

Hearing Date: No hearing scheduled
Location: <<CourtRoomNumber>>
Judge: Calendar, 11

FILED
7/27/2022 10:29 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2020CH04431
Calendar, 11
18852235

FILED DATE: 7/27/2022 10:29 PM 2020CH04431

Exhibit 3

RE: Redacted Complaint and June 9 order

From: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>

To jackiestevens@protonmail.com

CC Guberman, Daniel<DGuberman@osdchi.com>Freilich, Matt<Matt.Freilich@us.dlapiper.com>
Jones, Margaret<Margaret.Jones@ilag.gov>Mendelsohn, David<david.mendelsohn@us.dlapiper.com>
Cerde, Tony<Tony.Cerde@us.dlapiper.com>

Date: Thursday, May 5th, 2022 at 10:35 AM

Ms. Stevens:

As the court file reflects and as you will recall, we marked documents as confidential and under seal, per the earlier order, until it was lifted.

You also will recall that the Court and the clerk manage the court file. No litigant has control over it.

Stephen W. Schwab

Partner

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F +1 312 630 7343
M +1 847 366 5490
stephen.schwab@us.dlapiper.com

DLA Piper LLP (US)
dlapiper.com

From: Jackie Stevens <jackiestevens@protonmail.com>

Sent: Thursday, May 5, 2022 10:32 AM

To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>

Cc: Guberman, Daniel <DGuberman@osdchi.com>; Freilich, Matt <Matt.Freilich@us.dlapiper.com>; Jones, Margaret <Margaret.Jones@ilag.gov>; Mendelsohn, David <david.mendelsohn@us.dlapiper.com>; Cerde, Tony <Tony.Cerde@us.dlapiper.com>

Subject: RE: Redacted Complaint and June 9 order

 EXTERNAL MESSAGE

Mr. Schwab,

As previously stated, I only have redacted copies with a cover page that says "Exhibit ..."

My question about the the filing of the Giese exhibits stands and is why I copied the court. What did NextLevel do, if anything, to insure the Giese exhibits remained under seal? Was this supposed to be done by the clerk of Judge Meyerson?

Jacqueline Stevens
Professor
Northwestern University

----- Original Message -----

On Thursday, May 5th, 2022 at 11:23 AM, Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com> wrote:

FILED DATE: 7/27/2022 10:29 PM 2020CH04431

Ms. Stevens:

You are greatly complicating this process and transparently seeking to have "the last word." Our understanding is that you have had both the redacted and unredacted versions of the documents for weeks. Is that correct?

We have removed the Court from this string, as it now amounts to both an unapproved briefing by you and attempt to poison the well. We respectfully object and hope that you will return to a civil discourse with us.

Thanks.

Stephen W. Schwab
Partner

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stephen.schwab@us.dlapiper.com

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From: Jackie Stevens <jackiestevens@protonmail.com>
Sent: Thursday, May 5, 2022 10:14 AM
To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>
Cc: Guberman, Daniel <DGuberman@osdchi.com>; Freilich, Matt <Matt.Freilich@us.dlapiper.com>; ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyl.gov>; Jones, Margaret <Margaret.Jones@ilag.gov>; Mendelsohn, David <david.mendelsohn@us.dlapiper.com>; Cerda, Tony <Tony.Cerda@us.dlapiper.com>
Subject: RE: Redacted Complaint and June 9 order

 EXTERNAL MESSAGE

Mr. Scwhab,

Thank you for this update. Your email is asking your colleague to "refile" documents. Based on the information you previously provided, this mischaracterizes the status of the filings. What is actually occurring is that your firm failed to comply with Judge Meyerson's order and also failed to note this in either your response brief, during status hearings, or in your sur-reply, even though you knew or should have known that the reason the Chancery Division did not replace the unredacted versions with the redacted ones is that your firm never filed them. If any portion of this is inaccurate, please let me know.

Now that it's clear that the reason the Chancery Division did not replace the unredacted complaint or order with the redacted documents is that your firm did not submit these, I'm hoping you can clear up the matter of the Giese exhibits. Did your firm share with the Chancery Division the order to seal the exhibits of Mr. Giese?

Also, can you please explain why this belated filing should be allowed? Judge Meyerson's order permitting your firm to file documents under seal or redacted was issued prior to my being granted intervenor status. Absent a legitimate reason for filing the redacted files in a timely fashion, I can think of several reasons as to why the previous order should be vacated.

In addition, your sur-reply exceeds the parameters permitted by Judge Meyerson's order and I will be filing a motion in opposition and to strike portions thereof. I have workshop paper due and will be addressing these matters as soon as I complete this prior obligation.

Jacqueline Stevens
Professor
Northwestern University

----- Original Message -----

On Thursday, May 5th, 2022 at 10:47 AM, Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com> wrote:

Ms. Stevens:

No need for a supplemental motion. Matt will please refile the documents, and our docket clerk will try to inform the clerk that the unredacted copies are to be sequestered.

