any and all further
17 responsibility whatsoever for the disposition of
18 these funds, as opposed to making a private
19 agreement not ordered by the Court to have the
20 funds held in some other fashion. I'll leave it to
21 Your Honor's wisdom and that of the very wise
22 lawyers before us.

23 Thank you, sir.

24 MR. STETTIN: May I respond?

25 The conversation that he referred to is one

1 occurred, when your esteemed, much younger
2 brother --

3 MR. JOSEPH GELLER: Much younger.

4 THE COURT: -- brought this to my attention
5 through a letter, I immediately faxed that to
6 Mr. Coffey -- my extremely gifted assistant fax'd
7 that to the parties in this case, basically saying,
8 I'm bringing this to your attention. And I think I
9 advised him in the response letter that if you
10 believe -- because the letter suggested that an
11 interpleader might be filed -- if you think that is
12 appropriate, proceed to file it.

13 And I had hoped that between then and now
14 there had been every effort made to get to the
15 bottom of where that money came from and come up
16 with a practical resolution of how to address it,
17 since Mr. Rothstein so far has not been asserting
18 any interest in any court proceeding, to my
19 knowledge, either in this building or the one a
20 couple of blocks up the street.

21 So it's a lot of -- a lot of people are
22 spending a lot of time and money for not a lot of
23 reasons.

24 MR. JOSEPH GELLER: If I may respond,
25 Your Honor, I did have the opportunity --

1 briefly before you came into the courtroom. I
2 suggested to him that the appropriate place for
3 that money would be in a separate segregated
4 account that I would hold as trustee. It would be
5 available if anyone asserted a claim against it.

6 And I don't understand Mr. Rothstein to
7 assert a claim against it. In fact, our view is
8 very simple: That money came from the firm; it
9 didn't come from Mr. Rothstein. He was simply the
10 fellow who wrote the check.

11 And I'm perfectly happy to hold those funds
12 in escrow while we continue our efforts to recover
13 back all of the money.

14 THE COURT: Have you confirmed that it was a
15 firm account that those funds came from?

16 MR. STETTIN: We don't know that yet.

17 MR. JOSEPH GELLER: It was a personal check
18 from Mr. Rothstein.

19 THE COURT: Well, okay. But on what bank
20 account, is the question? Do you have a copy of
21 the check?

22 MR. JOSEPH GELLER: I don't believe I have
23 one here.

24 MR. STETTIN: Neither do we, Your Honor.

25 THE COURT: Truly, so we understand what

1 MR. STETTIN: If I might, first?

2 MR. JOSEPH GELLER: Of course, Mr. Stettin.
3 Always.

4 MR. STETTIN: Referring to what you said
5 before, if we choose to dismiss the case, we may
6 have this orphan account there, with no case
7 pending, another reason why it should be put in a
8 proceeding where it is safe, is available to anyone
9 who asserts a claim.

10 THE COURT: Well, this is a separate action.
11 This actually --

12 MR. STETTIN: Oh, you filed a new suit?

13 THE COURT: Excuse me. 09-62619 is a
14 separately-filed suit assigned to this division,
15 Floridians for a Stronger Tomorrow. And one could
16 hardly argue with that.

17 MR. STETTIN: I misunderstood.

18 THE COURT: Scott Rothstein of Rosenfeldt,
19 Rothstein and Adler.

20 So it's been assigned to me because of the
21 administrative order put together in a really quick
22 method. So whether or not the receivership action
23 is dismissed will not affect this.

24 But my concerns are: One, you have named the
25 law firm as a defendant, so the stay and relief

1 does affect my jurisdiction to proceed. And right
2 now it remains to be determined whether or not
3 Mr. Rothstein will be competing with the law firm
4 for that money. So the suggestion that you put it
5 in a segregated account makes sense.

6 Now, whether or not you agree to do it under
7 Mr. Stettin's authority or just notifying me what
8 you've done, that you're holding the money, which
9 you're free to. But I don't know, even under the
10 best of circumstances and the best relationship
11 with Mr. Foreman, that I have the authority to
12 waive his fee. And that doesn't exist currently --
13 certainly monetarily. So...

14 MR. JOSEPH GELLER: If I might respond,
15 Your Honor?

16 THE COURT: Yes.

17 MR. JOSEPH GELLER: I did have the
18 opportunity, though I've not spoken with
19 Mr. Stettin on this matter, having spoken with him
20 numerous times about numerous other matters, to
21 speak either with him or with his counsel
22 Mr. Lichtman. I did have the opportunity to speak
23 with Mr. Coffey on Friday.

