

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

DOMENIC GATTO AND ATLANTIC
EXPRESS CORP.,

Petitioners,

- against -

JERRY CAPECI, individually and doing
business as GANG LAND NEWS and/or
GANGLANDNEWS.COM,

Respondent.

Docket No. 2008-1590

Richmond County
Index No. 80037/2008

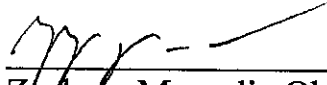
**NOTICE OF CROSS
MOTION**

PLEASE TAKE NOTICE that, upon the annexed affirmation of Zachary Margulis-Ohnuma dated March 7, 2008, the accompanying Memorandum of Law and all other papers filed in this action, a CROSS MOTION pursuant to CPLR § 2215 and 22 NYCRR § 670.5 and will be made before the assigned Justice of the Supreme Court of the State of New York, Appellate Division, at 45 Monroe Place, Brooklyn, NY 11201 on March 13, 2008, or as soon thereafter as counsel can be heard, for an order SANCTIONING Petitioner by awarding attorneys fees and court costs to Respondent for the cost of opposing the instant proceeding pursuant to 22

NYCRR 130-1 in the amount of \$10,000; and AWARDING such other relief as the Court deems just and proper.

Dated: New York, New York
March 7, 2008

LAW OFFICE OF ZACHARY MARGULIS-OHNUMA
260 Madison Avenue, 18th Floor
New York, NY 10016
(212) 685-0999

By: 
Zachary Margulis-Ohnuma
Attorney for Respondent Jerry Capeci

To: Silverman Sclar Shin & Byrne, PLLC
381 Park Avenue South – 16th Floor
New York, NY 10016
Attorneys for Petitioners

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

DOMENIC GATTO AND ATLANTIC
EXPRESS CORP.,

Plaintiffs,

- against -

JERRY CAPECI, individually and doing
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GANGLANDNEWS.COM,

Defendant.

Docket No. 2008-1590

Richmond County
Index No. 80037/2008

**AFFIRMATION OF
ZACHARY MARGULIS-
OHNUMA**

ZACHARY MARGULIS-OHNUMA, an attorney duly
admitted to practice law before the courts of the State of New York, affirms
the following to be true under penalties of perjury:

1. I represent the putative Respondent in this case, Jerry
Capeci ("Capeci"), who to date has not been served by the Petitioner in the
underlying action in Supreme Court.

2. I submit this affirmation and the accompanying
Memorandum of Law in opposition to the motion by Petitioner for an order
sealing the Complaint and other papers submitted in a prospective action for

libel against Capeci. The motion is presently returnable on submission on March 13, 2008.

3. This affirmation is based on my review of the file, discussions with my client and others, and my review of publicly available materials. I am fully familiar with the facts set forth herein.

BACKGROUND

4. For more than 30 years, Jerry Capeci has been writing extensively about Italian-American organized crime in New York. A former reporter and columnist for the New York Post, the New York Daily News and the New York Sun, he is the winner of numerous journalism awards and author of five books about the Mafia. He is considered to be America's foremost media expert on the New York Mafia and often appears on local, network and cable news programs as one. He currently publishes via the Internet a weekly column known as "This Week in Gang Land."

5. On December 27, 2007, Capeci wrote a column about the petitioner, Domenic Gatto, and his alleged ties to organized crime. Facts reported in the column were based on documents obtained by Capeci, including a 1989 affidavit by a New York County investigator that was used to obtain court approved wiretaps and a 2007 report of an interview that

Gatto gave to a federal prosecutor and agents of the Federal Bureau of Investigation. As of this writing, the column is available for download at <http://www.ganglandnews.com/column564.htm>. A copy of the column was attached to the Petitioner's motion papers. This column is one of several that Capeci has published on his website that contain information about Gatto's involvement in the federal investigation into corrupt activities by union officials and others in the New York City school bus industry.

