



1 THE CLERK: Estate of Sykes.

2 THE COURT: Good afternoon. Everyone's name's,  
3 please.

4 MR. BRODSKY: For the record, Joel Brodsky on  
5 behalf of Mary Sykes.

6 MR. STERN: Adam Stern, S T E R N, guardian ad  
7 litem.

8 MR. SCHMIEDEL: Peter Schmiedel,  
9 S C H M I E D E L, on behalf of Carolyn Toerpe who's  
10 the guardian of the person and the estate.  
11 Ms. Farenga is not going to be able to be here today.  
12 Her daughter hurt her leg, and she has a doctor's  
13 appointment at a specialist.

14 THE COURT: All right. Well, a number of things  
15 have been going on here. Did you recently file a  
16 motion to continue?

17 MR. BRODSKY: Yes, your Honor.

18 MR. SCHMIEDEL: I object to that, your Honor.  
19 There's no reason --

20 MR. BRODSKY: Well, the reason -- You received a  
21 copy of it, I assume?

22 THE COURT: Oh, yeah. I read it.

23 MR. BRODSKY: I think that the basis for the  
24 motion is, your Honor, is very simple.

1           THE COURT:    Wait, hold on.  Do you want to reply  
2           in writing?

3           MR. SCHMIEDEL:  Judge, I don't think I need to  
4           reply in writing.  We've -- 21 days ago or longer than  
5           that he was going to respond to the motion to strike.  
6           There was never a response filed.  We all know the  
7           case is in front of the Supreme Court.  Lots of cases  
8           get appealed.  Lots of cases are in front of the  
9           Supreme Court.

10          THE COURT:  Okay.  So you don't want to respond  
11          in writing.

12                         Sir?

13          MR. BRODSKY:  Thank you.  This is a very unusual  
14          situation.  Two panels of the First District -- Your  
15          Honor knows this, but I'll just state it for the  
16          record.  Two panels of the First District Appellate  
17          Court have entered diametrically opposed opinions.  
18          The Cole case of -- Estate of Cole states that this  
19          court -- that a trial court cannot rule on sufficiency  
20          of a motion for substitution of judgement for cause  
21          and it must be transferred to another judge.  A couple  
22          of months after that -- I think, four months -- three  
23          to four months right after that, another panel of  
24          three judges on the same court in the Estate of Wilson

1 ruled that the trial court can rule on sufficiency of  
2 the petition. The Supreme Court of the State of  
3 Illinois granted leave to appeal in the -- I'm  
4 sorry -- in the Wilson case. I'm sorry. It was  
5 Wilson that said that -- Sorry. The Estate of Wilson  
6 that at 389 Ill.App. 3rd 771 said that this  
7 court -- a trial court cannot rule on the sufficiency  
8 of a petition for substitution of judges for cause.  
9 And it was the Estate of Cole four months that ruled  
10 diametrically opposed. The Supreme Court of the  
11 State of Illinois now has granted leave to appeal.  
12 And the Wilson case. I've checked, and that is of now  
13 brief before the Supreme Court. They -- All things  
14 being equal, they expect to rule on it at the next  
15 session, which, I believe, is June. And we're in the  
16 unique position -- I mean, this is not a case where  
17 you have the law as it is and the Supreme Court has  
18 granted appeal. I have petition for leave to appeal  
19 to see if they're going to reverse it. What we have  
20 are two diametrically opposed appellate panels in the  
21 same district that the Supreme Court is going to say  
22 which panel of judges is correct.

23 I think that especially this Court  
24 sitting in the First District, we need wait to see

1 what the Supreme Court says which panel is right.

2 THE COURT: Well, Counsel, let me ask you this  
3 question: Would you consider withdrawing your motion  
4 and bringing it up as soon as there's a ruling?

5 MR. BRODSKY: Well, you know, Judge, I would,  
6 depending upon what happened in the interim. There  
7 are certain motions pending for rule to show cause  
8 against my client, Ms. Gloria Sykes. If those motions  
9 were held in abeyance and nothing was done directed at  
10 Ms. Sykes -- Gloria Sykes, that is -- until the  
11 Supreme Court ruled, I would have no problem. The  
12 estate could then roll on --

13 THE COURT: I'm not sure what you mean by that.  
14 But, anyway, I don't know. Has this been discussed,  
15 if Counsel wants to withdraw his motion?

16 MR. SCHMIEDEL: No, Judge. No, there's been no  
17 discussion with respect to that.

18 THE COURT: Is that something that we could  
19 discuss and then there'd be no --

20 MR. BRODSKY: Judge, yes, absolutely, it is  
21 something I would be willing to discuss. My only  
22 concern is that --

23 THE COURT: And I understand that. But this  
24 would be an offer in settlement, so we don't need to

1 have it on the record. Is this something you wish to  
2 discuss with him?

3 MR. SCHMIEDEL: We can discuss it, Judge.

4 MR. BRODSKY: I'd be happy to.

5 MR. SCHMIEDEL: I'm not trying to a create  
6 problem when one can be resolved. Believe me. But  
7 the issue of the access to the house is of less  
8 moment. She's been unable to get into the house.

9 THE COURT: I know this. But, again, as far as  
10 proceeding -- You discuss what maybe you want to  
11 have, if he's going to withdraw X, you're going to do  
12 Y. I don't know. Whatever you want to discuss. But  
13 I'm just offering that. Do you want to withdraw it?  
14 If you don't, you don't, and we'll just keep going.

