

YR.	NUMBER	MO	DAY	YEAR	DEMAND	MAG. NO.	COUNTY	DEM.	YR.	NUMBER
422	3	87	0440	06 23 87	3	190	1	Nearest \$1,000	J	2214
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PLAINTIFFS

DEFENDANTS

Bernard J. Dolenz

Grand Bahama Development Company, Ltd.

JURY

award of \$65,000

Tim

CASE CLOSED

CAUSE

(CITE THE U.S. CIVIL STATUTE UNDER WHICH THE CASE IS FILED AND WRITE A BRIEF STATEMENT OF CAUSE)

Breach of contract

ATTORNEYS

Pro se
Bernard J. Dolenz
6102 Swiss Avenue
Dallas, TX 75214
214-821-0220

Francis T. Eck, Esquire
Thomas P. Collins, Esquire
ECK, LEWIS, ANDERSON & COLLINS
16 South Second Street
Richmond, Virginia 23219
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JURY

Case set:	
On Merits:	12-21-87 9:00
IPTC	10-02-87 8:45
Status	:
On Motion:	:
FPTC	:

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	07/01/87
				JS-6	01-01-88

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. 87-0440-
BERNARD J. DOLENZ		GRAND BAHAMA DEVELOPMENT	PAGE 2 OF _____ PAGES

DATE	NR.	PROCEEDINGS	
<u>1987 Cont'd.</u>			
Dec. 2	31	Pltf's Response and Objection to Motion to Admit Depositions and Qualify Experts, Filed.	afd
Dec. 2	32	Pltf's Response to Deft's Motion for Summary Judgment, Filed.	afd
Dec. 4	33	Pltf's Motion in Limine, filed.	peh
Dec. 4	34	Deft's Response to pltf's Rule 56 Motion filed.	lkm
Dec. 4	35	Deft's Response to pltf's request for sanctions pursuant to Rules 11 and 37 filed.	lkm
Dec. 4	36	Deft's Response to pltf's Motion in Limine filed.	lkm
Dec. 4	37	Deft's Response to pltf's Motion for Temporary Restraining Order in aid of jurisdiction and Brief in support filed.	lkm
Dec. 4	38	Deft's Response to pltf's motion and notice permitting use of deposition at trial filed.	lkm
Dec. 4	39	Deft's Response to Motion for leave to file pltf's first supplemental complaint filed.	lkm
Dec. 4	40	Deft's Motion to file supplemental exhibits to deft's Rule 56 Motion for Summary Judgment filed.	lkm
Dec. 7	41	Deft's Objection to Pltf's Witness List, filed.	peh
Dec. 08	---	IN OPEN COURT: Williams, J., V. Halasz, OCR. Pltf. <u>pro se</u> . Deft. by counsel. Matter came on for hearing on Motions. Parties Cross-Motions for Summary Judgment. Arguments had. Motions Denied. Pltf's Motion for Leave to File A Supplemental Complaint is DENIED. Parties Motions to Permit Expert Witnesses & file Depositions heard. Court ruled that the Scheduling Order will control this matter. Pltf's Motion for A T.R.O. heard & Denied. Pltf's Motion for Sanctions heard & Denied. Deft's Motion to Compel Production of Documents heard & Denied. Pltf's Motion in Limine heard & GRANTED. Pltf's Motion for Leave to Remove Deposition Tapes rec'd in this matter by the Clerk on 11/24/87 is GRANTED. Pltf. may remove these tapes & resubmit to the Court after they are edited. Deft's Motion to disallow use of Ron Williams deposition at trial heard & taken under advisement. Pltf's Motion to Review the Deposition of Jethro Miller in camera & disallow the use of same is taken under advisement. Order to enter.	le
Dec. 08	---	Video Depositions rec'd by the Clerk on 11/24/87 (<u>in brown expandable</u>) returned to Pltf. per RLW so that the Pltf. may edit these tapes as necessary for use at trial.	len
Dec. 08	---	Deposition of Jethro Miller rec'd <u>UNDER SEAL</u> (PER RLW) for in camera review by the Court. (In Sealed Cabinet)	len
Dec. 11	42	ORDER that Parties' motions for summary judgment are DENIED; Deft's motion to qualify experts & to admit their depositions is DENIED; Pltf's motions for TRO, sanctions, & leave to file supplemental complaint are DENIED; Deft's motion to compel is DENIED. Pltf & P.Hudson are ORDERED to submit affidavits; Deft is ORDERED to submit deposition of J.Miller for <u>in camera</u> review; the law of the Bahamas will govern this case. ENT 12/11/87, RLW, filed. Cps. mailed.	peh
Dec. 11	43	Deft's List of Witnesses, filed.	peh
Dec. 11	44	Deft's Renewed Motion to Strike Deposition Testimony of Ron Williams, filed.	peh
Dec. 11	45	Deft's Synopsis of Ron Williams' Depositions, filed.	peh
Dec. 11	46	Deft's List of Exhibits, filed.	peh
Dec. 11	--	Deft's Exhibits, received (1 blk binder [3 sets]).	peh
Dec. 14	47	Affidavit of Bernard J. Dolenz, filed.	mk
Dec. 14	48	Affidavit of Phyllis Hudson, filed.	mk

