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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210400
Party	Plaintiff Michelle Savitt
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Submission	Other Motions/Papers
Filer's Name	Michelle Savitt
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Signature	/Michelle Savitt/
Date	07/22/2013
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK AND APPEAL BOARD

In the Matter of Trademark Application Serial Number 85721117
Filed September 5, 2012
For the Mark JANIS BY JANIS SAVITT
Published in the Official Gazette (Trademarks) on February 26, 2013

MICHELLE SAVITT ,
Opposer

v. Oppposition No. 91210400

JANIS SAVITT

Applicant

REPLY BRIEF BY MICHELLE SAVITT TO THE OPPOSITION TO HER PETITION FOR DISQUALIFICATION OF G. ROXANNE ELINGS FILED JULY 2, 2013

1. G. Roxanne Elings represented M+J Savitt Inc., Michelle Savitt, Paul Savitt, Mildred Savitt, Janis Savitt, and Designs by Janis Savitt Inc. relating to a Federal Court action primarily concerning violation of trademarks of M+J Savitt Inc. They represented M+J Savitt Inc. as corporate counsel. The Civil Case filed by myself and M+J Savitt Inc. primarily arises out of this prior legal representation of M+J Savitt, Inc. and myself on trademark violation issues. At the time of Prior Representation involving M+J Savitt Inc.'s assets and trademarks, G. Roxanne Elings was the lead attorney and Greenberg Traurig partner handling the case. During the course of Prior Representation, G. Roxanne Elings was involved in advising M+J Savitt Inc. and Michelle Savitt on M+J Savitt Inc.'s trademark issues and became privy to confidential trademark and business information of M+J Savitt Inc. and Michelle Savitt. G. Roxanne Elings is a trademark specialist, and at the time of this action, she was co-chair of trademark practice at Greenberg Traurig. It was because of the primary cause of action relating to trademarks that G. Roxanne Elings was lead attorney for the defendants and lead counsel for M+J Savitt Inc.

2. During the course of the prior federal court proceedings, the court did not make any determination as to the merits of the trademark issues involved. The basis for the prior federal court dismissal actions was that the plaintiffs failed to satisfy procedural

requirements of making demand on the board of M+J Savitt Inc. or to establish that demand would be futile. In her decision, Judge Cote noted that the plaintiffs, Wynne Savitt Weiner and her husband Michael Weiner had engaged in abusive litigation practices with reference to abuses of discovery and the scheduling process.

3. In the recent Civil Action, Justice Ramos did not dismiss the underlying legal malpractice causes of action. With regard to the other causes of actions that were dismissed, M+J Savitt Inc. and myself have filed notice of appeal through our attorney for these matters, Alexander Shapiro. The basis of appeal is that the court committed numerous errors of law. G. Roxanne Elings will be called as a witness on legal malpractice cause and any other causes reinstated on appeal. It has been long established that where the attorney is a witness in the case such as giving testimony on behalf of the client the attorney should be disqualified. *See* 37 CFR § 10.63; *Focus 21 International Inc. v. Pola Kasei Kogyo Kabus hiki Kaisha,* 22 USPQ2d 1316 (TTAB 1992); *Allstate Insurance Co. v. Healthy America Inc.* 9 USPQ 2d 1663 (TTAB 1988); and *Little Caesar Enterprises Inc. v. Domino's Pizza Inc.* 11 USPQ2d 1233 (Comm'r 1989).

4. Trademark issues were central to previous litigation, and G. Roxanne Elings was privy to all the confidential information and confidential business information of M+J Savitt Inc., as well as business and confidential information concerning Michelle Savitt. G. Roxanne Elings is using and will continue to use this information against the interests of M+J Savitt Inc. and Michelle Savitt.

5. It was held that an attorney representing respondent in an opposition must be disqualified in view of his previous representation of petitioner in USPTO proceedings and in infringement litigation concerning the same trademark issues. *Plus Products v. Con-Stan Indus., Inc.* 221 USPQ 1071, 1075 (Comm'r 1984).