24 I can, if it would assist the Court, proffer
25 to the Court and, if necessary, by way of

1 being dragged into future litigation. It is at
2 this point, having renounced any claim whatsoever
3 to the funds, or even, as I said, the costs or fees
4 related to the interpleader action, it is a true
5 stakeholder.

6 And if some aggrieved party were to come
7 along later and name Floridians for a Stronger
8 Tomorrow and attack its private agreement to place
9 the funds into some type of escrow or trust
10 account, we don't wish to be in a position where we
11 have to defend that.

12 THE COURT: Okay. So, first, have you served
13 Mr. Rothstein with this?

14 MR. JOSEPH GELLER: We served the documents
15 only upon counsel in the sense this was an
16 emergency hearing.

17 THE COURT: Did he accept service?

18 MR. JOSEPH GELLER: We have not spoken
19 directly with Mr. Nurik and have not --

20 THE COURT: But you delivered copies of these
21 papers with a notice bearing upon Mr. Nurik?

22 MR. JOSEPH GELLER: They were served by fax
23 and by e-mail, Your Honor.

24 THE COURT: So here's what I'm going to do:
25 As far as I'm concerned, the safest way -- and I

1 testimony, though a copy of the check is not
2 attached, it is manifestly the case that the check
3 was received from -- at least the check itself bore
4 the name Scott Rothstein, and not the name of any
5 corporate or other entity. The source of the funds
6 to Mr. Rothstein, of course, is well beyond our
7 purview.

8 Were it necessary, as I said, to dismiss on
9 the spot, instantler, the addition of the law firm
10 as a party Defendant, I would certainly be prepared
11 to do that. They were added only in an abundance
12 of caution. And, certainly, they would have the
13 right to claim against money in the registry of the
14 court.

15 By saying that, I do not wish to indicate to
16 Your Honor that the notion that the funds could be
17 put in some agreed-upon trust account is
18 objectionable to us. The notion that it would be
19 held by Mr. Stettin is equally unobjectionable to
20 us, provided that it would be by not private
21 agreement on our part, but by order of Your Honor
22 in the nature of an interpleader. Because
23 Floridians for a Stronger Tomorrow, which has a
24 mission to try to improve the well-being of the
25 public of the State of Florida is not interested in

1 understand it will reduce the sum ultimately going
2 back to whoever is entitled to it -- but the only
3 safe way to do it is to put the money in the court
4 registry. Now, you can ask the clerk to waive the
5 fee.

6 MR. JOSEPH GELLER: I'll do that.

7 THE COURT: And if Mr. Foreman is prepared to
8 do that -- certainly given the name of the
9 Plaintiff, I'm sure he'll be motivated to do so --
10 but that would be his decision. I will grant that
11 release.

12 MR. JOSEPH GELLER: Thank you.

13 THE COURT: So submit the new order, and then
14 you can deposit the money in the court registry.
15 And if it turns out that the law firm wishes to
16 assert a claim against it, I'll conduct a hearing
17 and I'll resolve it.

18 MR. JOSEPH GELLER: Thank you. We'll
19 submit -- circulate the order.

20 THE COURT: Thank you.

21 MR. PIKE: Thank you.

22 THE COURT: What else needs to be addressed
23 here?

24 MR. PIKE: Good morning, Judge. My name is
25 Michael Pike, on behalf of Jeffrey Epstein. May I

1 approach?

2 THE COURT: Yes.

3 MR. PIKE: Judge, we're here today on a
4 motion to intervene. And with the Honorable
5 Stettin being appointed as the trustee, I'm not
6 quite sure what's going to happen with the motion
7 to intervene today.

8 It's my understanding that in Case Number
9 09-059301, Stuart Rosenfeldt, RA, versus
10 Scott W. Rothstein, that the Defendant in that
11 action is Mr. Rothstein, and not the firm. So I
12 don't think that the -- any stay would apply in
13 this instance to this case.

14 I don't know what Mr. Stettin's decision will
15 be relative to the case that I just referenced,
16 whether or not that case is going to be dismissed
17 or -- Rosenfeldt is not here today. I don't know
18 if he has a lawyer present to represent that that
19 case is going to be dismissed or remain alive.

20 The long and the short is that we filed a
21 motion to intervene in order to preserve evidence,
22 and only evidence relative to the cases that
23 Mr. Rothstein allegedly offered for sale and
24 structured settlement interests.

25 THE COURT: Well, I think -- I think at this

1 opinion, in the Palm Beach County suits?