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 87-0440-R
DOLENZ, Bernard J.	GRAND BAHAMA DEVELOPMENT CO.	PAGE 4 OF _____ PAGES

DATE	NR.	PROCEEDINGS
1988 Jan. 6	65	Pltf's Motion for Costs, filed, with Attachments. mkh

BENCHMEMO: BENARD DOLENZ V. GRAND BAHAMA DEVELOPEMENT COMPANY
("DEVCO"), 87-00440-R, dicoverly motions, Oct. 2 at
9:00

ATTORNEYS: Plaintiff -- pro se

Defendants -- Francis T. Eck and Thomas P. Collins

Judge, this matter comes before you on plaintiff's motions to: (1) use depositions from a prior proceeding pursuant to Rule 32(a)(4), Fed. R. Civ. P.; (2) quash a notice of deposition of David Charmarro under Rule 26(c); (3) quash a notice of deposition of Jethro Miller under Rule 26(c) and impose Rule 11 sanctions; (4) impose Rule 11 sanctions for failure of defense attorneys to appear at depositons; and (5) compel production pursuant to Rules 37(a)(2) and 37(b). You should DENY all these motions.

I believe you are familiar with the facts in this case. Dr. Dolenz appeared before you in June seeking damages from Land'Or. (Dolenz v. Land'Or, 87-005). He is currently seeking damages from the seller of the Xanadu Hotel and alleges breach of contract and interference with economic relations.

1. Use of depositions taken in a prior proceeding

Rule 32(a)(4) permits the use of depositions taken in a prior proceeding where the parties and issues are identical to those in the current proceeding. Here, the parties differ. In the prior proceeding, Dr. Dolenz was suing the purchaser of the Xanadu Hotel. In the current proceeding he is suing the seller.

Nonetheless, courts have ignore the same-party requirement of the rule and have allowed the use of prior depositons where

the issues are substantially identical and the earlier adversary had the same motivation to cross-examine the deponent. See Wright and Miller, 8 Federal Practice and Procedure section 2150; Hewitt v. Hunter, 432 F. Supp. 795 (W.D. Va. 1977, Judge Dalton).

Recently enacted Rule 804(b)(1), Fed. R. of Evid., rejects this approach. The parties must be identical or one must be the predecessor in interest. The motion, therefore, should be DENIED.

2. Quash the deposition of David Charmarro

This Rule 26(c) motion is based on the premise that Charmarro's earlier deposition could be used in this proceeding. Assuming that it cannot be used, this motion should be DENIED.

3. Quash the deposition of Jethro Miller and impose sanctions

Dr. Dolenz moves to quash the notice to depose Jethro Miller under Rule 26(c). Miller was the attorney that represented Dr. Dolenz's investment firm in negotiations to buy the Xanadu Hotel. The plaintiff asserts that his attorney-client privilege prohibits the defendants from deposing Mr. Miller.

My understanding of the attorney-client privilege is that it cannot be asserted until a question is asked that seeks privileged information. Mr. Miller could answer questions about events that fall outside the scope of the privilege. Dr. Dolenz can assert the privilege to prevent the defendants from gaining access to certain information but not to prevent them from deposing Mr. Miller altogether.

Dr. Dolenz also asserts that Mr. Eck has acted in bad faith in persisting in his claim to depose Mr. Miller. Such bad faith is not apparent from the record.

Therefore, I suggest that you DENY both motions.