6. The Issues in the Past and Present Representations Are Essentially the Same.
A recent TTAB case reconfirmed the *Plus Products* opinion citing it as follows: "If applicant is a former client, the test for disqualification is, inter alia, whether the subject matter of the present representation is substantially related to the subject matter of the previous representation. Plus Products, 221 USPQ at 1074." *Finger Furniture Co., Inc. v. Finger Interests Number One, Ltd.*, 71 U.S.P.Q. 2d 1287, 1289 (TB 2004).

Ms. Elings is a trademark attorney and her participation in the above-mentioned case where she represented Michelle Savitt and M+J Savitt Inc. involved the trademark issues related to the use of the petitioner M+J Savitt Inc.'s mark *M+J Savitt*, along with two other marks belonging to the said petitioner: *Savitt* and *S M+J Savitt*. At that time she obtained confidential and protected information about both petitioners.

Ms. Elings advised and counseled Michelle Savitt regarding the legal issues involved in that dispute. Also she, as a counsel for petitioners, rendered her legal opinion regarding the merits of the plaintiff's case as well as regarding Michelle Savitt and M+J Savitt Inc. respective positions in the case. In particular, she stated that there was no material conflict of interest between Michelle Savitt and M+J Savitt Inc. on one side and Janis

Savitt and her companies on the other side. Thus, the conflict of interests existed even at the time when Ms. Elings represented both Michelle Savitt and Janis Savitt.

The *Finger* case pointed to the fact that the USPTO takes into account how the courts around the country review disqualification matters and referred to a Southern District NY case which said: "[W]here any substantial relationship can be shown between the subject matter of a former representation and that of a subsequent adverse representation, the latter will be prohibited." *T. C. Theatre Corp. v. Warner Bros. Pictures*, 113 F. Supp. 265, 268 (SDNY 1953).

Subsequently M+J Savitt Inc. filed a derivative lawsuit with causes of action against Janis Savitt and others including trademark use, usurping the goodwill, and intellectual property rights of M+J Savitt Inc. and the interests of its shareholders. Presently, there is an ongoing litigation on appeal between some of these parties which concerns the subject trademarks with Janis Savitt and G. Roxanne Elings named personally as defendants, and M+J Savitt and Michelle Savitt as plaintiffs.

The subject trademark of that legal action is the same one at issue in this proceeding, namely, *M+J Savitt*, as well as *Savitt, S M+J Savitt*, and the *Janis by Janis Savitt* trademark application. Therefore, as G. Roxanne Elings served as the attorney for Michelle Savitt and M+J Savitt Inc. in a substantially related matter and, as such, was privy to all confidential information from Michelle Savitt and from M+J Savitt Inc., there are major conflict of interest issues that exist here and a very strong appearance of impropriety.

7. The petitioners believe allowing Ms. Elings' representation of the applicant in these proceedings will go contrary to the 37 CFR § 10.63 noted above as well as case precedents and the USPTO Rules of Professional Conduct.

The relevant Rule states:

§ 11.109 Duties to former clients.

(a) A practitioner who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.
(b) A practitioner shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the practitioner formerly was associated had previously represented a client:
(1) Whose interests are materially adverse to that person; and
(2) About whom the practitioner had acquired information protected by §§ 11.106 and 11.109(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.
(c) A practitioner who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) Use information relating to the representation to the disadvantage of the former client except as the USPTO Rules of Professional Conduct would permit or require with respect to a client, or when the information has become generally known; or
(2) Reveal information relating to the representation except as the USPTO Rules of Professional Conduct would permit or require with respect to a client.

By having represented Michelle Savitt and M+J Savitt, Inc. in substantially related matters in the past, pursuant to § 11.109(a) Ms. Elings must be disqualified from participating in these proceedings other than in a witness capacity.

By virtue of her former firm, Greenberg Traurig having represented Michelle Savitt and M+J Savitt Inc. as well as her personally acquiring information protected by §§ 11.106 and 11.109(c) that is material to the matter, pursuant to § 11.109(b) Ms. Elings must be disqualified from representing Janis Savitt whose interests are materially adverse to those of petitioners.

