

**In the United States Court of Appeals  
for the Third Circuit**

Nos. 08-2784, 08-2785, 08-2798, 08-2799, 08-2818, 08-2819, 08-2831 & 08-2881

SHAWN SULLIVAN; ARRIGOTTI FINE JEWELRY; JAMES  
WALNUM, on behalf of themselves and all others similarly situated,

v.

DB INVESTMENTS, INC.; DE BEERS S.A., et al.

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PLAINTIFFS-APPELLEES' MOTION TO STRIKE APPELLANT  
QUINN'S UNAUTHORIZED BRIEF IN THE GUISE OF A RESPONSE  
TO MOTION TO FILE HANDOUTS

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*On Behalf of all Plaintiffs-Appellees*

*(Additional counsel listed on signature page.)*

PLAINTIFFS-APPELLEES' MOTION TO STRIKE APPELLANT  
QUINN'S UNAUTHORIZED BRIEF IN THE GUISE OF A RESPONSE  
TO MOTION TO FILE HANDOUTS

Plaintiffs-Appellees hereby move for an order striking Appellant Quinn's Unauthorized Brief in the guise of a Response to Plaintiffs-Appellees' motion to file Handouts from the February 23, 2011 *en banc* hearing.

In support of this motion, counsel avers:

1. On February 24, 2011, Plaintiffs-Appellees filed a motion for leave to file a certain "Handouts for Plaintiffs' En Banc Argument," with selected excerpts from the record, that arguing counsel, Samuel Issacharoff, referred to during the course of the *en banc* argument on February 23, 2011.

2. On February 25, 2011, Appellant Susan Quinn's counsel, Howard Bashman, filed a Response stating that Quinn had no objection to Class Counsel's motion and consents to the lodging of the handout with the Court. Response, page 2.

3. In flagrant disregard of the rules of this Court, Mr. Bashman appended to his Response a new, unauthorized brief addressing the merits argued at the *en banc* hearing and which Mr. Bashman had the opportunity to address during his rebuttal argument. Mr. Bashman argues substantive

merits beginning at the bottom of page 2 and continuing through page 6, points raised for the first time in this unauthorized brief.

4. The Court has not granted leave to any parties to submit new briefs and Appellant Quinn should not be allowed to file one under the guise of a so-called “response” to Plaintiffs-Appellees’ motion to lodge with the Court those handouts from the February 23, 2011 *en banc* hearing.

WHEREFORE, Plaintiffs-Appellees respectfully request that the Court enter an order striking that portion of Appellant Quinn’s February 25, 2011 Response beginning with the last paragraph on page 2 through page 6. If the Court does not strike Ms. Quinn’s unauthorized brief, Plaintiffs-Appellees respectfully request leave to file a response to the points raised in the unauthorized brief and that there be no further reply by Quinn.

Respectfully submitted,

/s/ John A. Maher

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel registered with the Third Circuit's CM/ECF system were served with this Motion electronically by the Court's electronic case filing system.

Dated: February 25, 2011

/s/ John A. Maher  
John A. Maher