15 MR. BRODSKY: It would depend upon what they  
16 intend to do. If we can just take a few moments and  
17 discuss it, I'd be more than happy to.

18 THE COURT: Let's pass it.

19 (The above-entitled cause was passed and  
20 later recalled.)

21 MR. BRODSKY: For the record, Joel Brodsky on  
22 behalf of Gloria Sykes.

23 MR. STERN: Adam Stern, guardian ad litem.

24 MR. SCHMIEDEL: Peter Schmiedel on behalf of

1 Carolyn Toerpe. I tried to call Carolyn. She was  
2 going to be here today, and then -- She's finishing up  
3 in school, and I said I didn't think it was necessary  
4 for her to be here. I left her a message on her  
5 voice mail. In principle, I don't have a problem  
6 withdrawing. We're going to continue it. I've got to  
7 talk to Carolyn. In principle, I don't have a problem  
8 with his withdrawing the motion to substitute judge,  
9 wait for the supreme court. We would not proceed on  
10 rule to show cause the house. That's why I have to  
11 talk to Carolyn.

12 There is also the visitation hearing. He  
13 said he would not proceed with the visitation hearing  
14 until the Supreme Court rules. Basically he would  
15 take issues relative to his client off the Court's  
16 table until the Supreme Court rules, if that's  
17 accurate. And the guardianship would be open. And if  
18 issues came up, we would have to address them. I said  
19 to Mr. Brodsky, you know, this case has been  
20 contentious from the beginning. And it may happen  
21 that there may be an issue with his client between  
22 now and when the Supreme Court rules, in which case,  
23 we will find ourselves in the same spot we are in now.

24 THE COURT: Oh, no, no, no because the motion

1 would have been withdrawn.

2 MR. BRODSKY: Without prejudice.

3 THE COURT: Right.

4 MR. SCHMIEDEL: But he'll then have to file it  
5 again --

6 MR. BRODSKY: Your Honor, but I don't  
7 envision -- nobody envisions anything happening.  
8 There's nothing of the moment.

9 THE COURT: No, no, no, but guardian should be  
10 able to administer another guardianship.

11 MR. BRODSKY: Of course.

12 THE COURT: So if there's any issue at all, are  
13 you going to come in on motion for SOJ again?

14 MR. BRODSKY: No, no, no. Only if it relates to  
15 Gloria Sykes. But there really shouldn't be. The  
16 only issue regarding Gloria Sykes are --

17 THE COURT: The visitation, the house.

18 MR. BRODSKY: Which are issues -- Which issues  
19 have been basically resolved. They have access to the  
20 property. The visitation is my motion to present. So  
21 I -- if I don't present it, if I'm not going to  
22 present it, it's not of moment. The rules they're  
23 going to hold in abeyance. So there shouldn't be  
24 anything. They're saying if something extraordinary

1 happens, but I don't think -- There's nothing of  
2 moment. There's nothing hanging out there that's like  
3 a Sword of Damocles that's going to happen in the next  
4 three or four months. You'll notice that my client  
5 doesn't come into court anymore.

6 THE COURT: She's not here today.

7 MR. BRODSKY: She wasn't here last time either.  
8 I think that this is -- I think that nothing -- it  
9 would have to be --

10 THE COURT: Again, you don't have to agree. I'll  
11 be anxious to see what the Supreme Court says, so I'll  
12 be certainly interested. It will be determinative  
13 maybe of the status of this motion. So I wouldn't  
14 mind waiting as well. But I don't have to. If you  
15 want a hearing, let's go; I'll rule.

16 MR. SCHMIEDEL: I don't want to do unnecessary  
17 things. I want to be candid. I mean, I said, Look,  
18 there's an issue with the sale of the house.

19 MR. BRODSKY: And I've agreed --

20 MR. SCHMIEDEL: And that's in the trust, you  
21 know, that my client's the trustee of. But she lives  
22 in there. And they may or may not raise some issues  
23 that might be addressed. But I don't know. I don't  
24 wish to predict it. But to the extent we can avoid

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having to do this, that's fine. I don't have a problem with that.

MR. BRODSKY: I'd tell you that I'd like to avoid this issue until the Supreme Court comes up. And I'll do everything I can to stay out of court until the Supreme Court rules.

THE COURT: So do you want to wait and get something from your client?

MR. BRODSKY: He needs approval. So can we come back, we thought, May 6th at 2:00 o'clock for status?

THE COURT: For status only.

MR. SCHMIEDEL: For status only. Not for a hearing.

MR. BRODSKY: With the Court's permission, May 6th at 2:00 for status.

MR. SCHMIEDEL: That's fine.

MR. BRODSKY: Thank you.

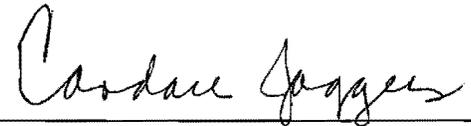
THE COURT: All right. Thank you, gentlemen.

(Which were all the proceedings had in the above-entitled cause.)

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STATE OF ILLINOIS )  
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COUNTY OF COOK    )

I, CANDACE G. JAGGERS, an Official Court Reporter for the Circuit Court of Cook County, Illinois, do hereby certify that I reported in shorthand the proceedings had on the hearing in the above-entitled cause; that I, thereafter, caused the foregoing to be transcribed into typewriting, which I hereby certify to be a true and accurate transcript of the proceedings.



Official Court Reporter  
CSR# 084-004494  
Circuit Court of Cook County,  
County Department-Probate Division

Dated this 23rd day of April, 2010.