6. In an effort to outspend, punish and chill Capeci, Gatto made an application via a special proceeding to the Supreme Court, Richmond County, for leave to file a sealed complaint against Capeci. Capeci was never served but, as a courtesy to the Court, I appeared specially on Capeci's behalf at a hearing on the issue. The application was denied. Papers relating to the application are attached to Petitioner's moving papers.

7. As explained more fully in the accompanying memorandum of law, Gatto's argument that secrecy is necessary to protect his reputation is entirely negated by the facts that (1) the allegations against him have already been widely disseminated and (2) the media has an ongoing interest in covering Gatto's bald attempt to use the courts to silence speech he does not like. The factual bases for these arguments are set forth below.

**MEDIA COVERAGE OF GATTO AND HIS EFFORT TO SILENCE
CAPECI**

8. Both the allegations against Gatto and the proceedings in this case have generated serious interest in the press. On March 3, 2008, the New York Times published an account of Gatto's application to file a sealed lawsuit under the headline, "Executive Wants to Sue for Libel, But Only If He Can Do It Secretly." A copy of this article is attached hereto as Exhibit A.

9. On March 5, 2008, WNBC Channel 4 News published an article on its website about Gatto's application under the headline, "Veteran Mob Writer in First Amendment Battle." A copy of this article is attached hereto as Exhibit B.

10. Ganglandnews.com has also written about the special proceeding and potential lawsuit in its February 28 and March 6 editions.

11. Gatto, whose company provides Access-A-Ride services in New York City and has school transportation contracts in 116 school districts in seven states according to the company's September, 2007 filings with the Securities and Exchange Commission, is clearly a public figure. Over the years The New York Times, The Village Voice, The New York Daily News, and the Staten Island Advance have also published articles

about Gatto. On January 29, 2008, the Village Voice published an article about substantially the same allegations that Gatto is now complaining are false and defamatory under the headline "Rudy Bus Pal Admits Paying the Mob." A copy of this article is attached hereto as Exhibit C.

PUBLIC INTEREST IN MAINTAINING AN OPEN PROCEEDING

12. In addition to the coverage specified above, leading journalists have expressed a keen desire that the legal proceedings herein be conducted out in the open, not in secret as Gatto prefers.

13. Letters from members of the media are attached hereto as exhibits. Taken together, these letters establish an overwhelming public interest in subjecting the instant legal action to outside scrutiny. As the director of the prestigious Knight Fellowships at Stanford University James J. Bettinger writes:

Defamation suits are an appropriate tool for those who have been truly defamed. But they can also be used to chill the exercise of press freedom and free expression, particularly when used by powerful figures against individuals. Allowing Mr. Gatto to file a secret, sealed suit would exacerbate this potential chilling effect, and should not be permitted.

Ex. D (Bettinger Letter).

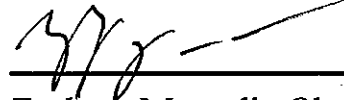
14. Moreover, writer Tom Robbins has stated that he has a particular interest in writing about Gatto and the school bus industry in the future. To do so, he needs access to the materials filed in this case. "In short," he concludes, "I believe it is in the interest of the public at large to deny Mr. Gatto's application to file his suit under seal." Ex. E (Robbins Letter). "Sunlight," writes Minnesota columnist and former 2d Department beat reporter Ruben Rosario, quoting Supreme Court Justice Louis Brandeis, "is the best disinfectant." Ex. F (Letter from Ruben Rosario, Columnist, St. Paul Pioneer Press). *See also* Ex. G (Letter from Mike Stanton, Investigation Team Chief, The Providence Journal).

SANCTIONS

15. As a result of the proceedings below, Gatto and his counsel are well aware that merely protecting against republication of allegedly defamatory statements is not a sufficient basis for sealing a libel lawsuit. Further, his efforts in this regard are a bald attempt to force Capeci to stop writing about him and to spend money defending a frivolous special proceeding, appeal, and, perhaps, lawsuit. As a result, he should be sanctioned for his effort to misuse the courts and Capeci should be awarded attorney's fees in the amount of \$10,000.

WHEREFORE, the Petitioner's motion should be DENIED and
the cross-motion for sanctions should be GRANTED.

