

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
WILMOS FRIEDMAN, HERMAN KAHAN, ZIGMOND
BRACH, JOSE MASRI, ERVIN ROSNER, MORRIS
FRIEDMAN, JOSEPH EPSTEIN, HERMAN LANDAU,
MOSES SPIELMAN and all others similarly situated,

Index No. 33481/08

Plaintiffs,

**REPLY
AFFIRMATION**

-against-

CYL CEMETERY, INC., CONGREGATION YETEV
LEV D'SATMAR, INC., CHEVRE KADISHE D'SATMAR,
a division of CONGREGATION YETEV LEV D'SATMAR,
INC., CONGREGATION YETEV LEV D'SATMAR
OF KIRYAS JOEL, INC., CENTRAL CONGREGATION
YETEV LEV D'SATMAR, INC., RABBI EZRIEL GLUCK,
JOSEPH WEISS, MOSES WITRIOL, NEW YORK STATE
POLICE, DAVID MARKOWITZ, CHAIM ELIEZER
GROSS, JOEL KAUFMAN, DAVID ECKSTEIN, ELIAS
HOROWITZ and SHLOMO WERTZBERGER,

Defendants.
-----X

Rabbi Ezriel Gluck affirms the truth of the following in accordance with his
beliefs and under the penalties of perjury:

1. I am the president of the Chevre Kadishe ("Burial Society") of
Congregation Yetev Lev D'Satmar and have personal knowledge of the facts set forth in
this affirmation.

2. This Reply Affirmation is made to refute the false statements made about
me in the motion papers submitted by those defendants who are opposing the plaintiffs'
motion. Almost all of what those defendants say about me in their motion papers is false.

3. Contrary to the statements made in the affirmation of Joseph Weiss, I am the only president of the Burial Society, and I have not resigned, retired, become inactive or been removed from office. I was appointed to the Burial Society by Grand Rabbi Joel Teitelbaum, the first Satmar Rebbe, over fifty years ago. I have actively carried out the duties of head of the Burial Society since I became the head in 1994, and continue to perform those duties at the present time. No one else has served as president since I became the president in 1994. I was the vice president before that time.

4. As I stated in my previous affirmation, the Burial Society is responsible for carrying out the burial of members of both defendant Congregation Yetev Lev D'Satmar, Inc. ("Brooklyn Congregation") and defendant Congregation Yetev Lev D'Satmar of Kiryas Joel, Inc. ("KJ Congregation"). Eligibility for burial is determined by the two congregations, not by the Burial Society. Each congregation offers its members the right to burial in the cemetery that is at issue here ("Cemetery"). Each congregation issues burial certificates to its members, upon payment of the necessary fees. Upon the death of a certificate holder, it is not the function of the Burial Society to make any determination whether the person is eligible for burial. Instead, the congregation that the person was a member of notifies the Burial Society that the person is entitled to, and is approved for, burial. In the case of members of the Brooklyn Congregation, Chaim Jacobowitz, as Secretary of the congregation, has the principal responsibility for giving this notice to the Burial Society. For many years, Mr. Jacobowitz has been the person who notified me and my staff of the death of any member of the Brooklyn Congregation, and who confirms to the Burial Society that the person has received approval from the Brooklyn Congregation for burial. This is how burials

have been handled for over fifty years. Mr. Jacobowitz is also, and has been for nine years, the person with whom my staff and I deal in respect to any settlement of accounts between the Brooklyn Congregation and the Burial Society.

