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Attorney for Defendants, Hershel Herskowitz, Shlomie Klein, and Abraham Sharaby

YECHESKEL SCHWAB and DATAMAP
INTELLIGENCE LLC,

Plaintiffs,

vs.

JOYCE BLAY, HERSHEL HERSKOWITZ a/k/a
HAROLD HERSKOWITZ, SHLOMIE KLEIN a/k/a
SHLOMO KLEIN, ABRAHAM SHARABY, JOHN
DOES 1-10, ABC CORPS A-J

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY

Docket No.: OCN-L-2695-18

Civil Action

**CERTIFICATION OF HERSHEL
HERSKOWITZ IN SUPPORT OF MOTION
TO DISMISS COMPLAINT AND TO QUASH
SUBPOENA**

I, Hershel Herskowitz, certify as follows,

1. I am a defendant in this action and I am fully familiar with the facts of this certification based on firsthand knowledge.

2. I make this certification in support the motion to dismiss the complaint and to quash the subpoena served on Abraham Shubert.

Facts Related to Portion of Defendants' Motion Seeking to Dismiss Complaint

3. Plaintiff's complaint, a copy of which is attached as Exhibit A, is completely filled with falsehoods. However, because I understand that on a motion to dismiss, the Court will only consider facts that are stated in the pleadings, the subject of judicial notice, or documents integral to or explicitly relied upon in the complaint, the portion of the certification addressing Defendants' application for dismissal of the complaint, is limited thereto.



4. Attached as Exhibit B is a copy of a post on the website Hefkervelt dated August 14, 2018. The comments of mine that Plaintiff alleges in the Complaint, ¶32 are defamatory are on pages 7 and 8.

5. The first and third comment never mention the Plaintiff. Exhibit B. The second comment mentions Plaintiff specifically his involvement with having someone Kenneth Garzo sue Lakewood Township. Id.

6. At the time I made this claim, I believed, as I still do, that the facts in this comment are true. The basis of this belief is a post by Joyce Blay, a copy of which is attached as Exhibit C. The portion addressing Garzo begins on page 4.

7. Attached as Exhibit D is the first tweet referenced in the Complaint, ¶35.

8. Attached as Exhibit E is the article to which the first tweet links.

9. Attached as Exhibit F are the additional tweets referenced in the Complaint, ¶35.

The article linked to in the last tweet is attached as Exhibit C.

Facts Related to Portion of Defendants' Motion Seeking to Quash Subpoena Served on Abraham Shubert

10. Were Plaintiff to obtain statements made by individuals in opposition to those in power within Lakewood, New Jersey, it would have a chilling effect on people's willingness to criticize those in power.

11. This is because within the Orthodox Community in Lakewood, there is a great deal of pressure not to dissent from those who control the community.

12. As an example of this, in 2010, I ran for Lakewood Township Committee, against the wishes of those who run Bais Medresh Govoha.

13. As retaliation for this, when I sent applications to local Lakewood schools for my daughters' admission in 2011, I did not receive any responses.



14. A few days before the school year, someone Moshe Geller approached me and indicated that the reason that this was the case was because of my political activism. However, Geller presented me a draft letter and indicated that if I signed it, my daughters could be accepted to school. A copy of this letter is attached as Exhibit G.

15. Geller indicated that he received the letter from Rabbi Shmuel Kanarek.

16. The letter said that as a condition to my daughters being accepted to school, I would agree not to be involved in politics, not to have a blog and to refrain from speaking out on any public matters, and not to engage in any public matters without the permission of Bais Medresh Govoha. Exhibit G.

17. I later confirmed that Rabbi Malkiel Kotler, who is the *rosh yeshiva* (dean) of Bais Medresh Govoha indicated that no school should accept my daughters without his approval.

18. The establishment will always be on the side of the wealthy real estate developers such as Plaintiff, because they financially contribute to the establishment schools. As such, were someone like Plaintiff to be able to obtain information about who opposes the establishment, it would chill people's willingness to criticize government dealings with those in power.

I certify that the forgoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Harold Herskowitz

Dated: December 20, 2018

**Hershel Herskowitz
1496 Cedar Row
Lakewood, NJ 08701**

September 5, 2011

To whom it may concern:

I Hershel Herskowitz in recognition of my daughters being accepted to Bais Shaindel (Leah), and Oros Bais Yaakov (Chaya), agree to the following:

1. I will not be involved in Lakewood Politics.
2. I agree not to blog, be involved, or run a website at all or about anything.
3. I will not do anything to hurt any of the projects or Mosdos of Rabbi Kanarek or Birnbaum.
4. I agree that if I want to do anything that involves the Klal, I will first ask the opinion and get the permission of the Roshai Hayeshiva of Bais Medrash Govoha.

I recognize that my daughters acceptances are contingent on these 4 conditions. If they are violated in any way during their 4 years of High School, the acceptances will be revoked.

Sincerely,

Hershel Herskowitz

Exhibit G