

Michael M. Buchman

January 13, 2009

VIA ECF

The Honorable Joan M. Azrack
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East – Room 1210S
Brooklyn, New York 11201

Re: *Lucker et al. v. Bayside Cemetery & Congregation Shaare Zedek*,
No. 07 Civ. 3823 (RJD) (JMA); *Cohen v. Bayside Cemetery & Congregation
Shaare Zedek*, No. 08 Civ. 3555 (RJD) (JMA); and *Goldstein v. Bayside
Cemetery & Congregation Shaare Zedek*, No. 08 Civ. 3923 (RJD) (JMA)

Dear Judge Azrack:

I represent Plaintiffs in the above-referenced actions. Defendants seek reconsideration of Your Honor's Order yesterday requiring them to produce all documents provided to the New York State Attorney General's Office by the end of today. These documents include not only the February 10, 2008 production, but all other documents they produced voluntarily back in 2005. These documents amount to less than ten (10) boxes of materials.

It is well settled that "[t]he standard for granting a motion for reconsideration is strict, reconsideration will be denied unless the moving party can point to controlling decisions or data that the Court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995).

Defendants have moved for reconsideration making *the same arguments* they made yesterday which were considered by the Court. As Your Honor articulated yesterday, the CAFA jurisdictional issues, including the amount in controversy, number of class members and composition of the class, are so intertwined with the merits issues in this case that it would be more burdensome for Defendants to sift through the documents and cull out non-responsive documents. Notably in their motion for reconsideration, Defendants bolster this point when they state:

A majority of the document that are contained in the Defendants' February 10, 2008 submission to the Attorney General contain information that could be relevant to those issues, but many do not.

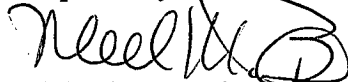
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By making this statement, Defendants not only strengthen Your Honor's point, but concede that *all* the documents voluntarily produced to the Attorney General in 2005 contain jurisdictional related information which should be produced. Thus, a vast majority of the documents are indeed relevant and the entire universe should be produced since it will pose a greater burden on Defendants to review all the documents in order to limit a small subset.

There is simply no legal basis for granting Defendants' request since they cite no new law or facts that Your Honor did not consider yesterday.

Plaintiffs respectfully submit that Your Honor should deny Defendants' motion for reconsideration for these and all the other reasons articulated at yesterday's hearing. Denying this motion for reconsideration will also send the Defendants the message that the Court's rulings are final and that further delay will not be tolerated in this sixteen (16) month old case.

Respectfully submitted,



Michael M. Buchman
Pro Bono Attorney for Plaintiffs

c: Stephen Axinn (counsel for Defendants)
Russell Steinhall (counsel for Defendants)