4. Impose sanctions for failure to appear at depositions

Dr. Dolenz moves under Rule 11 for the Court to impose sanctions upon defendant's counsel for failing to appear at depositions on August 24 and 25 in Houston. Defendant's counsel was scheduled to take the depositions of plaintiff and two witnesses on those dates, but learned on August 21 that their client did not wish them to incur the expense. Defendant's counsel was unable to reach Dr. Dolenz until Monday morning, August 24 to inform him that the depositions had been cancelled.

Defendants have agreed to pay the court reporter's fee and half the airfare of one of the witnesses. Dr. Dolenz seeks payment for his lost time and the airfare of another witness. The defendants have refused, claiming that the witness, although he works in Aruba, he lives in Houston and is a party to this litigation.

Defendant counsel's efforts and response seem fair to me. I would recommend that you DENY plaintiff's motion.

5. Compel production of documents

Dr. Dolenz moves pursuant to Rules 37(a)(2) and 37(b) for an order compelling the defendants to produce certain requested documents. The plaintiff argues that the documents are necessary to demonstrate that the Court can exercise personal jurisdiction over the defendant under International Shoe. The defendant

claims that the requests are irrelevant and overly burdensome. It is difficult from the existing record to determine the merits of each request but I have indicated my opinion in some instances.

Dr. Dolenz seeks (in request #5) all documents evidencing transactions between DEVCO and International Diversified. He believes these records will indicate transactions with Land'Or. The defendants has refused to produce these documents.

Plaintiff wants (in request #6) DEVCO's incorporation records and documents to determine to what extent DEVCO benefits from tourist taxes. The defendant contends that the documents are irrelevant. I agree with the defendants.

In request #13 Dr. Dolenz seeks all documents evidencing any business transactions between DEVCO, its parent or subsidiaries and any financial institution in Virginia. The plaintiff complains that the defendant has not fully complied with this request because it did not produce documentation of a million dollar wire transfer.

Dr. Dolenz refuses to accept defendant's answer that it does not have any documents that show revenues, taxes, either directly or indirectly, that have flowed to DEVCO from Virginia citizens visiting Freeport since January 1984. The plaintiff wishes to reassert this request (#16).

In request #18, Dr. Dolenz wants all advertising materials that DEVCO, its parents or subsidiaries, uses in Virginia to solicit business. Defendant has refused without explanation to

comply. Absent a satisfactory explanation on Friday, I would grant this request.

Finally, in request #19, Dr. Dolenz requests everything and anything evidencing any relationship or contact that DEVCO has with anyone in Virginia. The defendant objects to the scope of this request. I agree.

Judge, all the parties have been warned about bring dicoverly motions before you. They are aware of the possibility of sanctions. Yet they claim that they have been unable to work these matters out.

JLW 10/1/87

BENCHMEMO: DOLENZ V. GRAND BAHAMAS DEVELOPMENT CO, 87-440
multiple motions

ATTORNEYS: Plaintiff: Pro se
Defendant: Francis Eck

Judge, this matter is before you on a plethora of motions:
(1) parties' cross motions for summary judgment pursuant to Rule 56(b), Fed. R. Civ. P., (2) both parties' motions to admit depositions and qualify experts pursuant to Rules 26(b)(4) and 32 of Fed. R. Civ. P., (3) plaintiff's motion for a temporary restraining order, pursuant to Rule 65(b), to prevent DEVCO from pursuing a declaratory judgment action in the Bahamas, (4) plaintiff's motions for sanctions pursuant to Rules 11 and 37, (5) plaintiff's leave to file a supplemental complaint pursuant to Rule 15(d), (6) defendant's motion to compel production of financial statements and tax returns pursuant to Rule 37(a)(2), (7) plaintiff's motion in limine.

I believe you should (1) deny each party's motion for summary judgment, (2) deny defendant's motion to qualify an expert and use his deposition as testimony but grant plaintiff's motion to qualify one expert and use his deposition as testimony, berate the parties for not working out the use of video-tape depositions as testimony and leave it to them to work out, (3) deny plaintiff's motion for a TRO, (4) deny plaintiff's motion for sanctions, (5) grant in part and deny in part the plaintiff's motion for leave to file a supplemental complaint, (6) grant defendant's motion to compel, and (7) defer plaintiff's motion in limine

1. Cross motions for summary judgment

Dr. Dolenz is suing for breach of contract and tortious interference with contractual relations. The crux of the Grand Bahamas Development Co. ("DEVCO")'s defense is that there was never a contract with Dolenz's Zoe, Inc. Although the parties have stipulated to many facts, there remain two factual disputes that make summary judgment improper.