8. Quite simply, it is in the interests of Michelle Savitt to preserve and protect what is left of the assets, goodwill, and intellectual property of Eling's client M+J Savitt Inc., which is not in the interests of Janis Savitt or Designs by Janis Savitt Inc. It is the my opinion that the business of these entities is built upon the conversion and appropriation of the goodwill, tradenames and trademarks , assets, copyrighted designs, customers, vendors, and fame of M+J Savitt Inc. by Janis Savitt and Designs by Janis Savitt. G. Roxanne Elings is acting and will continue to act against the interests of clients M+J Savitt Inc. and Michelle Savitt in the representation of Janis Savitt and Designs by Janis Savitt, Inc. in the subject trademark issues.

Based on all foregoing, petitioners respectfully request that the TTAB disqualify G. Roxanne Elings as Counsel in these opposition proceedings based on the following:

(a) G. Roxanne Elings represented petitioners in legal matters substantially related to current proceedings where petitioners oppose her current client;
(b) In her representation of the applicant, G. Roxanne Elings will be using confidential and protected information she obtained as counsel to petitioners, all to their extreme detriment; and
(c) G. Roxanne Elings will be called as a witness in litigation concerning trademarks at issue here, and is a defendant in other legal actions concerning trademarks at issue in these proceedings.

For the above reasons and reasons contained in the declarations of Alexander Shapiro and myself , I request that the USPTO TTAB disqualify G. Roxanne Elings. with regard to the subject trademark actions.

Signed: /Michelle Savitt/ Michelle Savitt

Date: July 22, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **REPLY BRIEF BY MICHELLE SAVITT TO THE OPPOSITION TO HER PETITION FOR DISQUALIFICATION OF G. ROXANNE ELINGS FILED JULY 2, 2013** was duly served upon applicant and correspondents at the following addresses :

Janis Savitt
200 W. 58th St.
Apt. 12 B
New York, NY 10019

G. Roxanne Elings
Davis Wright Tremaine LLP
1633 Broadway, Fl 27
New York, NY 10019-6708

Lisa D. Keith
Davis Wright Tremaine LLP
1633 Broadway, Fl 27
New York, NY 10019-6708

by mailing copies thereof via U.S. Postal Service in a sealed envelope via First Class or Priority Mail with postage thereupon fully prepaid on July 22, 2013

Date: July 22 , 2013

Signed : /Michelle Savitt/
Michelle Savitt

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK AND APPEAL BOARD

In the Matter of Trademark Application Serial Number 85721117
Filed September 5, 2012
For the Mark JANIS BY JANIS SAVITT
Published in the Official Gazette (Trademarks) on February 26, 2013

MICHELLE SAVITT ,
Opposer

v. Oppposition No. 91210400

JANIS SAVITT

Applicant

DECLARATION OF MICHELLE SAVITT IN SUPPORT OF HER REPLY BRIEF TO THE OPPOSITION TO HER PETITION TO DISQUALIFY G. ROXANNE ELINGS FILED JULY 2, 2013

I, Michelle Savitt, declare the following to be true:

1. I am the opposer and petitioner in the above captioned proceeding. I am also a founder, officer, director, and shareholder of M+J Savitt, Inc. I founded M+J Savit in 1970 at 18 years old with my 16 year old sister Janis Savitt. Our older sister Wynne joined as an equal partner and shareholder after finishing college when we incorporated in 1972. My mother, Mildred Savitt, was a minority shareholder. More detailed information on the company and history is available our company website at ***mjsavitt.net*** . M+J Savitt grew into one of the top jewelry fashion brands garnering more fashion editorial coverage than any other domestic jewelry company for decades. In 1976, people magazine did a feature article on M+J Savitt . Upscale fashion retailers such as Bergdorf Goodman, Saks Fifth Avenue, Neiman Marcus, Bloomingdales, Henri Bendels, and hundreds of top fashion retailers carried the M+J Savitt line for decades. M+J Savitt designed and manufactured collections for Van Cleef & Arpels, Cartier, Ralph Lauren, Michael Kors, and many other top fashion houses. Quite simply, it became one of America's top designer jewelry brands. M+J Savitt also marketed jewelry collections using the names " Janis Savitt Diamond Collection " and " Janis Savitt for M+J Savitt ".

