

The Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York

Member of The United States Supreme Court & The
Florida Supreme Court & The U.S. District Courts for
The Northern, Middle & Southern Districts of
Florida



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March 12, 2020

VIA ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: SEC v. Collector's Coffee Inc. et al., 1:19-cv-04355-LGS-GWG

Dear Magistrate Judge Gorenstein:

I, along with Messrs. Alva, and Gleizer, represent Mykalai Kontilai and Veronica Kontilai, defendants in the above-referenced action. We are contacting Your Honor pursuant to Revised Standing Order M10-468, In Re: Restrictions on Visitors to Courthouses (S.D.N.Y. March 9, 2020) (McMahon, C.J.) (the "Standing Order") because we are scheduled to appear on behalf of defendants at a Southern District of New York courthouse on March 18, 2020, among other proceedings. Our firm's three attorneys are each unable to appear because of one or more of the restrictions set forth in the Revised Standing Order.

The Standing Order provides that, among others, the following persons shall not enter any courthouse in the Southern District of New York:

- Persons who have been in any of the following countries within the last 14 days...ITALY.

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- Persons who reside with or have had close contact with someone who has been in one of the countries listed above within the last 14 days.

The law firm of Alva & Glazer, PLLC has substantial and immediately recent contacts with Italy. Attorney Guillermo Gleizer is commonly in Italy, where his wife and son live. Attorney Gleizer was in Italy from February 10 to March 3, 2020. Attorneys Curtis Alva and Steven Sessa practice in Florida and each have offices next door to a client of Alva & Gleizer. That client is in Italy several times a year and was most recently there from February 21, to March 4, 2020. Attorney Alva's wife has repeatedly been to Italy and is there now. She arrived in Italy on March 3, 2020 and returns to Florida on March 13, 2020. Thus, Messrs, Gleizer, Alva, and Sessa are each prohibited from entering any Southern District of New York courthouse pursuant to the Standing Order.

Based on the foregoing, Mr. Kontilai respectfully requests relief regarding the following proceedings:

The Court scheduled a March 18, 2020, conference, Docket # 227, to discuss the pending Motions to Withdraw filed by counsel for Mrs. Kontilai and Collector's Coffee, Inc. Docket ## 219, 224-26. If that conference is not mooted by the appearance of successor counsel for Mrs. Kontilai and CCI before March 18, 2020, then the Undersigned requests an adjournment of the March 18, 2020, conference or permission for attendance by telephone of any person restricted by the Standing Order.

Several parties have noticed or cross-noticed the deposition of Mr. Kontilai for March 17, 2020, in New York. The Undersigned believes it would be inadvisable for Mr. Kontilai's counsel, who are restricted by the Standing Order, to either appear in person in New York, or to travel by airplane to and from New York. The Undersigned therefore requests that the deposition be conducted by telephone and videoconference. Mr. Kontilai has previously requested this relief on other grounds, as set forth in his letter addressed to Magistrate Judge Gabriel W. Gorenstein from Steven Sessa dated 3/4/2020 re: MK Deposition. Docket # 234. The SEC opposed that relief in its letter addressed to Magistrate Judge Gabriel W. Gorenstein from Terry R. Miller, Esq. dated March 5, 2020 re: Response to Defendant Mykalai Kontiai's Letter Requesting a Protective Order. Docket # 235. Mr. Kontilai replied. Docket # 242.

The SEC has requested a pre-motion conference be held on March 18, 2020 in connection with its request for a finding of contempt, in its letter motion for Conference addressed to Judge Lorna G. Schofield from Terry R. Miller, Esq. dated March 2, 2020. Docket # 232. The undersigned requests that any such conference be held on a later date, or by telephone and videoconference. Mr. Kontilai previously requested that the conference not occur on March 18, 2020, to permit him to develop an evidentiary record with which to oppose the request for a finding of contempt. Letter motion for Conference *on Anticipated Motion for Contempt* addressed to Magistrate Judge Gabriel W. Gorenstein from Steven Sessa dated 03/09/2020. Docket # 246.

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Several parties have noticed or cross-noticed the deposition of Mrs. Kontilai for March 19, 2020, in New York. The Undersigned requests that any such deposition be held on a later date or by telephone and videoconference. The undersigned notes that successor counsel for Mrs. Kontilai, Louis Palazzo, Esq., has yesterday filed a Motion for Admission *pro hac vice*, so that he may seek to appear in this matter for Mrs. Kontilai. The Undersigned understands that Mr. Palazzo and opposing counsel are already discussing a deposition date that is available to Mr. Palazzo.

Because of the proximity of the proceedings listed above, and the instructions in the Standing order that counsel should contact the court to notify the Court of the status of counsel as within the restrictions of the Standing Order, the Undersigned is sending this to the Court without delay. However, because the Undersigned is seeking relief not only as to proceedings within the Courthouse, but also deposition proceedings, the Undersigned is endeavoring to contact opposing counsel as soon as possible to get their position as to the proceedings outside the courthouse.

Respectfully submitted,

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/s/ Steven Sessa
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