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November 17, 2008

VIA ELECTRONIC CASE FILING

The Honorable Joan M. Azrack
United States Magistrate Judge
United States District Court for the Eastern District of New York
225 Cadman Plaza East - Room 1210S
Brooklyn, NY 11201

Re: Cohen v. Bayside Cemetery & Congregation Shaare Zedek, No. 08 Civ. 3555
(RJD) (JMA)

Dear Judge Azrack:

We write as counsel to Defendants in the above-referenced action to advise the Court of certain recent developments and to respectfully request the adjournment of the initial conference currently scheduled for December 15, 2008.

On September 25, 2008, Chief Judge Dearie held a status conference in Lucker v. Bayside Cemetery & Congregation Shaare Zedek, No. 07 Civ. 3823, which was designated by Plaintiff in the above-referenced action as a related case. Following the conference, Chief Judge Dearie authorized Defendants to file a motion, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss all three actions related to Bayside Cemetery that are currently pending before him and Your Honor (No. 07 Civ. 3823, No. 08 Civ. 3555, and No. 08 Civ. 3923) for failure to state claims upon which relief can be granted. Briefing on the motions is to be completed by December 1, 2008, and oral argument before Chief Judge Dearie is set for December 12, 2008, at 11 am. (See No. 07 Civ. 3823, ECF Doc. No. 24.)

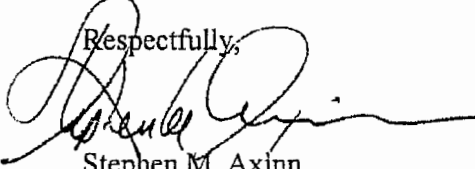
Since Defendants seek dismissal of each of the respective Plaintiffs' claims for, inter alia, lack of standing, Defendants respectfully request that Your Honor adjourn the initial conference in Cohen until such time as Chief Judge Dearie decides the pending motions to dismiss. If the Court is disinclined to indefinitely adjourn the conference pending determination of the motion, however, Defendants would suggest rescheduling this conference for January 13, 2009, at 2 pm,

The Honorable Joan M. Azrack
November 17, 2008
Page 2

and consolidating it with the initial conference currently set for that time in Goldstein v. Bayside Cemetery & Congregation Shaare Zedek, No. 08 Civ. 3923 (RJD) (JMA) (which is also a subject of the pending motion to dismiss).

This is the first request for an adjournment or extension of time in the Cohen action. In the related Lucker action, Your Honor previously granted an extension of time to respond to the Complaint (by order dated October 1, 2007) and an adjournment of the initial conference (by order dated February 1, 2008).

We provided a copy of this letter, including the proposed alternative date, to opposing counsel before submission, requesting consent for the proposed adjournment. Counsel to the Plaintiff declined, indicating that he believes the motion to dismiss lacks merit and that there is, therefore, no reason to postpone the conference. While we obviously disagree with that characterization, the matter will soon be submitted to Chief Judge Dearie for his determination, and Defendants have decided to proceed with this request in the interim.

Respectfully,

Stephen M. Axinn

cc: All Counsel (by ECF)