2 MR. PIKE: In the Federal actions, as well as
3 in the Palm Beach County suit.

4 MR. STETTIN: Right. Right. And one of the
5 orders that you've seen from Judge Ray invokes the
6 stay against any discovery against me in those
7 suits, as well.

8 We have an independent obligation to preserve
9 and protect records. I don't think this Court has
10 any jurisdiction --

11 THE COURT: I know I don't. I don't.

12 MR. PIKE: Okay. So as long as Your Honor --

13 THE COURT: So you need to seek relief before
14 Judge Ray to the extent you think it necessary, and
15 I don't know that you're going to have a problem. I
16 mean, have you made any effort -- not that he
17 hasn't been a busy guy.

18 MR. PIKE: We have. I --

19 THE COURT: I have a feeling that this is
20 going to be a nonadversarial relationship, as far
21 as preserving that evidence.

22 MR. PIKE: Right. We've -- I've already sent
23 e-mails and left messages with Mr. Lichtman. And
24 we have an order of the court by -- Judge Marra
25 entered an order that we need to meet and confirm,

1 point I have no ability to entertain this motion
2 today. Because the only -- right now, the only
3 work for me to do is to wind up what had already
4 been done, if Judge Ray allows me to do that.

5 So this relates to some of the aspects of the
6 lawsuit filed by Mr. Scherer; is that correct?

7 MR. PIKE: No.

8 THE COURT: It's entirely separate?

9 MR. PIKE: This is an entirely separate
10 action that was filed by Stuart Rosenfeldt and
11 Rothstein, Rosenfeldt and Adler. This has nothing
12 to do with Mr. Scherer's lawsuit that was filed, I
13 believe, last week, which is an entirely different
14 case.

15 MR. STETTIN: May I ask counsel: Is this the
16 suit that's pending in --

17 THE COURT: Palm Beach County.

18 MR. STETTIN: -- Palm Beach County?

19 MR. PIKE: No. This is a suit that is
20 pending in the Circuit Court of the 17th Judicial
21 Circuit.

22 MR. STETTIN: No, not the instant suit that's
23 before this Court. The reasons for your
24 intervention are to preserve and protect
25 information, records that are necessary, in your

1 but that order was entered prior to Mr. Stettin
2 being appointed last week, so...

3 THE COURT: All right.

4 MR. LICHTMAN: Your Honor, we represented to
5 the Federal Court and the state court that of
6 course we're preserving evidence.

7 THE COURT: Okay.

8 All right. Is there anyone else that wishes
9 to be heard? No.

10 So what I'm trying to get a handle on -- and
11 this is apparently not going to happen today -- is,
12 ultimately, what is going to come here beyond the
13 suit filed by Mr. Scherer.

14 There are pending matters against at least
15 one of the banks, GE Bank, where I don't believe
16 the law firm is named, but I'm not sure. There
17 obviously is going to be a lot of ancillary
18 litigation against parties other than the firm.

19 So have there been conversations with other
20 counsel representing potential Plaintiffs or actual
21 Plaintiffs as to what their intentions are and how
22 they intend to proceed?

23 MR. STETTIN: The answer is, yes, we've
24 spoken to a number of the lawyers who represent
25 Plaintiffs and potential Plaintiffs.

1 THE COURT: And?
 2 MR. STETTIN: They're not ready yet to come
 3 to a resolution. They're still in discussion.
 4 It's pretty early in the case, Judge.
 5 THE COURT: I know. I know. Because my --
 6 this is my concern: When dealing with tobacco, I
 7 had some forewarning about what would be coming.
 8 So I set up a structure ahead of time so I knew I
 9 was setting aside a certain amount of time each
 10 month to address initial case management, establish
 11 case management orders with regard to issues of
 12 common interest.
 13 I'll give you a chance to talk, Chuck.
 14 MR. LICHTMAN: Okay.
 15 THE COURT: Hold on. Thanks.
 16 So if it's premature me doing that now,
 17 because it may not be necessary, and that's fine,
 18 but I would rather -- if I need to be doing that
 19 next year, I'd rather put that in motion this year,
 20 and not come back having a lot of time already
 21 filled up and saying, now what do I do.
 22 So my thought was, if it's going to be
 23 necessary to establish a block of time monthly to
 24 address any cases assigned to this division that
 25 relate to this block, and my initial thought was to

