

March 21, 2013

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By E-Mail and First Class Mail

Eliot I. Bernstein
2753 NW 34th Street
Boca Raton, FL 33434

Re: *Bernstein, et al. v. Appellate Division, First Department Departmental
Disciplinary Committee, et al.*, No.07-CV-11196 (SAS)

Dear Mr. Bernstein:

As you know, we represent Proskauer Rose LLP, Kenneth Rubenstein, Christopher C. Wheeler, Steven C. Krane (deceased), and the Estate of Stephen R. Kaye (collectively, the "Proskauer Defendants"). Pursuant to § IV.B of Judge Scheindlin's Individual Rules and Procedures, I write to request that you withdraw your pending motion to reopen the docket. (Dkt No. 142.)

As explained in the enclosed Order, Judge Scheindlin denied your previous motion to reopen, finding it to be "frivolous, vexatious, overly voluminous, and an egregious abuse of judicial resources." She further warned that "[m]onetary and/or injunctive sanctions may be imposed upon motion of the parties or by this Court *sua sponte*" for future frivolous filings.

For the reasons set forth in the Proskauer Defendants' Opposition to Plaintiff's Second Motion to Reopen (Dkt No. 143), as well as the arguments made in response to your previous motions to reopen, we believe that your pending motion to reopen is similarly frivolous and vexatious.

Please confirm in writing immediately that you will withdraw your pending motion to reopen the docket. If you fail to withdraw the motion, the Proskauer Defendants will proceed to seek monetary and/or injunctive sanctions against you pursuant to Rule 11, Fed. R. Civ. P., as foreshadowed by Judge Scheindlin.

Sincerely,



Gregg M. Mashberg

Enclosure