Dated: New York, New York
March 7, 2008



Zachary Margulis-Ohnuma
Law Office of
Zachary Margulis-Ohnuma
260 Madison Avenue, 18th Floor
New York, NY 10016
(212) 685-0999

Copies to: Clerk of Court
Peter Silverman, Esq.

Exhibit A

MEDIA

Executive Wants to Sue for Libel, But Only if He Can Do It Secretly

People who file libel lawsuits against journalists want their day in court. But one plaintiff wants that day to be very quiet.

Domenic F. Gatto, the chief executive of the **Atlantic Express Transportation Corporation**, is upset about a handful of online articles by Jerry Capeci, who writes for the Web site **GangLandNews.com**. Mr. Capeci is a longtime reporter on organized crime who previously wrote at **The Daily News**.

The articles focused on information Mr. Gatto had provided in a federal investigation into mob payoffs in the bus industry.

Zachary Margulis-Ohnuma, Mr. Capeci's lawyer, said Mr. Gatto had found several claims made on the Web site to be defamatory and was seeking to sue Mr. Capeci. But first, Mr. Gatto wants to make sure that the litigation file is sealed so no member of the news media or public can examine the case.

"They are seeking a restraining order in an action that is prospective, meaning they haven't even filed the lawsuit yet," Mr. Margulis-Ohnuma, who is also a former **Daily News** reporter, said. "I've never seen a libel suit where the entire record has been sealed."

Late last month, Mr. Gatto's lawyers, who lost a previous effort to file a secret proceeding in the State Supreme Court in Staten Island, where Mr. Gatto's company is based, appealed that decision to the Appellate Division of State Supreme Court in Brooklyn. Mr. Margulis-Ohnuma has until March 13 to file a response.

A representative for Atlantic Express declined a request to interview Mr. Gatto. Mr. Gatto's lawyer, Peter R. Silverman of Silverman Sclar Shin & Byrne, declined to discuss the case. He said that "there's nothing to comment on" and that Mr. Capeci was "an Internet blogger that wants exposure in the legitimate press."

This is not the first time Mr. Capeci's work has involved the courts. Last fall, murder charges against Roy Lindley DeVecchio, a retired supervisor with the F.B.I., were dismissed after Mr. Capeci and another reporter turned over tapes to the prosecution that contained exculpatory interviews they had conducted with a crucial prosecution witness.

Mr. Capeci says he is standing behind his reporting on Mr. Gatto.

"Everything I've written can be backed up. It's outrageous that he's trying to litigate in secret. It makes no sense," Mr. Capeci said.

Books of The Times. Weekdays.

AZADEH ENSHA

Exhibit B

wnbc.com

Veteran Mob Writer Involved In First Amendment Battle

POSTED: 6:08 pm EST March 5, 2008

NEW YORK -- Upset over online columns linking him to the mafia, a school bus company owner is considering a libel suit against a veteran reporter, but wants the details kept secret, attorneys said Wednesday.

The face-off is between Domenic F. Gatto, chief executive of the Staten Island-based Atlantic Express Transportation Corporation, and Jerry Capeci, mafia expert and author of the weekly ganglandnews.com.

In a column last December, Capeci cited sealed court documents for the assertion that law enforcement officials in 1989 "pegged the current owner of New York City's largest school bus company as a labor racketeer with ties to the mob and a corrupt bus drivers union executive."

The column said "Domenic F. Gatto, whose company now earns more than \$200 million a year busing city school kids, was linked to bid-rigging and illegal activities with Julius (Spike) Bernstein, the late secretary-treasurer of Local 1181 of the Amalgamated Transit Union, according to the documents."

Peter R. Silverman, Gatto's attorney, said his client is "absolutely not" linked to the mafia and the sealed court documents contained "lies and fabrications made up by a convicted felon."

Mr. Silverman said, "If we choose to litigate this, we do not want the sealed court documents to be open to the public again."

Capeci's attorney, Zachary Margulis-Ohnuma, argued that the First Amendment protects his client and that any libel suit must be entirely public.