1 do that on the third Friday of each month in the
 2 afternoon. Apparently, that doesn't meet with a
 3 great deal of support from my judicial assistant,
 4 but what else is new. So...
 5 Yes, Mr. Scherer?
 6 MR. SCHERER: Thank you, Your Honor.
 7 I represent a hundred million dollars worth
 8 of victim investors who have filed an action
 9 against GE Bank and certain other Defendants. We
 10 have spoken and have worked with your choice of
 11 receiver and supported him at the bankruptcy
 12 hearing strongly that he be made the trustee in the
 13 case.
 14 It is our view that the state court is the
 15 appropriate place for all but the
 16 bankruptcy-related claims. And we're going -- if
 17 we don't have Mr. Stettin's agreement and the
 18 committees there in bankruptcy, we'll fight like
 19 heck to keep them here. But I don't think that's
 20 going to happen.
 21 I think Your Honor's idea about reserving
 22 time is a good one. My view is that I believe
 23 there to be 500 million dollars worth of swindled
 24 investors that are going to want to probably be in
 25 a lawsuit somewhere. And I believe -- I'm urging

1 everybody to consider this court as the place for
 2 it to be.
 3 So, for sure, for our hundred million that
 4 I'm speaking for now, that we want to be here
 5 before you, and we'd love for you to start
 6 scheduling it as soon as you can.
 7 THE COURT: Well, this is what I intend to
 8 do. I'm going to set aside, for as long as is
 9 necessary, that time. We will probably end up
 10 putting some type of informative link together on
 11 the website, as we had done with tobacco. Because
 12 I see at least the possibility there are going to
 13 be a lot of related motions, a lot of related
 14 discovery, a lot of related motions as it addresses
 15 that discovery. There are probably going to be a
 16 lot of competing Plaintiffs. So the more we can
 17 coordinate and work cooperatively, the better off
 18 everyone will be, starting with me. Always very
 19 important.
 20 So that's what we're looking at. Actually,
 21 let's see, the first -- it's complicated, because
 22 the first Friday in January is a holiday. It's
 23 January 1.
 24 We're off the record.
 25 (Discussion held off the record.)

1 THE COURT: Back on the record.
 2 I got an approval from my assistant. So
 3 because of the unique nature of Friday -- the first
 4 Friday being the 1st of January, a court holiday,
 5 we're looking at doing this the fourth Friday in
 6 January, which is the 22nd of January.
 7 Let's see. No, I'm going to reverse myself,
 8 because every other -- I'd like it to be uniform.
 9 So I'll just give up a half a trial day. It will
 10 be the third Friday of each month, which the first
 11 such conference would be January the 15th, 2010, at
 12 1:30 in this courtroom. And then February would be
 13 the 19th, March the 19th, and then April the 16th.
 14 And we'll take it from there to see what's
 15 happening or whether we need to continue. And it
 16 will be to address all pending motions.
 17 Now, if there's a motion that needs to be
 18 heard before then -- and I have a feeling
 19 Mr. Trazenfeld is going to tell me that -- I will
 20 hear motions outside the scheduled time on an
 21 as-needed basis. But it will be my goal to,
 22 wherever possible, structure a coordinated case
 23 management.
 24 Yes, sir.
 25 MR. TRAZENFELD: Just very briefly, Judge.

1 Warren Trazenfeld. My claim is only against the
 2 law firm presently, and only deals with a
 3 malpractice claim. So it's -- I'm in bankruptcy
 4 court right now.
 5 But Judge Stettin, of course, would have the
 6 option of allowing me to come back to state court,
 7 as long as they only deal within the malpractice
 8 policy. So I'm just saying there may be some
 9 latecomers to those meetings, because I don't know
 10 when Judge Stettin and his counsel will make that
 11 decision. So people such as myself or others may
 12 only start attending those in the second or third
 13 month, which may be problematic in terms of the
 14 goals you're seeking. And I just mention that in
 15 terms of what might occur.
 16 THE COURT: Not at all. Not at all.
 17 The way things should develop is all
 18 interested parties may attend these conferences,
 19 whether or not they actually have a case pending or
 20 not, with the understanding they very well may
 21 soon, or may decide, after attending, they don't
 22 want to. So that's perfectly fine, also.
 23 MR. TRAZENFELD: Thank you.
 24 THE COURT: I mean, what we had with tobacco,
 25 by the way, for example, I mean, I had Plaintiffs'

1 counsel all over the state attending these
 2 conferences from time to time over the past two
 3 years, because we started doing that in January of
 4 2008. And we've done it every month, except for
 5 one -- one summer month, since then.
 6 But they're -- many of them have not come to
 7 trial yet. There are only a handful of Plaintiffs'
 8 lawyers that come to trial. There are some little
 9 known lawyers, like Willie Gary and Chris Searcy
 10 that I guess will show up eventually.
 11 MR. TRAZENFELD: Thank you, Judge. In an
 12 abundance of caution, I'll make sure --
 13 MR. SCHERER: Not if they read about your
 14 last verdict.
 15 THE COURT: Probably next week I'll want that
 16 Jury back here.
 17 MR. TRAZENFELD: Thank you, Judge.
 18 THE COURT: So the idea is for litigants on
 19 both sides of the cases, both Plaintiff and
 20 Defendant, to attend these conferences on matters
 21 of common interest, so we can try to put together a
 22 structure that everybody can live with. Because it
 23 can get relatively chaotic and very, very conflict
 24 oriented, if we don't work together on these
 25 issues.