First, Dolenz claims that the parties arrived at a firm oral agreement at a Saturday, March 23, 1985 meeting. He claims that by Mr. St. George's words and actions the parties agreed on all terms of the contract, there was a meeting of the minds, and the parties agreed to be bound. DEVCO argues that Mr. St. George never told Dolenz or his associates that they had a firm deal nor did he indicate he intended to be contractually bound by their discussion. Hence, there is a factual dispute over whether an oral agreement was reached.

Second, Dolenz asserts that by an exchange of letters dated March 25 and March 27, 1985 and a \$10,000 check to DEVCO, their contract was given binding force. He claims he performed his part of the bargain by placing half a million dollar deposit in escrow. DEVCO disputes this claim and argues that Dolenz neither had the money nor placed it in escrow by April 4, 1985 as the purported agreement required.

DEVCO also claims that since their written acceptance of March 27 was made "subject to formal contract," there could be no binding contract under Bahamian law. On this basis, DEVCO has moved for summary judgment.

DEVCO's summary judgment argument has touched off a conflict of laws debate among the parties. Dolenz claims Texas law applies. DEVCO argues Bahamian law applies because all the actions involving the validity of the contract occurred in the Bahamas. I believe DEVCO is correct.

The Court has diversity jurisdiction over this matter, and consequently should abide by Virginia's conflict of law rules. The validity of the contract is the disputed issue in this matter. DEVCO challenges Dolenz's compliance with the form and ceremonies required by the law upon entering a contract. It is well settled in Virginia that the formal validity of a contract is to be governed by the law of the situs of the making of the contract (lex loci celebrationis). Arkla Lumber & Manufacturing Co. v. West Virginia Timber Co, 146 Va. 641, 132 S.E. 840 (1926); Witter v. Torbett, 604 F. Supp. 298 (W.D. Va. 1984); 4A Michie's Virginia and West Virginia Jurisprudence: Conflict of Laws §21. Generally, the place of acceptance of a proposal is the place of contract because of the rule that the contract is complete when the proposal of the one party has been accepted by the other. Brown v. Valentine, 240 F. Supp. 539 (W.D. Va. 1965).

Under both of Dolenz's theories, DEVCO accepted Zoe's offer in the Bahamas. Dolenz, however, argues that the deal was suppose to close in Texas. This argument seemingly contradicts his arguments that DEVCO was contractually bound after the Saturday March 23 meeting. He has not argued that the breached contract for which he seeks relief was accepted in Texas. Consequently, the law of the Bahamas ought to apply.

Nonetheless, DEVCO is not entitled to summary judgment. First, DEVCO has failed to show that Dolenz is not entitled to relief on his oral contract claim. Second, DEVCO's method for establishing precedent under Bahamian law is specious. It asserts that since there is no reporter system for Bahamas courts of record, the Court must rely on expert testimony. According to DEVCO's experts--Fredrick Smith (DEVCO's Bahamian counsel) and former Judge Charles H. Graham--there was no contract because the words "subject to formal contract" indicate a lack of formality. As set forth below, I believe there are more appropriate methods for determining how a the Bahamas court would rule.

Therefore, I think you should deny each parties' motion for summary judgment.

(The defendant has also noted that under Bahamian law, the judge has discretion as to the use of a jury in a contract dispute. DEVCO also notes that punitive damages are not usually allowed in a contract dispute.)

2. Qualify experts and use of depositions at trial

DEVCO seeks to qualify Smith and Graham-Perkins as experts in Bahamian contract and real estate law and to allow their depositions to be submitted into evidence at trial. Dolenz wishes to qualify Ron Williams and Calvin Kemp as experts in making fair market value determinations of real estate. He too seeks to have their depositions submitted as evidence. Dolenz also wants to use the video-tape depositions of five other witnesses as evidence at trial.