"Jerry Capeci meticulously reported on documented alleged ties between Mr. Gatto, the mafia and price fixing in the school bus industry," said Margulis-Ohnuma. "Mr. Gatto has the right to respond to these allegations but if he wants to sue, he has to do it in public."

A Staten Island judge rejected Gatto's request to temporarily seal the court documents at issue, but the Appellate Division of State Supreme Court in Brooklyn took the case on appeal and will again consider the matter next week.

IMAGES IN THE NEWS

- [Classic Beauties: How They Aged](#)
- [Celebrities Who Died Young](#)
- [Recent Notable Deaths](#)
- [Celebrities: Then And Now](#)
- [Celebs Who've Suffered Illnesses](#)
- [Sexiest Newscasters Listed By Maxim](#)
- [Celebrity Phobias -- What Freaks Stars Out?](#)
- [Teary-Eyed Celebs](#)
- [Celebrities In Their 70s And Going Strong](#)

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Exhibit C



News

Rudy's Bus Pal Admits Paying Mob

As mob-fighting mayor, Giuliani did nothing but help the guy—and get helped in return

by Tom Robbins

January 29th, 2008 12:00 AM

Nowhere was the post-Rudy letdown more severe last week than on Staten Island. Back in 1993, it was this little borough that showered Giuliani with enough votes and love to first put him over the top as mayor. It went on to provide many of his most loyal stalwarts.

Among the disappointed was Staten Island transportation mogul Domenic Gatto, the king of the city's school-bus operators. Gatto topped out in donations to Giuliani's presidential bid (\$3,000), just as he did back in 1999 (\$2,000) when Giuliani thought he wanted to be a U.S. senator. For Giuliani's re-election drive in 1997, Gatto provided a gleaming white school bus. The bus had a specially designed open platform at the rear so politicians could stand there and wave. It drove around the borough toting a huge banner with Giuliani's picture, alongside a couple of local pols, under a headline: "Reelect the Winning Team." Not to miss an advertising opportunity, Gatto put a nice plug for his own company on the back. "Atlantic Express," it read. "Your children's safety is our business."

At the time, Gatto was trying to land a city franchise—and accompanying subsidies—to let him run express buses from Staten Island to Manhattan. Under the city charter, such deals must be approved by the City Council. To Giuliani's people, this was another example of the old way of thinking. They promptly went ahead and cut the contracts with Gatto's company on their own.

When Giuliani appeared at a town-hall meeting in Staten Island in June 2001, several dozen members of a union representing MTA bus drivers showed up to tell him they thought the mayor was a little out of line on this matter. When union leader Larry Hanley got the mic, he told Giuliani that this backdoor contract was something out of Boss Tweed's playbook.

Oh, the outrage! On YouTube, you can watch the mayor's reaction. "Immature idiots!" he yells. "You all look too irresponsible to be bus drivers." Police detectives try to haul Hanley out of his seat. The drivers rise and walk out in protest. Giuliani can be heard yelling at their backs: "I know the kindergarten does a lot better than these morons."

With Giuliani's exit from the presidential race, we now bid farewell to such scenes. That scolding he longed to give to those other Romper Room pests over at the United Nations? Sadly, it's not to be. President Giuliani in the Rose Garden clucking over "really, really stupid questions" from the White House press corps? He is denied that joy as well.

Supporters like Gatto must now soldier on without him, and already the going has gotten tough.

For decades, the talk was that the Mafia had a hammerlock on the city's school-bus business. This seemed unlikely, however, since Giuliani, the veteran mob-buster, never cast a withering glance in the industry's direction. Fishmongers on Fulton Street? Yes, the place was rotten with gangland influence. The mayor promptly stamped it out. Ditto for the goons hauling private waste.

But those who conveyed the city's most precious cargo to and from school? If they were a problem, you never heard about it from Giuliani. Instead, Gatto, holding the largest school-bus contracts, was seen with all the right people. He hired the lobbying firm of Ray Harding, the mayor's political mentor, to help with a zoning matter. Problem solved. He sought Giuliani's support for the special express-bus contracts. Contracts signed and delivered.

