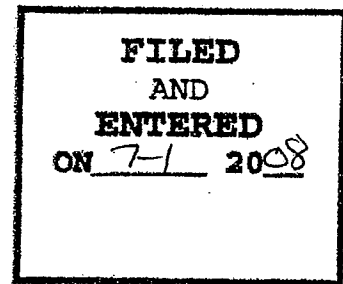


SUPREME COURT OF THE STATE OF NEW YORK
IAS PART COUNTY OF WESTCHESTER



To commence the statutory time period of appeals as of right [CPLR 5513(a)], you are advised to serve a copy of this order, with notice of entry, upon all parties.

PRESENT: HON. RORY J. BELLANTONI,
Justice

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IN THE MATTER OF THE APPLICATION PURSUANT TO CPLR 3102 OF:

RICHARD OTTINGER and JUNE OTTINGER,
Petitioners,

- against -

NON-PARTY *THE JOURNAL NEWS*, A DIVISION OF GANNETT
SATELLITE INFORMATION NETWORK, INC.
Respondent.

INDEX NO: 08-03892

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The instant action was commenced by the filing of a summons and complaint on February 25, 2008. The complaint alleges that certain defamatory statements were made concerning Richard Ottinger and June Ottinger, which statements were posted on a "LoHUD" blog hosted by the New York Journal News. The defendants named in that action were John Doe 1-100 and Jane Doe 1-100.

In the complaint, plaintiffs set forth several statements by certain anonymous persons posted on the LoHUD blog. Those statements include the following:

"It now appears that it has been proven, that the Ottinger's, . . . have presented a FRAUDULENT deed in order to claim that they own land under water. . . . We are talking about the Ottingers LYING to the State, the Building Department, the ZBA and necessarily either bribing or coercing other people to do the same." (Posted September 11, 2007 by SAVE10543.)

"Equally outrageous, was that as Ms. McCrory was informing the dumbstruck BOT of the Ottingers criminal behavior . . . and advocated for the Ottinger's position in order to further their illegal scam." (Posted September 15, 2007 by hadnough.)

"He [the mayor of Mamaroneck] took the juice from Richard and June Ottinger to the tune of \$25,000 so they could build their starter Taj Mahal on a substandard lot. Their money bought a compliant ZBA and Building Inspector. . ." (Posted September 19, 2007 by aoxomoxoa.)

THEY PAID THE RIGHT PEOPLE OFF! They started with taking care of the Mayor, everybody knows that. I would guess the Building Inspector and Zoning Board were not forgotten in their largesse. The Ottingers have been very generous in greasing the wheels of corruption. With the news of the fraudulent deed they submitted it becomes quite clear that they also must have taken care of the surveyor and the prior owner of the property, unless they are two of the dumbest people on earth! (Posted September 23, 2007 by SAVE10543.)

In an effort to ascertain the names of the anonymous bloggers, plaintiffs served a subpoena on The Journal News on February 28, 2008.

On March 21, 2008, The Journal News made a CPLR §2304 motion to quash the subpoena. On April 11, 2008, plaintiffs cross-moved to compel pursuant to CPLR R.3124 or, in the alternative, to convert the instant action to a special proceeding pursuant to CPLR §103(c) and allow pre-action disclosure pursuant to CPLR §3102(c).