Dolenz objects to DEVCO's use of Smith and Graham-Perkins as experts on two grounds. First, he claims he had improper notice of their depositions. On November 13, 1987, Eck and Dolenz went to the Bahamas to take depositions. Eck gave Dolenz only two days notice of the experts' depositions and failed to supply him with a summary of the experts' opinions and mental impressions as required by Rules 26(b)(4)(A) and Local Rule 21(G). Second, Dolenz was unable to attend these depositions because of an alleged death threat by a DEVCO agent, John Holt-- the current manager of the Xanadu. Apparently on the second day of depositions, Dolenz and Eck happened upon John Holt. Upon learning of the reasons for Dr. Dolenz's visit, Holt purportedly threatened to "deck" the doctor and told him his "body would be floating in the river." Dolenz left for Miami that night, and Eck deposed Smith and Graham-Perkins the next day.

Eck claims that he did not plan to depose the witnesses until he "discovered" them upon his arrival on November 13 or 14. He claims he made every effort to comply with the rules.

Given all the circumstance of these depositions, if you were to allow them into evidence, the experts should be re-deposed out of fairness at some neutral cite such as Miami.

I don't believe that Smith's and Judge Graham-Perkins' expert testimony is necessary. In his moving papers, Eck has included a portion of a Bahamian court decision which sets forth the sources of Bahamian law:

Bahamian Law is based on English legal and equitable principles from which it has sprung... Decisions of the House of Lords are persuasive but not binding. There is no

systematic productions of reports of Bahamian decisions. Save as to statutory differences, Bahamian decisions are in accordance with Bahamian Law based primarily on English common law and equitable principles and on reported English cases. Reported decisions of other countries in the British Commonwealth (Australia, New Zealand, and where appropriate, Canada) are treated with persuasive authority. In matters with a commercial emphasis close attention is given to the principles followed in the United States of America, and decisions of the United States Courts on matters which derive from the same or similar common law principles are carefully considered and where appropriate applied.

The proper approach, it seems to me, is to have the attorneys argue the case as they would argue it to a court in the Bahamas. Indeed, Mr. Eck has subsequently submitted copies of treatises and articles on Bahamian contract law as well as an opinion letter from a Bahamian firm citing British case law. Allowing experts to say what the law is and what the outcome of the suit should be is an improper intrusion upon the province of the jury and the judge. Alternatively, you could appoint your own expert under Rule 706, Fed. R. Evid.

If you were to allow DEVCO to qualify an expert, Judge Graham-Perkins is the better choice. I've attached a copy of his resume.

Dolenz wants to qualify Ron Williams and Calvin Kemp as experts on the value of the Xanadu. Although Dolenz pays close attention to your scheduling order when it comes to Eck's behavior, he has forgotten you allow only one expert per discipline. Hence, he must chose between offering William's

response to interrogatories as expert testimony or Kemp's deposition.

Dolenz also seeks permission to use video-tape depositions. He claims the following witnesses are out of the country: Ron Williams, David Chamorro, Edward St. George, Calvin Kemp, Jethro Miller, and Sir Jack Hayward. Additionally, Phyllis "Count" Hudson is greater than 100 miles away and is ill. Eck objects only to the deposition of Ron Williams since the deposition being offered is one from a prior proceeding. Otherwise, he will agree to the video-tape depositions as long as Dolenz complies with the Fed. R. Civ. P. Eck claims that the depositions are lengthy and contain inadmissible statements. He asserts that he has been unable to get hold of Dolenz and work something out. I think a "pep-talk" may be in order.

3. TRO

Dolenz wants the Court to impose a TRO on DEVCO from pursuing a declaratory judgment action it filed in the Bahamas courts (Grand Bahamas Development Co. v. Zoe, Inc., Case No. 1253 in the Supreme Court--Equity side). Scheduled for trial on December 14, 1987, DEVCO has petitioned the court to rule that no enforceable contract exists between DEVCO and Zoe. (Fredrick Smith represents DEVCO in this action.) Dolenz contends that he would be irreparably harmed if DEVCO is permitted to pursue the Bahamian action before its trial here on December 21, 1987.

Dolenz would be irreparably harmed if the Bahamas court's decision is given res judicata effects in this court. Eck has represented that the Court would not be bound by any action in

the Bahamas. I'm not sure if there are any res judicata implications, and I will get back to you on the enforcement of foreign decisions from the Bahamas.

On the other hand, the circumstances of the Bahamian cause of action appear very suspicious. The case was filed on November 16, 1987--the Monday after Dolenz took depositions-- and is scheduled to be tried a week before this action.

Nevertheless, absent a showing that Dolenz will be irreparably harmed, you should deny his motion for a TRO.

