



**COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE**

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Re: *Macrophage Therapeutics, Inc. v. Goldberg*  
C.A. No. 2019-0137-JRS

Dear Counsel:

I received the attached email from Mr. Weisbrot last evening. As it appears from the address line that this contact with the Court was *ex parte*, I am lodging it on the docket (redacted).

Mr. Weisbrot's email states that I would not consider an application from him because he "was not wearing a tie." That is true, as the record reflects. What the record also reflects is that Mr. Weisbrot appeared in court for trial (via Zoom) on Tuesday in either a printed tee-shirt or pajamas (it was difficult to discern). I did not notice this until Mr. Weisbrot addressed the Court late during the afternoon session.

Against my instincts, I did not immediately address the matter with Mr. Weisbrot because I could not do so “at side bar” (as I would in a courtroom) and I did not want to cause him embarrassment in front of his client and opposing counsel. Instead, I elected to close the Tuesday trial session with a clear admonishment to *all* counsel, including Mr. Weisbrot, that if counsel intended to participate in the trial going forward, they must be appropriately dressed for Court. Mr. Weisbrot ignored that direction; he appeared in a sport coat and open-collared shirt; I refused to hear his “application” and then directed that he go off camera. He then refused the Court’s direction.

Mr. Weisbrot’s email declares he is unaware (even after an “honest search”) of a rule that would require proper courtroom attire for court proceedings. I presume “Delaware counsel”<sup>1</sup> has directed his forwarding counsel to the Chancery Guidelines

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<sup>1</sup> I was surprised when Mr. Hill introduced himself at the start of trial as “local counsel” because, as the Guidelines to Help Lawyers Practicing in the Court of Chancery (the “Chancery Guidelines”) make clear, “[t]he concept of “local counsel” whose role is limited to administrative or ministerial matters has no place in the Court of Chancery. The Delaware lawyers who appear in a case are responsible to the Court for the case *and its presentation*.” Chancery Guidelines, at § II, 1(a) (emphasis supplied). *See also Lillis v. AT&T Corp.*, 2009 WL 663946, at \*2 (Del. Ch. Feb. 25, 2009) (emphasizing the important and substantive role of Delaware counsel).

(also publicly available on the Court’s website). Had Mr. Weisbrot consulted those guidelines, he would have encountered the section entitled “Proper Attire.” That section reads: “Counsel should wear a formal business suit or dress with a formal business shirt or blouse.”<sup>2</sup> Of course, a guideline should not be necessary to instruct trial counsel how to dress for court (especially for trial),<sup>3</sup> but the Chancery Guidelines do that explicitly to remove all doubt.<sup>4</sup> To the extent there remained a question about proper courtroom attire, Mr. Weisbrot need only have consulted with

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<sup>2</sup> Chancery Guidelines, at § I, 7. I note that, since the Chancery Guidelines were published, the Court has publically made clear to the Bar that women may be attired either in a “dress” or a formal pant suit “with a formal business shirt or blouse.”

<sup>3</sup> The Court was advised by Mr. Weisbrot at least twice during the pretrial conference that he has been a practicing lawyer for “30 years.” D. I. 166 at 18, 30. That he is “not aware” how to dress for Court after practicing as a litigator for “30 years” is remarkable.

<sup>4</sup> Had Mr. Weisbrot consulted the Chancery Guidelines, he also would have discovered that “[t]he Court prohibits the possession of hand-held electronic devices of any kind in the courtroom itself. That includes blackberries, cell phones, smartphones, and PDAs of any kind, aircards and wireless or “Bluetooth” adapters or connectors, and any recording device. There are several important reasons for this. First, their use in court is disruptive, demeaning to the dignity of the proceeding, and unfair to those actually concentrating on the proceeding.” Chancery Guidelines, § I, 4 (entitled “PDAs, Cell Phones, and Other Devices”). This guideline would have informed Mr. Weisbrot that his use of a cell phone during trial, apparently to take a picture of the Zoom screen following his exchange with the Court, was not only inappropriate but “prohibited.”



his Delaware counsel who I am certain would have directed him how to dress for court in Delaware.<sup>5</sup>

Finally, Mr. Weisbrot reports for the first time in his *ex parte* email that a medical condition prevents him from wearing a tie. He states that “he had hoped to explain this but was not given a chance.” That is inaccurate. If the condition existed as of the pretrial conference (held a week before trial), Mr. Weisbrot could have raised it then. He did not. If it existed at the start of trial, he could have raised it then, particularly when the Court inquired of counsel whether there were any “housekeeping matters” to address. He did not. Most importantly, he could have raised his medical condition at the start of yesterday’s trial session in response to the Court’s admonition to counsel the night before to be properly attired for Court. Or he could have raised it in response to the numerous instances during the course of yesterday’s trial session where the Court inquired of counsel whether there were

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<sup>5</sup> While I suspect this goes without saying, the reason judges don judicial robes and counsel dress in business attire for court is to project a unified recognition of the solemnity of the occasion. These are meaningful gestures that reflect respect for the litigants, their cause, their counsel, the judge and the Court. It is mystifying that any courtroom lawyer would not intuitively understand this.

“housekeeping matters” to address. Again, silence. Instead, as noted, Mr. Weisbrot chose to activate his camera (and thereby appear in the trial) at the end of the trial day, interrupting a witness’ examination so he could make “an application.” He was dressed in a sport coat and open collared shirt. I reminded him of my admonition and advised him he could not participate in the trial. I then directed that he go off camera. He refused. All the while he said nothing of a medical condition.

With all of this said, had Mr. Weisbrot alerted the Court of his medical condition and asked for an accommodation, I would have gladly obliged.<sup>6</sup> And I do so now. Mr. Weisbrot may appear in the proceedings in a business suit, proper dress shirt and no tie. Having represented to the Court that the accommodation is necessary to address a medical condition, Mr. Weisbrot will submit to the Court, under seal and through Delaware counsel, medical evidence that the condition prevents him from wearing proper courtroom attire within ten (10) days following the close of the trial.

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<sup>6</sup> Had Mr. Weisbrot wished to address the matter with the Court *ex parte*, I would have cleared the request with opposing counsel and then would have accommodated him.

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To the extent an order is required,

**IT IS SO ORDERED.**

Very truly yours,

*/s/ Joseph R. Slights III*

JRSIII/cap

cc: Register in Chancery