2. On December 31, 2007, Janis Savitt through counsel Greenberg Traurig (G. Roxanne Elings partner in this firm), formed the NY corporation, Designs by Janis Savitt, Inc. to produce and sell jewelry in competition with M+J Savitt Inc. Billing for this work was to an account set up with the names of Janis Savitt, Michelle Savitt, and Mildred Savitt, and M+J Savitt Inc. Shareholders and or officers / directors of M+J Savitt Inc. Michelle Savitt and Mildred Savitt had no knowledge of this account being billed to them, or the work being performed to the detriment of M+J Savitt Inc. and their interests.

3. On December 31, 2007, Janis Savitt through counsel G. Roxanne Elings (attorney of record) of Greenberg Traurig filed the registration for the trademark JANIS for IC Class 14 Jewelry, serial number 77362000 / registration 3517980 / registration date Oct. 14, 2008. The was done exactly at the same time as the formation of Designs by Janis Savitt Inc. by Greenberg Traurig. The trademark filing of JANIS SAVITT (serial number 77033657 / filing date Oct. 31, 2006) had been refused by the USPTO as it was found to be in total conflict with numerous trademarks held by M+J Savitt Inc, and the trademark JANIS was filed to replace this. The wording for this refusal by the USPTO was as follows (all the referenced marks in conflict cited by the USPTO were held by M+J Savitt Inc.) It was recognized by G. Roxanne Elings and Janis Savitt that these trademarks held by M+J Savitt Inc. were a roadblock to Janis being able to use " Janis Savitt " in a trademark at that time.

Section 2(d) - Likelihood of Confusion Refusal

Registration of the proposed mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 2116162, 2941210, and 3022631. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 et seq. See the enclosed registrations. The same registrant owns all the registrations.

Trademark Act Section 2(d) bars registration where an applied-for mark so resembles a registered mark that it is likely, when applied to the goods and/or services, to cause confusion, mistake or to deceive the potential consumer as to the source of the goods and/or services. TMEP §1207.01. The Court in In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), listed the principal factors to consider in determining whether there is a likelihood of confusion. Among these factors are the similarity of the marks as to appearance, sound, meaning and commercial impression, and the relatedness of the goods and/or services. The overriding concern is to prevent buyer confusion as to the source of the goods and/or services. In re Shell Oil Co., 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt as to the existence of a likelihood of confusion must be resolved in favor of the registrant. In re Hyper Shoppes (Ohio), Inc., 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); Lone Star Mfg. Co. v. Bill Beasley, Inc., 498 F.2d 906, 182 USPQ 368 (C.C.P.A. 1974).

Taking into account the relevant du Pont factors, a likelihood of confusion determination in this case involves a two-part analysis. First, the marks are compared for similarities in appearance, sound, connotation and commercial impression. In re E .I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or

services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. In re National Novice Hockey League, Inc., 222 USPQ 638 (TTAB 1984); In re August Storck KG, 218 USPQ 823 (TTAB 1983); In re Int'l Tel. and Tel. Corp., 197 USPQ 910 (TTAB 1978); Guardian Prods. Co., v. Scott Paper Co., 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 et seq.

In the present case, the applicant seeks registration of the mark JANIS SAVITT for jewelry. The cited marks are S M+J SAVITT with design, SAVITT, and M+J SAVITT, all for jewelry. It is obvious that the goods are identical.

Given the fact that the goods are identical, the marks are sufficiently similar. If the goods or services of the respective parties are closely related, the degree of similarity between marks required to support a finding of likelihood of confusion is not as great as would apply with diverse goods or services. Century 21 Real Estate Corp. v. Century Life of America, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992), cert. denied 506 U.S. 1034 (1992); In re J.M. Originals Inc., 6 USPQ2d 1393 (TTAB 1987); ECI Division of E-Systems, Inc. v. Environmental Communications Inc., 207 USPQ 443 (TTAB 1980); TMEP §1207.01(b).

