

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	§	
	§	
V.	§	No. 07 CR 0220
	§	
PAUL BARNABA,	§	
<i>Defendant.</i>	§	
	§	

**MOTION FOR APPOINTMENT OF COUNSEL
UNDER THE CRIMINAL JUSTICE ACT**

TO THE HONORABLE BARBARA JONES, U.S. DISTRICT JUDGE FOR
THE SOUTHERN DISTRICT OF NEW YORK:

Defendant Paul C. Barnaba hereby moves to have his current attorneys, Solomon L. Wisenberg and Adrienne U. Wisenberg of Wisenberg & Wisenberg, PLLC, appointed by the Court to represent him pursuant to the Criminal Justice Act (“CJA”), Title 18, United States Code, §3600A. In support of the motion, Barnaba shows as follows:

1. Until recently, the majority of Barnaba’s legal fees and expenses have been paid by a Directors and Officers Insurance Policy (“D&O Policy”), which provided \$50 million in coverage for eligible insureds in four layers.

2. On August 7, 2008, Barnaba’s attorneys received word that all proceeds of the D&O Policy were exhausted as of July 31, 2008. Indeed, the final insurance carrier’s preliminary estimate is that open invoices submitted on

or before that carrier's July 31, 2008, deadline exceeded the final \$10,000,000.00 layer of coverage by \$1,600,000.00.

3. Without the insurance policy, Barnaba lacks the means to pay attorney fees in this case. As Barnaba previously stated in the affidavit attached to his Motion to Sever, he was effectively fired from his job within days of the Indictment. Barnaba has been out of work during a significant portion of the post-Indictment time period. He is now essentially without savings and has had to dip into his 401K retirement funds. Although Barnaba is currently employed as a consultant, the project he is working on is set to expire by late September or early October and he has no prospect of future employment at this time.¹

4. Barnaba specifically requests the appointment of his current attorneys, rather than appointment of new counsel. Undersigned counsel have represented Barnaba for nearly two years; they are thoroughly and intimately familiar with the case. The Indictment in this case is 65 pages long and contains 121 numbered paragraphs. To date, more than 11 million pages of electronic discovery have been provided by the Government, and counsel has conducted detailed review and analysis of the discovery. Barnaba is ready for trial and has been ready for several months. Under these circumstances, it would severely impair Barnaba's defense and cause substantial further delay to assign new

¹ If necessary, Barnaba will file a CJA Form 23 Affidavit of Indigency to verify his financial status.

attorneys to the case. Subsection (c) of the CJA expressly authorizes court appointment of previously retained counsel when the court “finds that the person is financially unable to pay counsel whom he had retained.”

5. Undersigned counsel are both experienced federal criminal lawyers, and each has experience representing defendants under the CJA. Solomon L. Wisenberg is currently on the CJA Panel of the U.S. District Court for the District of Columbia. Adrienne U. Wisenberg was on the CJA Panels in the U.S. District Court for the Western District of Texas and in the U.S. Court of Appeals for the Fifth Circuit for nearly 10 years and has handled numerous CJA cases at the district court and appellate level.

6. Undersigned counsel have consulted with counsel for the co-Defendants, who have no objection to this motion.

7. Undersigned counsel have also consulted with AUSA Marc Berger, who has no objection to their appointment as CJA attorneys for Barnaba, provided that the Court finds Barnaba financially eligible for a CJA appointment.

Wherefore, premises considered, Barnaba requests that his current attorneys, Solomon L. Wisenberg and Adrienne U. Wisenberg of Wisenberg & Wisenberg, PLLC, be appointed to represent him under the CJA.

Respectfully submitted,

_____/s/_____
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Attorneys for Paul C. Barnaba

CERTIFICATE OF SERVICE

On August 18, 2008, I served a copy of this Motion for Appointment of Counsel Under the Criminal Justice Act on the attorney for the United States, Assistant U.S. Attorney Marc Berger, and on counsel for the Codefendants, by filing it electronically.

_____/s/_____
SOLOMON L. WISENBERG

Attorney for Paul Barnaba

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**ORDER APPOINTING ATTORNEYS
SOLOMON L. WISENBERG AND ADRIENNE U. WISENBERG
UNDER THE CRIMINAL JUSTICE ACT**

On this day, the Court considered Defendant Paul C. Barnaba’s request to appoint his previously-retained counsel, Solomon L. Wisenberg and Adrienne U. Wisenberg of Wisenberg & Wisenberg PLLC, as counsel under the Criminal Justice Act. Finding that the motion has merit, the Court has determined that it should be GRANTED.

Therefore, attorneys Solomon L. Wisenberg and Adrienne U. Wisenberg of Wisenberg & Wisenberg, PLLC, are hereby appointed under the Criminal Justice Act to represent Paul C. Barnaba in this case.

So ordered on this the _____ day of August, 2008.

BARBARA S. JONES
U.S. District Judge