

Phone call between Adam Bereki and Judge

Recording Name:

[EX PARTE APPLICATION FOR STAY DENIAL]

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DUNS Number: 037801851
CAGE Code: 6C7D5
Tax ID #: 27-2983097

1 Judge: -- versus (ph) Humphries (ph) case number 2015. It's
2 00805807. Could we please have the appearances?

3 Bereki: Uh, Adam Bereki, Your Honor, on behalf of myself.
4 Adam Bereki, Your Honor, on behalf of myself.

5 Judge: And one other appearance?

6 Bereki: If you're think- -- looking at the, uh, the Pringa
7 (ph), Your Honor, that's -- that's someone with me.
8 He's just here as a, uh, observer.

9 Judge: All right. Then, uh, if -- if we have no other, uh,
10 appearances at this time, so -- now this application
11 was, uh, filed by, uh, you, Mr. Bereki and it has an
12 entirely new, uh, caption, uh, that our case that it,
13 again, was filed in is the Spartan Associates, Inc.
14 vs. Humphries case, which is the 2015. Uh, the
15 caption states, "This application is, uh, related to
16 the unlawful detainer action that was recently filed,
17 which is case number 2025-01459684, and the title of,
18 uh, unlawful detainer action is -- I believe it's Hou,
19 H-O-U, vs., uh, Bereki. And, again, although it
20 states that it's, uh, related there has been no
21 determination of relatedness and no notice of related
22 case had, uh, (inaudible - 0:01:41). Uh, now this
23 application is, uh, 189 pages long and purports to
24 combine a number of different, uh, documents, uh, into
25 one, uh, document and, uh, some of them apply to, uh -



1 - or applies to multiple different, uh, cases. It was
2 filed on a demand late last week and, uh, does indeed
3 violate a number of the rules of court and the, uh,
4 governing statutes for these documents by combining
5 everything into one document. Uh, and it's, uh --
6 greatly exceeds the (inaudible - 0:02:20) the case for
7 any sort of, uh, motion, uh, or application, uh, in
8 addition to the 189-page, uh -- I guess, well,
9 application. Uh, then we've got looking at probably
10 three to four feet additional (inaudible - 0:02:36)
11 and everything. Uh, so just letting you know that we
12 did receive all these various materials. That's what
13 we, uh, have received here in the department. Now in
14 terms of what it purports to do, or asks for, I think
15 we (inaudible - 0:02:51) has four pages. It's an ex
16 parte application, uh, this department, stating
17 unlawful detainer action that's, uh, pending in
18 another department. Uh, it, uh, states that it
19 includes an answer to the unlawful, uh, detainer
20 action. Uh, it, uh, is a motion to vacate what it, uh
21 -- (inaudible - 0:03:11) void judgment in the 2015
22 case, based on new, uh, evidence of extrinsic fraud.
23 And then finally, it includes a complaint and cross
24 complaint, uh, challenging the -- the, uh, underlying
25 judgment in the 2015 case. Uh, the, uh, foreclosure,



1 uh, sale, uh, foreclosure process that recently, uh,
2 completed, and then it also, uh, uh, attacks, uh, the
3 constitutionality of, uh, multiple, uh, statutes. Uh,
4 so the minutes from today will reflect that this
5 document is not being treated as an answer in the UD
6 (ph) action. It was not filed in a case. It's not
7 being treated as a complaint to start a new case. So
8 it will need to be filed as a separate, independent
9 document, and in the proper case, not in this 2015
10 case. Any answer, any sort of response in pleading,
11 any sort of re- -- response to the complaint in the UD
12 (ph) action has to file in that action, not in this
13 case, and any new claims, uh, any new lawsuit, uh, any
14 collateral attack on the 2015 judgment, that needs to
15 be filed as a, um, separate lawsuit, getting the
16 summons paid and additional fees, or getting the fee
17 waiver and going through all that process for
18 initiating a, uh, new, uh, lawsuit. So, again, this
19 will not be -- this application should not be
20 construed and treated as either, uh, the, uh, answer
21 to the UD action or the, uh, uh, new complaint. What
22 this is being treated as and, uh, ruled upon as, is
23 the ex parte application can stay, the unlawful
24 detainer action, and the related -- I guess we'll call
25 it motion to vacate the judgment in the 2015 case.