5. The Burial Society is not a separate entity. It is actually part of the Brooklyn Congregation, and was set up when the Brooklyn Congregation was formed in 1948 to carry out the burials that the Brooklyn Congregation provided for its members.¹ The Burial Society receives a substantial portion of its revenue from the Brooklyn Congregation. The annual dues statements sent to members of the Brooklyn Congregation include a separate fee for the Burial Society, which the Brooklyn Congregation pays over to the Burial Society. Its office was (and still is) at the headquarters of the Brooklyn Congregation at 150-152 Rodney Street, where its records are kept. The KJ Congregation was not formed until 1981. Until that time, the Brooklyn Congregation was the sole governing body of the Satmar community. After the KJ Congregation was formed, the Burial Society continued to perform burials in the Cemetery as it had in the past. Throughout the protracted litigation over control, the Burial Society continued to perform burials for all factions, subject only to verification by the congregation that the deceased person belonged to that dues and other obligations owed had been paid. This was done for both the Brooklyn Congregation and the KJ Congregation impartially, even though the Burial Society is an agency of the Brooklyn Congregation. In fact, in 2005 the parties to the dispute over control stipulated in open court before then-Justice Stewart Rosenwasser that I would supervise control of the Cemetery to avoid disputes and possible violence.

¹ The Burial Society exists pursuant to the authority of Article 11 of the By-Laws of Congregation Yetev Lev D'Satmar, Inc., adopted on March 27, 1952.

6. As head of the Burial Society, it is and has always been my responsibility to decide where each decedent is to be buried in the Cemetery. I am and have been throughout the years the only person who makes that decision. No one else has any role in deciding where any individual is to be buried. There are no meetings or board decisions involved in a burial. Joseph Weiss is simply a long-time and experienced worker on behalf of the Brooklyn Congregation, the KJ Congregation, and the Burial Society, retained to act as gatekeeper, to arrange for ritual immersions (for the KJ Congregants), dig out the graves, and to see to it that graves are physically maintained. Weiss is not an officer or board member, and works at my direction. Weiss has no authority to make any decision whether someone is to be buried, or where they are to be buried in the Cemetery. Weiss is attempting to hold himself out as being a person with authority in the Burial Society, but in fact is merely a long-standing staff worker.

7. It is also my responsibility to approve the language on headstones before they are placed on the gravesites. In almost all cases this inquiry is limited to determining that the inscription is appropriate, something which is normally only a formality because headstone makers who serve the Cemetery are familiar with the Burial Society's regulations regarding acceptable inscriptions.

8. I personally reviewed the proposed language on the headstone that Eluzer Schlesinger wanted to place on his mother's grave, and that Bentzion Schwartz wanted to place on his daughter-in-law's grave. *See* the affirmations of Eluzer Schlesinger and Bentzion Schwartz (submitted with plaintiffs' original motion papers). In both cases, the language was perfectly acceptable under the established guidelines of the Burial Society. No wording in those headstones could have been any ground for refusing to put them up,

and the permits issued by the Brooklyn Congregation to put up those headstones were of the type regularly recognized by the Burial Society in the past as the basis for allowing erection of a headstone for decedents who were members of the Brooklyn Congregation. Indeed, the same headstones have since then been erected. Contrary to the statements made by Weiss, the headstones were brought to the cemetery by persons who were authorized to do so and who had placed tombstones on gravesites for years. Mr. Jacobowitz informs me that Weiss was informed in advance that the headstones were going to be placed on those gravesites.

9. I have also reviewed the burial certificates held by the named plaintiffs. All of them, including those signed by Chaim Jacobowitz, are valid burial contracts of the type which, throughout the years, the Burial Society has always recognized as reflecting binding obligation of the Brooklyn Congregation and the Burial Society to allow and arrange for burial of the holder and his wife in the Cemetery and which, until now, have been accepted as valid by all factions within the Satmar community without objection. Chaim Jacobowitz has been acting (under Jenö Kahan and Sol Perlstein) on behalf of the Congregation in matters involving the Burial Society for many years. Throughout the course of the present disputes within the Satmar community, persons holding burial certificates signed by Chaim Jacobowitz have been buried in the Cemetery without objection by anyone.

10. I am still fully and actively involved in all burials in the Cemetery, which can only take place at my direction. Weiss' statements that I am no longer active are false. In fact, on February 5, 2009 Jacob Ehrenreich, a member of the Brooklyn Congregation, passed away. Weiss came to me that morning to ask me which gravesite

to open for Mr. Ehrenreich - - something which he knew he did not have authority to do himself.