Apologies to the Court for this string.

Best wishes.

Stephen W. Schwab
Partner

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DLA Piper LLP (US)
dlapiper.com

From: Jackie Stevens <jackiestevens@protonmail.com>

Sent: Tuesday, May 3, 2022 2:54 PM

To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>

Cc: Guberman, Daniel <DGuberman@osdchi.com>; Freilich, Matt <Matt.Freilich@us.dlapiper.com>; ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyil.gov>; Jones, Margaret <Margaret.Jones@ilag.gov>; Mendelsohn, David <david.mendelsohn@us.dlapiper.com>

Subject: RE: Redacted Complaint and June 9 order

 EXTERNAL MESSAGE

Mr. Schwab,

Your statement is inconsistent with the order of November 29, 2021. The order states, "**NextLevel shall file a redacted version of...**" the Complaint and the Order. It does not state the clerk for the court to file redacted documents.

Based on what you are stating, it would appear that NextLevel did not comply with the court's order and that instead your position is the the clerk for Judge Meyerson should have extracted the redacted pdf from your exhibit submissions and submitted them to the Chancery Division.

If I do not hear otherwise, I will be filing a supplemental motion.

Also, as you know, I do not normally copy the court on our communications. In light of the fact that this involves long-standing questions about the docket, it seemed appropriate, and especially so insofar as you are now directly implicating the court's clerk in the subject matter of my query.

Jacqueline Stevens
Professor
Northwestern University

----- Original Message -----

On Tuesday, May 3rd, 2022 at 3:35 PM, Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com> wrote:

Ms. Stevens:

Our understanding is the same as Daniel's. The Court has the redacted documents, but litigants cannot require the Clerk to make substitutions in a court file. Perhaps Judge Meyerson's chambers can assist? We will do whatever the Court wishes on this point.

FYI, ordinarily litigants do not cc the court on communications between them, unless the court directs otherwise.

Thanks and best wishes.

Stephen W. Schwab
Partner

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From: Jackie Stevens <jackiestevens@protonmail.com>
Sent: Tuesday, May 3, 2022 2:15 PM
To: Guberman, Daniel <DGuberman@osdchi.com>
Cc: Freilich, Matt <Matt.Freilich@us.dlapiper.com>; ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyl.gov>; Jones, Margaret <Margaret.Jones@ilag.gov>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Mendelsohn, David <david.mendelsohn@us.dlapiper.com>
Subject: RE: Redacted Complaint and June 9 order

⚠ EXTERNAL MESSAGE

Mr. Guberman,
Thank you for this information. I'm still curious as to whether NextLevel actually submitted to the Chancery Division the redacted documents for purposes of the replacement. The only redacted files I have been able to locate from the documents the Chancery Division provided to me in January were the ones filed as exhibits to the motion for them to be redacted.

Mr. Frielich, can you please let me know whether NextLevel filed redacted complaint and order with the Chancery Division and if so, when that happened?

Also, although I am not familiar with the protocols, it would make sense if the Chancery Division noted the replacement with a dated docket entry.

Thanks so much,

Jacqueline Stevens
Professor
Northwestern University

----- Original Message -----

On Tuesday, May 3rd, 2022 at 2:23 PM, Guberman, Daniel <DGuberman@osdchi.com> wrote:

Professor Stevens,

My recollection is that the court's order required that the unredacted copies of the complaint and conservation order be replaced, not that new filings be made. I think the court was provided with the redacted copies in order to effectuate the replacement of the two documents.

Daniel A. Guberman

Senior Deputy General Counsel
Compliance and Conflict Officer
Office of the Special Deputy Receiver
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Chicago, IL 60654
W: (312) 836-9519
F: (312)836-1944

From: Jackie Stevens <jackiestevens@protonmail.com>

Sent: Tuesday, May 3, 2022 11:34 AM

To: Freilich, Matt <Matt.Freilich@us.dlapiper.com>

Cc: ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyil.gov>; Jones, Margaret <Margaret.Jones@ilag.gov>; Guberman, Daniel <DGuberman@osdchi.com>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Mendelsohn, David <david.mendelsohn@us.dlapiper.com>

Subject: Redacted Complaint and June 9 order

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Mr. Freilich,

I write to inquire as to whether NextLevel actually filed with the Chancery Division a redacted

complaint and redacted order of June 9, 2020, per the 11/29/2021 order of Judge Meyerson? In doing a search of the records released to me in January, 2022 I only see the redacted versions as exhibits to NextLevel's motion for sealing, and not as separate filings. These digital records were released to me with long gibberish file names and the files themselves show now dates for when anything is filed. According to the supposedly updated Chancery Division docket for this case, it does not appear that NextLevel submitted any such filings between November 29, 2021 and when I filed my intervenor motion.

Thank you,

Jacqueline Stevens
Professor
Northwestern University

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