

Superior Court of New Jersey

CHAMBERS OF
JUDGE THERESE A. CUNNINGHAM

(732) 929-4793



OCEAN COUNTY COURT HOUSE
P.O. BOX 2191
TOMS RIVER, NJ 08754-2191

June 29, 2017

SENT VIA FAX ONLY

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RE: Ort v Ort
Docket No. FM-15-990-00 N

Dear Counsel:

I have reviewed the motion and cross-motion in the above-referenced matter. In the cross-motion filed on behalf of his client, Mr. Paone has raised the Fugitive Disentitlement Doctrine. According to his submission in support of his cross-motion, Mr. Paone raised the Doctrine in connection with a May 13, 2017 motion heard by Judge Jones. Mr. Paone supplied a transcript of that hearing in which Judge Jones declined to apply the doctrine at the time because he didn't find a "sufficient precedent" (Plaintiff's cross-motion Exhibit R, pp 88-89) to do so.

Since the time of Judge Jones' 2013 order, the Appellate Division has decided Matson v Lisnyamsky, 443 N.J. Super. 549, (App.Div. 2016), under what appears to be an analogous set of circumstances. To the extent that neither party has addressed this case in their papers, I would request that both parties be prepared to discuss the Matson case on the record. If either party wishes to have additional time to address the applicability of the Matson case with supplemental submissions, I have no problem with a brief adjournment to allow counsel the opportunity to update their submissions. In fact, it may be advisable to do so.

Also, I am in receipt of a letter from Mr. Davis directed to myself and Judge Susswein regarding ready/holds for tomorrow's hearing date. I understand that the issue of which matter

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will proceed tomorrow afternoon has been resolved directly with Judge Susswein. I would note, however, that Mr. Davis indicates that his client will be appearing by phone from Jerusalem in the instant matter. No request for such an accommodation has ever been made to the court. Furthermore, it seems that a preliminary ruling on the applicability of the Fugitive Entitlement Doctrine would have to be made before the court would entertain such a request.

Under the circumstances outlined above, it would seem that a telephone conference with the court and counsel would be appropriate. Kindly confer with each other and contact my secretary, Bonnie Milligan, to advise of your availability today. If both counsel are available at a specific time, I will make myself available.

Thank you for your cooperation in this matter.

Very truly yours,


THERESE A. CUNNINGHAM, J.S.C.

TAC/bmm