1 Mr. Coffey, is there anything you wanted help
 2 with?
 3 MR. COFFEY: No, Your Honor. But I do really
 4 want to thank you for all the emergency hearings.
 5 I know it was very disruptive. I don't need to
 6 tell you what a wonderful staff you've had. It has
 7 made a very, very difficult situation much easier.
 8 And I just want to thank you for your assistance.
 9 THE COURT: Well, thank, sir. I'll miss you,
 10 too.
 11 Yes, Mr. Lichtman.
 12 MR. LICHTMAN: Because I know you don't like
 13 surprises, I think that there's at least a chance
 14 that you will have a number of interpleaders
 15 brought before you. We are going to try to develop
 16 a strategy to deal with them, and it's very high on
 17 the list of things to do. But it wouldn't surprise
 18 me if other similar cases are filed.
 19 THE COURT: Well, I will say that, although
 20 there was a time where I thought even the banking
 21 industry might get to this point, too, where they
 22 charge you a fee to take your money, our clerk
 23 is -- that's the only way it's done here. I mean,
 24 when you want to put money in the court, a fee is
 25 charged to put it in here, and there's not a dime

1 of interest paid on it.
 2 So truly, starting with Mr. Geller's petition
 3 today, that's really a shame. That's really a
 4 shame. Some other mechanism should be created
 5 where an account is -- a protected account is
 6 created where there is no fee charged to put the
 7 money in, and interest accrued, even at the very
 8 nominal rates that exist today, on that money.
 9 And if you all can come to accommodation on
 10 that, and it very well may be that, in consultation
 11 with Mr. Nurik, he'll have no objection to that.
 12 And if you -- I'll be glad to sign an agreed order
 13 on that. I'm only saying put the money into the
 14 court registry, if that is the only choice you
 15 have.
 16 MR. JOSEPH GELLER: Your Honor, while it's
 17 our intention to do that for the reasons we stated,
 18 I certainly will not only submit the order after
 19 circulating it, but we will ensure that at least
 20 the opportunity for these conversations occurs
 21 before we race to make the deposit.
 22 THE COURT: It could very well may be that if
 23 you had said, we want to put the money in a trust
 24 account in Mr. Stettin's jurisdiction, do you have
 25 an objection, he may come back and say,

1 Mr. Rothstein has no objection.

2 MR. JOSEPH GELLER: We're less concerned with
3 the possibility of an objection from him than we
4 are to subsequent objections either from
5 Mr. Scherer -- though he's here today -- but people
6 similarly situated, such as he's indicated,
7 representing \$400 million potentially in other
8 claims, who may subsequently find fault, however,
9 again, Your Honor, with the decision to put it in a
10 particular place.

11 But let me say again that, while we will
12 circulate the order as quickly as possible, we'll
13 certainly allow for the possibility of having these
14 conversations before we race to put the money into
15 the registry.

16 THE COURT: All right. So for now, if I am
17 needed for a hearing, I'll make myself available on
18 short notice, if that's required. And in between
19 that, if there are motions that need to be heard
20 before the 15th of January, upon receiving them,
21 I'll attempt to accommodate them. Failing that,
22 I'll hear any matters that need to be heard on the
23 15th of January 2010 at 1:30 in this courtroom.

24 And you'll keep me posted; right?

25 MR. JOSEPH GELLER: Thank you very much.

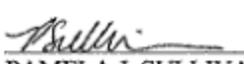
1 (Whereupon, the hearing was concluded at
2 2:43 p.m.)
3
4

5 ---
6 CERTIFICATE

7
8 THE STATE OF FLORIDA
9 COUNTY OF PALM BEACH.

10
11 I, PAMELA J. SULLIVAN, Registered Professional
12 Reporter, State of Florida at large, certify that I was
13 authorized to and did stenographically report the
14 foregoing proceedings and that the transcript is a true
15 and complete record of my stenographic notes.

16 Dated this 1st day of December, 2009.

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19 PAMELA J. SULLIVAN, FPR, CLR
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