1 Uh, now treated as such, uh, the, uh, application will
2 be denied. The underlying argument is that, uh, or --
3 and everything being sought is that the underlying
4 judgment is void for a number of reasons, including
5 that it was, uh, entered in, uh, based upon, or an
6 action that was essentially criminal or penal in
7 nature imposing punishment against you, Mr. Bereki,
8 without providing the constitutional protections that,
9 uh, are, uh, applicable in, uh, criminal proceedings.
10 That, uh, same basic argument has been, uh, made
11 multiple times, uh, and rejected in a number of
12 different courts, including the court of appeal case
13 in this, uh, the Ledruh (ph) called the objection (ph)
14 in the 2015, uh, case. Uh, indeed the court of appeal
15 rejected these, uh, challenges and I am, uh, bound by
16 those determinations at law of the case. Now I
17 understand the contention that a void judgment, uh,
18 can be challenged at any time, but that doesn't allow
19 me to ignore specific rulings that the court of appeal
20 made in this case. Moreover, uh, the 473(d) voidness
21 argument requires a, um, the voidness, uh, to appear
22 on the face of record. I don't think that appears in
23 this case. Uh, there are a number of other, uh,
24 problems with the argument. And then there's also not
25 a sufficient showing for the, uh, granting (ph) the ex



1 parte relief, setting aside any judgment at this, uh,
2 point in time. Uh, regarding (ph) a -- a hearing
3 earlier set (ph) in the UD action yet, uh, so there is
4 not, uh, that, uh, justification for ex parte relief.
5 So for those and, uh, uh, uh, other reasons, uh, the
6 Court is going to deny the present ex parte
7 application, uh, to the U -- (inaudible - 0:07:07)
8 file the UD action, filing a new lawsuit, filing a
9 notice motion, uh, with, uh, proper, uh, notice and
10 service on it (inaudible - 0:07:15). Uh, so that is,
11 uh, where the Court stands, uh, at this point in time,
12 sir.

13 Berek: Okay. Can I speak?

14 Judge: Yes, you may.

15 Berek: Uh, my question for you is, having exhausted all of
16 the -- the remedies that I have in the case that I've
17 presented to the Court, where does the Court recommend
18 that I go now to obtain, uh, uh -- if I can't
19 basically challenge this judgment as, uh, you're
20 saying, where do I go to overrule this, to overrule
21 it? Because it's -- it's completely void.

22 Judge: Well, two things. First of all, I can't provide you
23 with legal advice, I can't for any party, (inaudible -
24 0:07:54) with, uh, legal advice in that regard. But,
25 uh, if you're -- there is truly some due basis you can



1 make your collateral attack, or file your motion, and
2 that will be ruled on the merits. I can't guarantee
3 the outcome of that. But at some point there is
4 finality to matters as well. I understand you're, uh,
5 vehement, and are in disagreement with the many
6 different rulings that have been made. I under- --
7 uh, I -- I fully understand, uh, your position on
8 that. But, uh, at some point in time things do become
9 final. But -- and then you have the -- the -- the
10 unlawful detainer action to, uh -- you have every
11 right to participate in that one and see wherever --
12 whether you can assert whatever claims defense (ph) in
13 that case. Uh, they're -- the Court is, uh, not able
14 to pre- -- you know, bar you from filing a, uh,
15 properly noted (ph) motion or another, uh, lawsuit if
16 that's the -- the pathway that you, uh, wish to
17 follow. Um, but in terms of granting any of this on
18 an ex parte relief I don't, uh, see that being a basis
19 that I -- I have -- I -- I -- I'm not yet convinced,
20 uh, of the merits, uh, even if it was on a notice --
21 but that doesn't (ph) prevent a notice motion. Uh --
22 uh, that's --

23 Bereki: Okay, so did I --

24 Judge: -- (inaudible - 0:09:07).

25 Bereki: I'm sorry -- did I understand you to say that



1 basically the Court's ruling is going to be the same
2 if I, uh -- I know you said that they're being treated
3 differently, but, uh, what will be the difference, so
4 to speak, if I file that motion to vacate in the, so
5 to speak, proper procedure that -- that you're saying,
6 versus, uh, this -- the ex parte action?

7 Judge: Well, it may well be the same. I can't (inaudible -
8 0:09:32), you know, it depends. I have to see that,
9 see if they comply with everything and what they're
10 showing but I -- I have serious concerns and doubts
11 that, uh, it, uh, would be successful, but I can't
12 give an advisory (inaudible - 0:09:44), you know, I
13 can't rule on something that isn't properly before me
14 at this point in time. So, uh, it would -- I can't
15 say it with 110 percent certainty, but I can say that
16 there is very strong likelihood the outcome would be
17 the same.