4. Motion for sanctions

Dolenz seeks sanctions because (1) David Chamorro refused to answer a question during a deposition, (2) DEVCO filed suit against Zoe in the Bahamas after it consented to jurisdiction here, and (3) an agent of DEVCO made a death threat against him and another agent trespassed upon the residence of Phyllis Hudson.

Dolenz asked Chamorro if he saw any inconsistencies in St. George's and William's depositions. Chamorro responded that he did. Dolenz started to ask him what exactly those inconsistencies were. Chamorro started to answer but Eck apparently cut Chamorro off. Eck argues that the question was overly broad and designed to require Chamorro to spend a day and half reading other depositions thereby effectively removing Chamorro as defendant's representative at all other scheduled depositions.

Judge, it is difficult for me to tell what happened since Dolenz only submitted the first page of deposition where the

dispute arose. (see attached) I can't tell if his questions were reasonable or not, or if Chamorro made a reasonable effort to respond.

As to reasons 2 and 3, I don't believe that sanctions are the proper remedy. Either Dolenz succeeds in enjoining DEVCO from continuing with its suit in the Bahamas or he doesn't. Fining DEVCO serves no purpose. Similarly, imposing sanctions on DEVCO because one of its agents allegedly threatened Dolenz and trespassed upon Ms. Hudson's property does not fall within the purpose of Rule 11 or 37. A better remedy would be for Dolenz to file criminal charges.

Therefore, absent some showing that Chamorro's refusal to answer was improper, you should deny Dolenz's motion for sanctions.

5. Leave to file a supplemental complaint

Dolenz seeks leave to include in his complaint a claim of slander which occurred after the filing of the original complaint. He also seeks to include a claim of emotional distress from the alleged death threat. In the latter claim, he merely sets forth the facts of the alleged death threat and really does not state a claim for which relief can be granted. Hence, I don't believe he should be allowed to add this to his complaint.

He does allege the elements of slander, but he did not plead any facts. Under Rule 15(d), Dolenz must set forth "transactions or occurrences or events" which happened since the filing. He has only vaguely referred to such acts.

You are given a great deal of discretion in whether to grant the plaintiff leave to supplement his complaint. Some courts have not permitted new causes of actions to be supplemented under Rule 15(d). The better approach, however, is to let all the causes of actions come in involving the same parties and facts. By permitting Dolenz to include his slander count, it may be possible to finally end this litigation between the parties. You may want Dolenz, however, to beef up his supplemental complaint so that DEVCO knows exactly what acts it has allegedly done.

I believe that you should grant Dolenz's motion in part and deny it in part. Unless he can tie the alleged assault into some claim, he should not be able to include it in his complaint.

6. Defendant's motion to compel

DEVCO has requested Dolenz's, Zoe's, Hudson's and other's financial statements and tax returns to see if they are the "financial heavies" they claimed to be. Since this is an issue in the case as to Dolenz and Hudson and a possible defense by DEVCO, the financial status of these two parties is relevant. You ruled earlier in Butterworth v. Intergrated Resources that tax returns are subject to a qualified privilege. The party seeking the returns must show their relevance to the subject matter litigation. If this has been shown, the non-moving party bears the burden of proof to show that the information in the returns is readily available elsewhere. Dolenz has not satisfied this burden of proof, nor has Hudson. Hudson I believe is subject to the discovery request of DEVCO because she is or was

part of Zoe, Inc. Therefore, I believe you should grant the defendant's motion to compel Dolenz and Hudson to produce financial statements or tax returns for the years 1984 and 1985. The defendant has asked for tax returns for 1986 and for other individuals, but has failed to show how they are relevant.

7. Motion in limine

Dolenz has asked for several evidentiary rulings. Some may have merit, others clearly don't. Nonetheless, I don't believe any of his motions are ripe, nor will they be ripe until the trial begins.

Summary

1. Cross motions for summary judgment -- deny
2. Defendant's motion to qualify experts and permit their depositions in evidence -- deny
Plaintiff's motion to qualify one expert -- grant
Plaintiff's motion to use deposition testimony -- let the parties work it out.
3. Plaintiff's motion for a TRO -- deny
4. Plaintiff's motion for sanctions -- deny
5. Plaintiff's motion to supplement its complaint -- grant in part and deny in part.
6. Defendant's motion to compel -- grant.
7. Plaintiff's motion in limine -- defer.

JLW