

MARTIN BLASH		:	
	Plaintiff	:	COURT OF COMMON PLEAS
		:	PHILADELPHIA COUNTY
v.		:	
		:	JUNE TERM, 2007
ABA CONSTRUCTION GROUP, INC., PIONEERS		:	
IN PARTNERSHIP PROPERTY MANAGEMENT		:	NO. 00769
CORP., COURTYARD ASSOCIATES INVESTMENT		:	
L.L.P., REGIS DEVELOPMENT CORP., THE REGIS		:	CONSOLIDATED UNDER
GROUP, REGIS GROUP, INC. and BAUER		:	AUGUST TERM, 2007
CONSTRUCTION, et al.		:	NO. 02621
	Defendants	:	

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2009 having entertained Plaintiff's Motion in Limine to Preclude Steven G. Leventhal, Esquire, counsel for ABA Construction Group, Inc.'s ability to refer to himself as a "professional magician" and/or from performing tricks and/or any part of his "Magic Act" at any time during the presentation of his case to the jury, and having mused over opposition's Reply seeking to Make Plaintiff's Limine Motion Disappear- it is hereby ORDERED and DECREED that such Motion be DENIED.

BY THE COURT:

\_\_\_\_\_  
J.

07-1115  
Steven G. Leventhal, Esquire  
REGER RIZZO & DARNALL LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104-2899  
(215) 495-6501

Attorney for Defendants,  
ABA Construction Group, Inc.

Attorney I.D. #51288

MARTIN BLASH

Plaintiff

v.

ABA CONSTRUCTION GROUP, INC., PIONEERS  
IN PARTNERSHIP PROPERTY MANAGEMENT  
CORP., COURTYARD ASSOCIATES INVESTMENT  
L.L.P., REGIS DEVELOPMENT CORP., THE REGIS  
GROUP, REGIS GROUP, INC. and BAUER  
CONSTRUCTION, et al.

Defendants

:  
: COURT OF COMMON PLEAS  
: PHILADELPHIA COUNTY  
:  
: JUNE TERM, 2007  
:  
: NO. 00769  
:  
: CONSOLIDATED UNDER  
: AUGUST TERM, 2007  
: NO. 02621  
:

**RESPONDENT'S REPLY SEEKING TO MAKE PLAINTIFF'S LIMINE MOTION  
DISAPPEAR**

Defendant, ABA Construction Group, Inc. by and through their counsel hereby responds to what must be the most frivolous limine motion ever submitted by a practicing member of the Philadelphia bar:

1. Denied. While counter-acting the unknown means and methods of Mr. Leventhal's world class magic talents can certainly be a frightening prospect for assigned opposition trial counsel, in no way should the man's skills be classified as being highly prejudicial, confusing, misleading for the jury and/or having absolutely nothing to do with the substantive issues in the instant matter. To the contrary, Ms. Leventhal's unique style of trial presentation is geared 100% at making the plaintiff's case disappear.

2. Admitted. Pa.R.E. 401 has been properly-albeit erroneously quoted.

3. Admitted. Pa.R.E. 402 has likewise been properly-albeit erroneously quoted.

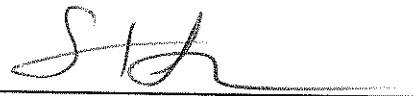
4. Admitted. Pa.R.E. 403 has been properly-albeit erroneously quoted.

5. Denied. Frankly the best evidence intending to take the jury's eyes off of the "negligence of my client" are the facts that support the overwhelming comparative fault of plaintiff's own client. By way of further answer still- magic in the manner practiced by the undersigned counsel can never be said to be utilized as either evidence or testimony. At best- it is reserved for argument enhancement (openings and closings only) as a relevant demonstrative (albeit highly entertaining) means of getting one's point across to an underpaid, extremely bored jury panel that gratefully seems to welcome the uncommon.

Taking away the undersigned's unique style of litigating in a sophomoric attempt at leveling the litigation playing field would be as ridiculous as the undersigned filing a motion in Limine requesting that the plaintiff's counsel be ordered to refrain from wearing pants at time of trial. (While opposition counsel may very well look great without his trousers on- the undersigned would be the last person on Earth ever to burden the Court with such a motion!)

WHEREFORE: Respondent respectfully request this Honorable Court make plaintiff's frivolous motion disappear with prejudice.

Respectfully Submitted,



Steven G. Leventhal, Esquire  
Counsel for ABA Construction  
Group, Inc.

07-1115  
Steven G. Leventhal, Esquire  
REGER RIZZO & DARNALL LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104-2899  
(215) 495-6501

Attorney for Defendants,  
ABA Construction Group, Inc.