18 Bereki: Okay, thank you for that. So my earlier question was
19 where do I go, because, uh, I've tried collateral
20 attacks, I've tried direct attacks, I've tried habeas
21 petitions and absolutely there is no remedy that I
22 have, if -- if -- if what I am saying is taken to be
23 true, wha- -- and -- and you said, uh, that you can't
24 give me legal advice. Well, there has to be some
25 forum, in California or the United States, to -- to,



1 uh, actually be heard. And if the court lacked
2 jurisdiction and it was a void judgment in the first
3 instance and on appeal, um, I -- like I said, I've
4 exhausted every known remedy that I have. Wh- --
5 where is the fair forum to be actually heard?

6 Judge: Well, uh, I -- you've been provided with one. Y- --
7 you disagree with the forum but you've been provided
8 with the forum on multiple -- at multiple levels. So
9 I don't understand your -- like I said, I understand
10 that you vehemently disagree with the rulings that
11 have been made in the case. But that does not mean
12 that you were not provided with a forum. It's just
13 that, you know, you, uh, disagree with the outcomes in
14 those forums.

15 Bereki: Well, and ap- -- apparently so does, um, our own
16 courts of appeal here, with their recent ruling in the
17 Eisenberg (ph) cases, saying it's a penalty. The U.S.
18 Supreme Court in Lou v. SEC saying that disgorgement
19 only applies to profits, and there were no profits in
20 my case. I mean this isn't just me coming up with a -
21 - with a hypothetical about why I think something's
22 wrong. This is -- this is evidence from -- from other
23 courts and, I mean our entire constitutional history
24 shows that -- that everything I'm saying here is
25 legit.



1 Judge: I -- again, I understand and, like I said, I -- you --
2 I cannot say 100 percent what any ruling would be on a
3 future request, uh, and it will -- everything will be
4 considered on its merits. But there -- again, I
5 cannot tell you exactly what to file or how to file or
6 where to file, but, uh --

7 Bereki: So in -- in essence, what I understand -- and you can
8 correct me, of course, if I'm wrong, is that, um, I --
9 I filed several different things on the same, uh,
10 document. I indicated that there was a related case,
11 that it was, uh -- that this ex parte hearing was
12 related to, and that essentially, because those
13 procedural, uh, requirements weren't, uh, followed,
14 um, that the -- the Court is putting, uh, form over
15 substance in not recognizing any of those.

16 Judge: That's not -- listen, I said -- I just pointed out
17 there are a number of problems with the forum, but
18 I've also said that there is not a sufficient showing
19 to justify ex parte relief, setting aside those s- --
20 uh, procedural, uh, circumstances. And on the current
21 papers I have not been (inaudible - 0:12:36) on the
22 merits of the argument. So it's not just simply form
23 over substance, sir.

24 Bereki: Okay, I didn't hear you say that putting those things
25 aside that that was the case. So your ruling --



1 you're saying that the law of case doctrine,
2 essentially, is what it -- you're using to, um,
3 basically deny relief here?

4 Judge: Well I -- I've explained everything as much as I can
5 here today at this point, sir. So, uh, the -- the
6 Court has (inaudible - 0:12:59) ruling. You can
7 (inaudible - 0:13:00) whatever filings you deem
8 appropriate in the UD action or an independent one.
9 But I've (inaudible - 0:13:05) --

10 Bereki: Okay.

11 Judge: -- today.

12 Bereki: My -- my ultimate question is wh- -- where do I go for
13 relief?

14 Judge: Well, again, I cannot provide you with any further,
15 uh, uh, uh -- any legal advisement. I can't provide
16 any further guidance than I already have (inaudible -
17 0:13:18). I'm sorry.

18 Bereki: Okay. All right.

19 Judge: Thank you. Best of luck to you.

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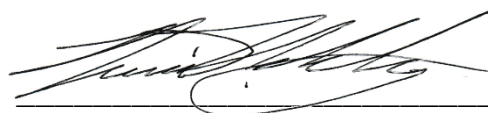
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I, Brian T. Henderberg, do hereby certify that the foregoing transcript is a full, true, and correct statement of the audio file provided to me titled "EX PARTE APPLICATION FOR STAY DENIAL".

DATED this 23rd day of June, 2025.



Brian T. Henderberg

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