Gatto's Atlantic Express company blossomed. Today, it earns more than \$200 million shepherding city schoolkids around town. It has the city's only privately owned express bus lines. It transports the elderly and the disabled under other contracts. And that's just New York. The company shuttles kids to school in seven states, from California to New Jersey. It posted \$428 million in revenues last year.

After Rudy Giuliani's rigorous vetting of mob-tied businesses here, could a company that still supped with the Mafia possibly achieve such success?

Amazingly, the answer seems to be . . . yes.

Last month in Manhattan federal court, prosecutors informed a judge that Gatto was one of several bus operators who for years had made secret payments—up to \$50,000 a year—to the mob. The statements came during the guilty plea of Salvatore Battaglia, a Genovese crime-family figure and ex-leader of Local 1181 of the Amalgamated Transit Union, which represents most of the city's school-bus drivers.

Battaglia's local is separate and distinct from the MTA workers who gave Giuliani such a tough time back in 2001. In fact, as near as anyone could tell, Battaglia's union never had a major gripe with the Giuliani-era City Hall. The ex-mayor was never heard calling them "morons." Then again, they never loused up one of his town-hall meetings.

They were busy elsewhere: According to a federal investigation still underway, Battaglia and a handful of bus operators succeeded in carving up the city's school-bus industry like a fat turkey.

Prosecutors at Battaglia's session in front of Judge Andrew Peck last month were careful to couch Gatto's participation in this racket as that of an extortion victim. He had made the payoffs because "he feared for the personal safety of himself and his family," Assistant United States Attorney Benjamin Gruenstein told the court.

Gatto's attorney, Peter Silverman, seconded that opinion. "He was extorted," said the lawyer. "These were serious people he was dealing with."

If so, Gatto stayed scared for a very long time. After he received immunity from prosecution last year, Gatto admitted that he made his first mob payoffs for the right to be in the school-bus business in 1974. He did so, a report from a March 2007 meeting between Gatto, the FBI, and prosecutors states, at the direction of his father, whom he described as "a low-level organized crime figure." Gatto was 24 years old at the time, a recently returned Vietnam veteran, and a dutiful son. "Gatto Jr. did not argue with his father and did what he was told," wrote the agents who interviewed him.

Gatto said his dad took him to a candy store on Avenue X in Brooklyn's Gravesend section. There, the facts of this life were explained to him by a gangster named "Fat Larry" Paladino and a Local 1181 official named Julius "Spike" Bernstein. Fat Larry, Gatto's dad explained, was the mob conduit to Spike. The mob tax imposed on the young bus entrepreneur back then was a relative bargain: \$250 a week.

Gatto got along well enough with this crowd that he was made a trustee of the union's benefit funds, a duty that entailed frequent visits to the local's Queens headquarters. On one of those visits in 1986, another union official, John Ambrosio, noted Gatto's growing success. "You got to do better for us," Ambrosio told him. His tax then rose to \$400 weekly, Gatto said.

During this period, drivers at one of Gatto's largest firms, the Staten Island Bus Company, somehow remained unorganized. They weren't happy about it. After Local 1181 declined to sign them up, drivers sought out other unions. According to a 1993 National Labor Relations Board decision, this greatly upset the bus owner. In a 1990 incident, Gatto spit on one pro-union driver, an ex-cop, and ripped his shirt off before firing him and four others, the decision stated. As penance, the board ordered Gatto to rehire the fired drivers and refrain from physically assaulting them.

In his briefing last year with the feds, Gatto said that unspecified labor problems prompted him to seek a 1995 sit-down with the mobsters at Local 1181. The meeting resulted in a kind of global settlement whereby Gatto agreed to pay an additional \$150,000, with \$15,000 handed over each Christmas, and another \$15,000 at the end of the school year.

