

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

Civil Action
No. 73 C 1529

-against-

FRED C. TRUMP, et al.,

PLAINTIFF'S
APPLICATION FOR
ORDER TO SHOW
CAUSE

Defendants.

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The United States of America, plaintiff, respectfully moves this Court for an Order requiring defendants to show cause, if any there be, why

(1) a permanent injunction should not be entered pursuant to the Memorandum of Understanding heretofore submitted to the Court on January 20, 1975, and the subsequent commitment by defense counsel;

(2) why costs should not be assessed against the defendants and their counsel, see 28 U.S.C. §1927, in an appropriate amount for unnecessary time and expense incurred by counsel for plaintiff herein.

Plaintiff further prays for such other relief as the interests of justice may require.

The application is based on the affidavits of DONNA F. GOLDSTEIN and FRANK E. SCHWELB and the attachment thereto. The legal basis therefor is set forth in the plaintiff's memorandum herein filed on June 4, 1975.

Respectfully submitted,



FRANK E. SCHWELB
NORMAN GOLDBERG
DONNA F. GOLDSTEIN
Attorneys
U.S. Department of Justice

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

Plaintiff,

Civil Action
No. 73 C 1529

-against-

AFFIDAVIT

FRED C. TRUMP, et al.,

Defendants.
----- X

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

FRANK E. SCHWELB, being duly sworn, deposes and says:

1. I am the Chief of the Housing Section, Civil Rights Division, Department of Justice, and in supervisory charge of this litigation on behalf of the United States.

2. I am familiar with Ms. Goldstein's affidavit of this date and its contents are true to the best of my knowledge and belief. The contents of my letter of May 8, 1975 to the Court attached to her affidavit are also true.

3. At about 5:35 p.m., after I had waited in Mr. Cohn's office since about 4:15 p.m. (the revised time for our appointment) I asked his secretary to contact him, for me, which she did. I advised him that the decree was satisfactory to Mr. Eskenazi. Mr. Cohn related that he was in a conference with about eleven people on another matter that he could not leave the conference at that time, that he was going to Bermuda for the weekend and would be back on Monday; that we could not get the consent decree signed this week; and that I should leave it at his office; and he would get it signed "next week" after showing it to his clients. He then said he could talk no longer and hung up.

4. My colleagues and I have been attempting to implement the Memorandum of Understanding for about five months, but our attempts have been frustrated by our com-

plete inability to get the elusive Mr. Cohn into a room for the very short time needed to complete the job. Based on these experiences, some of which are set forth in my letter to the Court dated May 8, 1975, I have reluctantly concluded that this matter cannot be expeditiously resolved without the assistance of the Court. I have reached this conclusion because prior "settlements" have been agreed upon with defendants, and submitted to them for their signature, but in each case defendants and their counsel have asked for "one more conference" or have made some request, which has always resulted in additional delay but has never produced the promised final decree. These constant variations and changes have taken up an inordinate amount of my own time, which is spread "pretty thin" anyway since it is my responsibility to supervise all fair housing litigation for the United States throughout the country, and even more of Ms. Goldstein's time and Mr. Goldberg's time. These delays - the most extraordinary in my seventeen years at the bar - have occurred throughout this case despite Magistrate Catoggio's clear warning to defendants, on the record, that counsel's conduct must be governed by 42 U.S.C. §3614, which requires that cases of this kind be "in every way expedited."

5. In view of the foregoing, we ask that this Court tolerate no further delaying tactics of any kind; that our application for an Order To Show Cause be granted, and that this Court promptly enter an Order which implements the settlement previously negotiated and signed by the parties and set forth in the Memorandum of Understanding of January 20, 1975.

Frank E. Schwelb

FRANK E. SCHWELB

Sworn to before me this
6th day of June 1975

Evelyn Sommer

EVELYN SOMMER
Notary Public, State of New York
No. 24 4502158
Qualified in Kings County
Commission Expires March 30, 1977

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
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 Plaintiff, : AFFIDAVIT
 :
 - against - : Civil Action
 : No. 73 C 15
 FRED C. TRUMP, et al., :
 :
 Defendants. :
 :
 - - - - - X

STATE OF NEW YORK)
 : ss.:
 COUNTY OF KINGS)

I, DONNA GOLDSTEIN, being duly sworn do hereby depose and say:

1. I am an attorney for the United States Department of Justice, and one of counsel for plaintiff in United States v. Fred C. Trump, et al.

2. On ~~June~~^{January} 20, 1975, Norman Goldberg, another of plaintiff's counsel, and I negotiated the settlement of this action by executing a Memorandum of Understanding with defendants' counsel Roy Cohn. The memorandum outlined the provisions to be contained in the final decree which was to be executed by February 24, 1975.

3. Subsequent to the execution of the agreement, and despite numerous efforts by counsel for plaintiff, we have not been able to meet with counsel for defendants to sign a final decree. The details of some of these efforts, over a period of five months, to implement the agreement are set forth in the May 8, 1975 letter of Mr. Frank Schwelb, which is attached hereto.

4. By an Order dated May 19, 1975 this Court scheduled a conference on this matter for June 4, 1975 at 3:00 P.M. At approximately 10:00 a.m., while I was filing a legal memorandum in this action, I was approached by

Mr. Roy M. Cohn, counsel for the defendants, who was in the company of defendants Fred Trump and Mr. Donald Trump and Mr. Irving Eskanazi, an agent of the defendants who had previously participated in the settlement negotiations. Mr. Cohn informed me that he had understood the conference to be at 10:00 a.m., and that he would not be available at 3:00 P.M. as the Court had directed. Accordingly, this fact was made known to the Court while it was engaged in the trial of a criminal matter. During conversations with Mr. Cohn prior to being heard by the Court, he and I again reached agreement on the terms of a final Decree, and the Court was so advised. Mr. Cohn requested that I have a Decree typed in final form and we agreed to meet at his office at 4:00 P.M. the next day, June 5, 1975, at which time the Decree would be executed.

5. My colleague, Mr. Frank Schwelb, who is the Chief of the Housing Section of the Civil Rights Division, United States Department of Justice, had arranged to come to New York in time for the 3:00 P.M. conference and for the principal purpose of completing the resolution of this lawsuit.

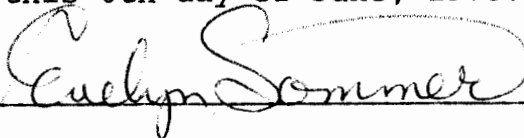
6. On June 5, 1975 Mr. Schwelb and I arrived at Mr. Cohn's offices at the agreed time (earlier changed to 4:15 P.M.). Mr. Cohn, however, did not appear. At approximately 5:35 P.M. Mr. Schwelb, through Mr. Cohn's secretary, contacted Mr. Cohn, who apparently was in conference elsewhere. This conversation is described in Mr. Schwelb's accompanying affidavit.

7. At approximately 5:40 P.M. I telephoned Judge Neaheer's law clerk Mr. David Brown and advised him of what had occurred.

8. Mr. Schwelb, Mr. Eskanazi and I left Mr. Cohn's offices at approximately 5:45 P.M.


DONNA GOLDSTEIN

Subscribed and sworn to before me this 6th day of June, 1975.



EVELYN SOMMER
Notary Public, State of New York
No. 24-4502158
Qualified in Kings County
Commission Expires March 30, 19 77