The marks of the applicant and registrant are highly similar because they contain the same surname SAVITT. Moreover, the applicant's first name begins with the letter "j," which ties into the J portion of the registered marks. The registered marks convey the impression of jewelry from two people, namely, M Savitt and J Savitt and from some person(s) with the surname name Savitt. The applicant's mark conveys the similar impression of jewelry from a J Savitt, namely, a Janice Savitt and from some person with the surname SAVITT.
Consumers encountering jewelry bearing the marks M+J SAVITT, S M+J SAVITT, SAVITT, and JANIS SAVITT are reasonably likely to believe all the jewelry emanate from a single source.
Accordingly, registration is refused under Trademark Act, Section 2(d).

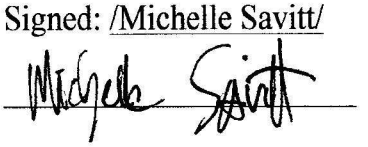
At this time, there was no lawsuit filed by Wynne Savitt or derivitive action by M+J Savitt Inc. Again, the billing for this work was billed to an account set up under the names, Janis Savitt, Michelle Savitt, and Mildred Savitt, and M+J Savitt. Again, M+J Savitt shareholders and / or officers Michelle Savitt and Mildred Savitt had no knowledge of this account being set up, or the work being performed for the benefit of Janis Savitt, to the detriment of M+J Savitt Inc. and their interests as shareholders. The billing for the creation of Designs by Janis Savitt Inc. and the filing of the trademark JANIS began in August of 2007. All the time that this was taking place and after, Janis Savitt was still on the payroll of M+J Savitt Inc. and was an officer, director, and shareholder. G. Roxanne Elings as of August of 2007 was doing corporate and trademark work for Janis Savitt and Designs by Janis Savitt, Inc.

4. On October 7, 2008, M+J Savitt Inc. as part of derivitive action and Wynne Savitt Weiner and her husband Michael Weiner filed suit against Janis Savitt, Designs by Janis Savitt, and Paul Savitt for trademark violations and other causes of action. Shortly after

this suit was filed, I was contacted by Janis Savitt, G. Roxanne Elings of Greenberg Traurig, Paul Schindler of Greenberg Traurig, and Paul Savitt to attend a shareholders meeting and directors meeting in New York at the offices of Greenberg Traurig on November 18, 2008. At these meetings, I was handed two scripts prepared by G. Roxanne Elings and others at Greenberg Traurig for a shareholders meeting and a directors meeting being held back to back so they could take control of M+J Savitt Inc. to "handle" the lawsuit. I was told that my interests and well being would be protected and represented by them, and not to worry. At this meeting, Greenberg Traurig, including G. Roxanne Elings, became the attorneys of record for M+J Savitt, Inc. They were entrusted with the wellbeing and protection of the assets of M+J Savitt Inc, including intellectual property. G. Roxanne Elings was co-chair of Intellectual Property Practice and Trademark Law at Greenberg Traurig. I was assured that the assets and well being of the company I co-founded would be protected. G. Roxanne Elings also agreed to represent myself and my husband personally when we were later named as defendants as well.

5. In summary, I would like to say that the fact that over 500 pages were submitted in opposition to my petition for disqualification points to the level of involvement of G. Roxanne Elings in the affairs of M+J Savitt Inc. and to make some simple issues look murky. She was entrusted as attorney for the company M+J Savitt Inc. to protect it's assets and well being and was in the position to protect or not protect the intellectual property assets of the company, and hundreds of thousands of dollars of physical assets. She personally had posession and control of these assets. She in fact worked hand in hand with Janis Savitt to convert all the value and assets of M+J Savitt Inc. intellectual property, goodwill , customer base, and physical assets solely for the benefit of Janis Savitt and Designs by Janis Savitt, Inc., all while collecting substantial payment for work supposedly performed on behalf of M+J Savitt Inc. and its shareholders. My efforts here are to protect the assets of M+J Savitt Inc. Roxanne Elings through her access to confidential information and business knowledge of the affairs of M+J Savitt Inc. has and will continue to use this information and any further information she gets or obtains against her client M+J Savitt Inc. and myself now and in present and future litigation. The fact is clear....she was an attorney of substance for both Janis Savitt / Designs by Janis Savitt and M+J Savitt Inc, and myself. Her continued involvement in the legal trademark issues that affect M+J Savitt and myself is a clear conflict and presents unreasonable conflict and jeopardy to former clients.