11. The Cemetery not only buries persons who hold burial certificates from the Brooklyn Congregation, but also derives a substantial part of its revenue from persons who belong to the Brooklyn Congregation, which is by far the most numerous of the various Satmar organizations. In 2007, I attended a series of meetings to discuss how to divide the income received from burial plot fees paid by members of the Brooklyn Congregation, as I have always done in the past. Weiss was also present at those meetings at my direction, and I instructed him to bring the records of persons from the Brooklyn Congregation who had purchased burial plots and to work out the balances paid by those persons with Chaim Jacobowitz, as the Secretary of the Brooklyn Congregation.

12. In August of 2008, defendant Central Congregations of Yetev Lev D'Satmar, Inc. ("Central Congregation")(an entity controlled by Berl Friedman that was created after the present disputes arose) sent out notices from its headquarters at 163 Rodney Street in the name of the Brooklyn Congregation which, among other things, announced that only its office could provide Certificates for burial in the Cemetery and insisting that existing Certificate holders had to submit their Certificates for "review" and the issuance of new Certificates. That letter was issued without my knowledge, without any meeting of the Burial Society and without any authorization. Unquestionably, the reason I was not informed, even though I have been Chairman and President of the Burial Society for many years, is because I refused to be a party to the politicalization of the Burial Society and the Cemetery, and specifically because I refused to reject certificates issued by the Brooklyn Congregation. Notwithstanding that letter and subsequent

notices, I am still in charge of burials at the Cemetery, and recognize burial certificates as valid whether issued by the Brooklyn Congregation or the KJ Congregation. In fact, even though a leader of the Central Congregation came to my home twice to ask me not to accept Certificates issued by the Brooklyn Congregation at 152 Rodney Street, I refused, because I would not change the status quo, that is, that all Satmar, regardless of whether they are congregants in the Brooklyn Congregation or the KJ Congregation, are entitled to burial and to erect a headstone based on Certificates and authorizations issued by their respective congregations.

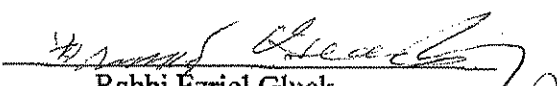
13. I have been advised that some defendants in this action have claimed that the Cemetery is in the territorial jurisdiction of Rabbi Aaron Teitelbaum, the leader of the Kiryas Joel Congregation. Rabbi Aaron Teitelbaum was named by his father, the late Grand Rebbe Moses Teitelbaum, OB"Y, as Rabbi of the Kiryas Joel Congregation, just as Rabbi Zalman Leib Teitelbaum was named by him as Rabbi of the Brooklyn Congregation. The Cemetery is owned by the Brooklyn Congregation, was never under the control of Rabbi Aaron Teitelbaum, and has always been open and available to members of both the Brooklyn and the Kiryas Joel Congregations. In fact, Weiss himself told me that he had been instructed by Rabbi Aaron Teitelbaum to deal with me with respect to all business of the Burial Society.

14. Mr. Weiss' statements about me are correct in one respect: I do not wish to be a participant in this lawsuit. I have never taken sides in any Satmar litigation. I am a member and supporter of both the Brooklyn Congregation and the KJ Congregation. In fact, I was a founding member of the Brooklyn Congregation, having accompanied the first Grand Rabbi Joel Teitelbaum to America, and thereafter serving him and the second

Grand Rabbi, Moses Teitelbaum, as sexton (Gabbai) and in many other ways. I was also a founding Board Member and remain a sexton of the KJ Congregation (see Exhibit A, copy of the Certificate of Incorporation of the KJ Congregation, naming me as a Trustee). I go to and have great respect for both Rabbi Aaron Teitelbaum and Rabbi Zalmen Leib Teitelbaum. I am thus completely familiar with both congregations as well as, of course, the Burial Society. I make this affirmation, not to favor one entity over the other, nor one group over the other, but simply in an effort to continue what has in fact been the status quo: Certificate holders of both the Brooklyn Congregation and the KJ Congregation can all be buried in the Cemetery, and have headstones erected, subject solely to approval of each person's respective congregation.

Affirmed before me on the
12 day of February, 2009

Notary Public


Rabbi Ezriel Gluck