The tributes continued. A couple of years ago, when Gatto won four new school-bus routes on Staten Island, he said he forked over another \$8,000 for the privilege. As late as June 2006, months after Battaglia and Bernstein had both been arrested and it would appear the feds were finally riding to the rescue, Gatto continued to meet secretly with the gangsters, according to the FBI report. One meeting with Spike Bernstein—then out on bail—took place in the bathroom of a Queens restaurant; another was at the Hilton hotel in Staten Island. There, the bus magnate handed over another \$20,000. He did so, Gatto told the feds, in hopes the mobsters would finally leave him alone.

Gatto was spared the ordeal of testifying about all this after Battaglia's last-minute guilty plea. He declined to discuss it further. "It is a painful chapter in his life," said attorney Silverman. "He doesn't want to relive it."

Understandably. But had Gatto ever reached out to the authorities to complain about this ruthless Mafia extortion—even as the fearless Giuliani ruled City Hall?

"I don't know," said Silverman

Exhibit D

**JOHN S. KNIGHT FELLOWSHIPS**

Department of Communication, Stanford University

James R. Bettinger, Director

March 5, 2008

Supreme Court of the State of New York, Appellate Division
Second Judicial Department
45 Monroe Place
Brooklyn, New York 11201

RE: Gatto & Atlantic Express v. Capeci, No. 2008-1590 (N.Y. App. Div. 2d Dep't)

To the Court:

I would like to object in the strongest possible terms to the efforts of Mr. Domenic Gatto to file a sealed, secret defamation suit against Jerry Capeci. To grant such a request would go against the principle that all court proceedings should be conducted in public. This principle has been a hallmark of the courts in this country since its founding, and are as important today as they have ever been.

I have been involved in public access and public information cases for nearly 40 years, primarily as a newspaper reporter and editor but also as an advisor to a student newspaper and as a frequent commentator on journalism and free press issues. I currently am the director of the John S. Knight Fellowships for Professional Journalists at Stanford University. I should state for the record that Mr. Capeci was a Fellow in our program during the 1995-96 academic year. I have been an admirer of his work in the years since.

Defamation suits are an appropriate tool for those who have been truly defamed. But they can also be used to chill the exercise of press freedom and free expression, particularly when used by powerful figures against individuals. Allowing Mr. Gatto to file a secret, sealed suit would exacerbate this potential chilling effect, and should not be permitted.

Thank you for your consideration of this letter.

Sincerely,

James R. Bettinger

Director, John S. Knight Fellowships for Professional Journalists
Stanford University.

Exhibit E

The Village Voice

36 Cooper Square
New York, NY 10003

March 4, 2008

To Whom It May Concern:

I write with respect to the application by Atlantic Express and its executive, Domenic Gatto, to file a sealed lawsuit against reporter Jerry Capeci.

I am a staff writer for the Village Voice and I have written about Mr. Gatto in the past. Mr. Gatto controls a major company engaged in significant public contracts in the city and elsewhere. As a result, he is a public figure of interest to our readers. I am writing to the Court because I am continuing to research stories on the city's school bus industry and believe that I should be entitled to access to all papers files in his proposed libel suit. In short, I believe it is in the interest of the public at large to deny Mr. Gatto's application to file his suit under seal.

This is my first encounter with a case where a plaintiff in a libel action wants to keep his own lawsuit sealed. Absent fear of disclosing proprietary information, or security concerns (and even those are currently the subject of a major national debate), I don't know what legitimate purpose is served by keeping it secret. Such secrecy not only unfairly stacks the deck against the defendant, but it also hides the case from public scrutiny -- one of the basic tenets of our judicial system .

I appeal to the court to affirm that if Mr. Gatto wants to proceed against Mr. Capeci he must do so in the clear light of day, thus upholding the famous dictum of that great jurist, Oliver Wendell Holmes, that "sunlight is the best disinfectant."

Sincerely,



Tom Robbins
Staff Writer
212-475-2096

Exhibit F

3/7/08

Justice Robert Spolzino
Appellate Division: 2d Dept.
45 Monroe Pl.
Brooklyn, NY 11201

Re: Domenic Gatto v. Jerry Capeci
Docket # 2008-1590

Dear Justice Spolzino:

It is with more than a measure of nostalgia that I write to you and your esteemed judicial body. Until my move to the Twin Cities in 1991, I covered the Brooklyn federal, state and appellate court system for the New York Daily News. I covered many cases that were debated and decided by your court. They were among the best years of my career in my hometown.