Signed: /Michelle Savitt/



Date: July 22, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **DECLARATION OF MICHELLE SAVITT IN SUPPORT OF HER REPLY BRIEF TO THE OPPOSITION TO HER PETITION TO DISQUALIFY G. ROXANNE ELINGS FILED JULY 2, 2013** was duly served upon applicant and correspondents at the following addresses :

Janis Savitt
200 W. 58th St.
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New York, NY 10019

G. Roxanne Elings
Davis Wright Tremaine LLP
1633 Broadway, Fl 27
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Lisa D. Keith
Davis Wright Tremaine LLP
1633 Broadway, Fl 27
New York, NY 10019-6708

by mailing copies thereof via U.S. Postal Service in a sealed envelope via First Class or Priority Mail with postage thereupon fully prepaid on July 22, 2013

Date: July 22 , 2013

Signed : /Michelle Savitt/
Michelle Savitt

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK AND APPEAL BOARD

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MICHELLE SAVITT ,
Opposer

v. Opposition No. 91210400

JANIS SAVITT

Applicant

DECLARATION OF ALEXANDER SHAPIRO IN SUPPORT OF REPLY BRIEF TO THE OPPOSITION TO PETITION TO DISQUALIFY G. ROXANNE ELINGS FILED JULY 2, 2013

ALEXANDER SHAPIRO, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, declares the following to be true:

1. I am a partner in Broome, Palant& Shapiro, P.C, attorneys for M+J Savitt, Inc. and Michelle Savitt, individually, in the case pending in the Supreme Court for the State of New York, captioned *Michelle Savitt and M+J Savitt, Inc. v. Greenberg Traurig, et al.*, bearing index number 101200/12 ("Civil Case").

2. The Civil Case primarily arises out of the prior legal representation of M+J Savitt, Inc. ("M+J") and of Michelle Savitt by Greenberg Traurig ("GT") and

Roxanne Elings in federal court litigation involving violation of M+J's trademarks by Janis Savitt and Designs by Janis Savitt. Savitt, Inc. trademarks ("Prior Representation").

3. There is no question that at the time of the Prior Represention involving M+J's trademarks, Roxanne Elings was the GT partner handling the case. Further, based on my review of the file maintained by my office and discussions with our clients, during the course of the Prior Representation, Roxanne Elings was involved in advising M+J as to its trademark issues and became privy to confidential information.

4. At no point in time during the course of the prior federal court proceedings did the court make any determination as to the merits of the trademark issues involved. The sole basis for the dismissal of the prior federal court action was the fact that plaintiffs failed to satisfy the procedural requirement of making demand on the M+J board of directors or to establish that demand would be futile. Judge Cote did note in her decision that the plaintiffs, Wynne Savitt Weiner and her husband, Michael Weiner, engaged in abusive litigation practices, but this observation by the Court was made mainly in reference to plaintiffs' abuses of the discovery and scheduling process.

5. With respect to the present Civil Action, although Justice Ramos dismissed various causes of action against defendant attorneys, the court did not dismiss the underlying legal malpractice cause of action. The court did dismiss causes of action seeking damages for violation of NY Judiciary Law Section 487 and for certain intentional torts. However, M+J and Michelle are in the process of appealing from the decision of Judge Ramos on the basis that the court committed numerous errors of law.

Dated: 7/17/13

New York, New York

/Alexander Shapiro/

Alexander Shapiro, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **DECLARATION OF ALEXANDER SHAPIRO IN SUPPORT OF REPLY BRIEF TO THE OPPOSITION TO PETITION TO DISQUALIFY G. ROXANNE ELINGS FILED JULY 2, 2013** was duly served upon applicant and correspondents at the following addresses :

Janis Savitt
200 W. 58th St.
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New York, NY 10019

G. Roxanne Elings
Davis Wright Tremaine LLP
1633 Broadway, Fl 27
New York, NY 10019-6708

Lisa D. Keith
Davis Wright Tremaine LLP
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New York, NY 10019-6708

by mailing copies thereof via U.S. Postal Service in a sealed envelope via First Class or Priority Mail with postage thereupon fully prepaid on July 22, 2013

Date: July 22 , 2013

Signed : /Michelle Savitt/
Michelle Savitt