Attorney I.D. #51288

---

MARTIN BLASH :  
Plaintiff :  
v. :  
ABA CONSTRUCTION GROUP, INC., PIONEERS :  
IN PARTNERSHIP PROPERTY MANAGEMENT :  
CORP., COURTYARD ASSOCIATES INVESTMENT :  
L.L.P., REGIS DEVELOPMENT CORP., THE REGIS :  
GROUP, REGIS GROUP, INC. and BAUER :  
CONSTRUCTION, et al. :  
Defendants :

: COURT OF COMMON PLEAS  
: PHILADELPHIA COUNTY  
:  
: JUNE TERM, 2007  
:  
: NO. 00769  
:  
: CONSOLIDATED UNDER  
: AUGUST TERM, 2007  
: NO. 02621

**MEMORANDUM OF LAW IN SUPPORT OF RESPONDENT'S REQUEST TO MAKE  
PLAINTIFF'S LIMINE MOTION DISAPPEAR**

**1. MATTER BEFORE THE COURT:**

Plaintiff's motion in limine to keep the undersigned counsel from using or referring to his magic avocation in any way at time of trial.

**2. COUNTER STATEMENT OF QUESTION INVOLVED:**

Whether opposition counsel, seething with jealousy over his failure to know or understand the Art of Magic performance, has the right to preclude the means or methods of the unique ways in which respondent counsel may choose to argue and/or enhance his argument style/technique during opening and/or closing arguments at time of trial.

Suggested Answer: No.

**3. STATEMENT OF FACT**

The instant limine motion is the most insane, silly, and frivolous pleading the undersigned counsel has ever seen filed by a co-member of the Philadelphia

Bar. The very fact that it was filed should warrant appropriate sanctions against filing counsel.

#### **4. LEGAL ARGUMENT**

Since the first day of civil procedure class in our first year of law school we have been taught that what a lawyer says (and does) during opening or closing argument is not EVIDENCE- it is ARGUMENT. Every trial judge comes well equipped with a standard jury instruction which instructs the jury on this long standing very important point.

Legend has it that the great James Beasley, (RIP) (before the common advent of the cell phone) once tried a case in which he placed a telephone on counsel's table. Never once in the course of the entire trial did he look at, touch or in anyway acknowledge what the phone was doing there. One can only imagine the level of curiosity that the jury must have felt at the daily viewing of this innocuous prop. During closing argument however, Beasley reached for the receiver on the phone for the very first time. In a booming tearful voice he begged the jury with the news of their judgment to make the defendants feel the exact same shock that the plaintiff's mother felt when she got the call revealing the news that she would never again see her beloved son." Now that's magic!

Anecdotal stories, biblical references and turning to examples of pop culture icons have long been used by innovative trial counsel at time of closing to hammer their trial themes home. That the undersigned counsel opted to travel the globe to learn a special set of performance skills rather than wasting his brain cells drinking his summers away at the Jersey Shore should not be held against him.

There is a reason movant counsel fails to cite a single case in support of his ludicrous motion. Likewise, responding counsel is also bereft of caselaw in support of his opposition to same. As a 20 year proud member of the Bar respondent counsel understands his role in the legal process, is respectful of same and would never dishonor the Court with cheap parlor stunts- (especially when Las Vegas quality illusions are so readily known and available to him.)

## **5. CONCLUSION**

The undersigned counsel for respondent well understands the significant difference between evidence and argument. He has never crossed the line in the past- nor does he intend to cross the line in the future. His unique style of litigation is unique precisely because of who he is. The jury is smart enough to understand that the facts make or break a case. No degree of showmanship can change the facts, God forbid the jury fails to do its job properly- that's precisely why Courts entertain JNOV motions.

Accordingly, respondent respectfully requests this honorable court's lovely assistance with making the instant limine motion disappear.

Respectfully submitted,



Steven G. Leventhal, Esquire  
Counsel for ABA Construction  
Group, Inc.

07-1115  
Steven G. Leventhal, Esquire  
REGER RIZZO & DARNALL LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104-2899  
(215) 495-6501

Attorney for Defendants,  
ABA Construction Group, Inc.

Attorney I.D. #51288

---

MARTIN BLASH  
Plaintiff  
v.  
ABA CONSTRUCTION GROUP, INC., PIONEERS  
IN PARTNERSHIP PROPERTY MANAGEMENT  
CORP., COURTYARD ASSOCIATES INVESTMENT  
L.L.P., REGIS DEVELOPMENT CORP., THE REGIS  
GROUP, REGIS GROUP, INC. and BAUER  
CONSTRUCTION, et al.  
Defendants

:  
:  
: COURT OF COMMON PLEAS  
: PHILADELPHIA COUNTY  
:  
: JUNE TERM, 2007  
:  
: NO. 00769  
:  
: CONSOLIDATED UNDER  
: AUGUST TERM, 2007  
: NO. 02621  
:

**CERTIFICATE OF SERVICE**


I, Steven G. Leventhal, Esquire, hereby certify that true and correct copy of Counter Reply Seeking to Make Plaintiff's Limine Motion Disappear and Memorandum of Law in Support thereof on the following parties by mailing same, first class mail, postage prepaid on February 19, 2009:

William J. Coppel, Esquire  
5434 King Avenue  
@ Rt. 38 East  
Suite 202  
Pennsauken, NJ 08109

Natasha L. Abel, Esquire  
Dickie, McCamey & Chilcote, P.C.  
150 South Independence Mall  
West, Suite 901  
Philadelphia, PA 19106

REGER RIZZO & DARNALL, LLP

By:

  
Steven G. Leventhal, Esquire  
Attorney for Defendant,  
ABA Construction Group, Inc.

Dated: 2-19-09