During that time, Jerry Capeci was a newsroom colleague of mine. He is and remains among the finest journalists I've known and had the pleasure of working with. So I must confess that I do have a personal stake and priority in supporting Capeci in his quest to keep open ongoing civil proceedings involving a defamation lawsuit filed against him.

I must confess that I also have two other personal priorities of interest that are related to this case: public trust and public access in our American court system. I passionately believe in and support both. I also strongly believe these ideals would be needlessly violated if the above-mentioned litigation was partially or completely conducted in secret or a non-public manner.

Though not perfect, our system of justice is much admired and envied throughout the world because of its openness. Other than the plaintiff being a juvenile or the issue one a matter of national security, I really don't see any possible rationale for closing all or part of this litigation.

Whether it's a relatively minor issue being litigated in small claims court, or a major one with national implications before the nation's highest court, we must remind ourselves that transparency in our courts is a paramount element to our democratic way of life. It must be cherished, protected and championed at all cost.

Indeed, "sunlight is the best disinfectant," as the late U.S. Supreme Court Justice Louis Brandeis so eloquently put it. Thank you for your time and consideration.

Respectfully yours,

Rubén Rosario



Columnist
St. Paul Pioneer Press
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St. Paul, MN 55101
(651) 228-5454
rrosario@pioneerpress.com
www.twincities.com

Exhibit G

March 6, 2008

Honorable Justices
Appellate Division
New York State Supreme Court
Brooklyn, New York

Dear Honorable Justices:

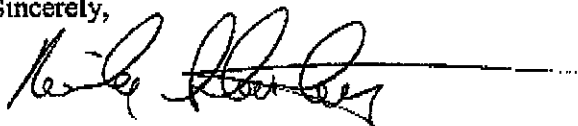
I am writing you regarding the efforts by Domenic F. Gatto to seal a proposed libel suit against Jerry Capeci, publisher of GangLandNews.com.

As a Pulitzer Prize-winning investigative reporter at The Providence Journal who has focused on organized crime, and as the author of a New York Times best-selling book about a corrupt politician (The Prince of Providence, about former Providence mayor Buddy Cianci), I find Mr. Gatto's bid for a restraining order troubling. To me, it is anathema to the principles of our justice system for a citizen to be sued in secret. While Mr. Gatto is certainly within his rights to seek redress, it is essential for Mr. Capeci's rights, and those of a free and open society, that he be allowed to face his accuser publicly.

Not only does Mr. Gatto's attempt to seal this case from public view fly in the face of the law, but the ensuing publicity undermines his argument that the details of his claims in a public court of law be sealed from public view and public scrutiny. Granting his motion, it seems, would set a dangerous precedent and an inappropriate division between public and secret trials.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Stanton", followed by a horizontal line.

Mike Stanton
Chief, Investigative Team
The Providence Journal
75 Fountain St.
Providence, Rhode Island 02902

SUPREME COURT OF THE STATE OF NEW YORK: APPELLATE DIVISION
SECOND DEPARTMENT

DOCKET NO. 2008-1590

DOMENIC GATTO AND ATLANTIC EXPRESS TRANSPORTATION CORP.,

Petitioners,

- against -

JERRY CAPECI, INDIVIDUALLY AND DOING BUSINESS AS GANG LAND NEWS
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Respondent.

NOTICE OF CROSS MOTION AND ATTORNEY AFFIRMATION

LAW OFFICE OF ZACHARY MARGULIS-OHNUMA

Attorney for Jerry Capeci

**260 MADISON AVENUE, 18TH FL.
NEW YORK, NY 10016
(212) 685-0999**

To: Silverman Sclar Shin & Byrne, PLLC, 381 Park Avenue So. – 16th Floor,
New York, NY 10016
Attorneys for Petitioners

*Service of a copy of the within NOTICE OF CROSS MOTION AND AFFIRMATION is hereby
admitted.*

Dated:
