STATE OF MICHIGAN

COURT OF APPEALS

EWIE COMPANY, INC. and MAHAR/EWIE LLC,

Plaintiffs/Counter-Defendants/Appellees,

v

MAHAR TOOL SUPPLY, INC.,

Defendant/Counter-Plaintiff/Third-Party Plaintiff/Appellant,

v

PRODUCTION SERVICES MANAGEMENT, INC., DILIP MULLICK and MANOJ SACHDEVA,

Third-Party Plaintiffs/Appellees.

UNPUBLISHED
October 9, 2008

No. 276646
Washtenaw Circuit Court
LC No. 04-001357-CB

Before: Saad, C.J., and Hood and Borrello, JJ.

PER CURIAM.

Mahar Tool Supply, Inc. (Mahar) appeals the trial court's grant of summary disposition to EWIE Company, Inc. (Ewie). Mahar also appeals the trial court's denial of its motion to compel discovery and its order quashing a subpoena Mahar served on Comerica Bank.

I. Facts

In 1999, Ewie and Mahar formed the limited liability company Mahar/Ewie LLC (LLC) to provide inventory supply and management services for General Motors' Willow Run plant. On October 27, 2000, the parties restructured the LLC so that Mahar would have a 49% ownership interest and Ewie would have 51% ownership interest.[1] They also amended the

[1] The parties agree that they changed ownership of the LLC at GM's request. They changed the (continued…)

articles of organization to state that "the term of the LLC . . . shall end on December 31, 2004." The operating agreement also contains specific provisions regarding dissolution, as well as an integration clause and a non-competition provision.

In March 2004, GM extended the Willow Run contract with the LLC to 2007. However, in late 2004, Ewie notified Mahar that did not want to continue the LLC and sought to dissolve it and wind up its affairs. Mahar did not wish to dissolve the LLC and refused Ewie's suggestion that Mahar buy out Ewie's share. Ewie then sent Mahar a proposal to buy Mahar out for $695,000, and Mahar declined the offer. Nonetheless, Ewie paid Mahar approximately $680,000 for its 49% equity in the LLC, and notified GM that the company dissolved. Upon learning of the dissolution, GM terminated its Willow Run contract with the LLC and awarded a new contract to Production Services Management, Inc., (PSMI) a new minority corporation formed by the principals of Ewie. On January 5, 2005, after dissolution of the LLC, Ewie sold the LLC's assets to PSMI.

When Mahar refused to permit the winding up of the company, Ewie filed this lawsuit on its own behalf and on behalf of the LLC for judicial winding up pursuant to MCLA 450.4805(1). Mahar filed a counterclaim against Ewie, PSMI, and the two individual principals of both Ewie and PSMI, Dilip Mullick and Manoj Sachdeva, alleging numerous business torts and violation of the Michigan Limited Liability Company Act.

In 2005, Mahar subpoenaed Comerica Bank and requested various documents referring to the LLC and PSMI. Comerica provided various documents to Mahar on March 15, 2005. However, on July 6, 2005, Mahar sent a letter to Comerica and stated that its production of documents was incomplete. Mahar reiterated its request for the subpoenaed documents and expanded its request to include documents referring to the LLC, PSMI, Ewie, Mullick, Sachdeva and officers and employees of the companies. During discovery, Mahar also sought to depose two attorneys, James A. Schriemer and Ellis B. Freatman. According to Mahar, both attorneys were involved in discussions about the dissolution of the LLC and Mahar believed they could also testify about relevant facts regarding Ewie and PSMI's role in the dissolution and the transfer and valuation of assets.

Ewie filed a motion to quash the Comerica subpoenas and argued that the requests are unreasonable, oppressive and overbroad. Mahar moved to compel the production of documents and to compel Schriemer and Freatman to testify at a deposition. The trial court held a hearing on the motions on September 9, 2005. At the hearing, Ewie agreed that Mahar could view and copy any documents related to the LLC, but argued that Mahar should not be allowed to look at or copy documents referring to PSMI, Mullick or Sachdeva. The trial court observed that Mahar's discovery requests were overbroad and simply ruled that they appeared to be for a purpose "other than the ascertainment of truth." The court entered a written order reflecting its ruling on October 3, 2005 and it denied Mahar's motion for reconsideration in an order entered on October 26, 2005.

(…continued)

ownership from 50%-50% to 49%-51%, with Ewie owning the greater share of the business, because Ewie is a certified minority-owned business.

On July 6, 2006, Ewie filed a motion for summary disposition under MCR 2.116(C)(8) and (10). Ewie argued that, as the majority member of the LLC and pursuant to the articles of incorporation and the operating agreement, Ewie properly sought to dissolve the LLC in light of the dissolution date of December 31, 2004. Ewie further argued that, under the Michigan Limited Liability Company Act, Ewie was forced to seek judicial intervention when Mahar resisted the dissolution. According to Ewie, Mahar lacks standing to bring its counter complaint because the LLC was dissolved on December 31, 2004 as a matter of law and Mahar cannot show that Ewie's conduct in seeking to dissolve the LLC was unfair or oppressive under MCL 450.4515. Ewie further maintained that, if the parties wished to extend the term of the LLC, the parties would have to execute a new written agreement and amendment to the articles of incorporation and neither party did so. In light of the integration clause in the operating agreement, Ewie further asserted that Mahar could not argue that the parties orally agreed to continue the LLC beyond the specified term. With regard to Mahar's claim that Ewie violated the non-compete clause in the operating agreement, Ewie asserted that GM awarded the Willow Run contract to PSMI, a third-party entity, and not to Ewie. Finally, Ewie averred that its valuation of the assets of the LLC and its distribution of Mahar's proportionate share were proper because Mahar never sought an independent audit or questioned the valuation.

In response, Mahar argued that Ewie, as the majority and managing member of the LLC, orchestrated the misappropriation of the LLC, including its assets, employees and contracts with GM by a new company owned by Ewie's shareholders, Mullick and Sachdeva. According to Mahar, Mullick and Sachdeva surreptitiously organized PSMI in November 2004 to take over the LLC and its assets to the detriment of the LLC and its minority member, Mahar. Mahar maintained that the parties had agreed to extend the term of the LLC when they extended the GM contract to 2007 and when it renewed its credit line at Comerica Bank. Mahar further asserted that, by the time Mahar became aware of Ewie's conduct, Ewie had already convinced GM to transfer the Willow Run contracts to PSMI, which is a direct violation of the non-compete clause in the operating agreement. Further, Mahar argued that Ewie's unilateral decision that Mahar should receive only $680,000 for its share of the LLC ignores the value of the GM business.

Mahar further maintained that the integration clause in the operating agreement does not apply because the agreement is ambiguous and incomplete. Specifically, Mahar argued that the operating agreement does not address what would occur if the parties extended the Willow Run contract past the date of dissolution. Accordingly, Mahar urged the trial court to consider the parties' course of conduct to determine their intent. Mahar also asserted that, regardless of the dissolution date, Ewie had a fiduciary duty to act in good faith and in the best interests of the LLC and it breached those duties by failing to extend the term of the LLC and by privately negotiating with GM to transfer the contract to PSMI. Mahar maintained that there are issues of fact about Ewie's conduct notwithstanding the date of dissolution in light of Ewie's fiduciary duties, the non-compete clause, and because Mahar's consent is required before the LLC may sell substantially all of its assets to a third party. Finally, Mahar claimed there are issues of fact about the valuation of the LLC's assets because, as a going concern, the LLC would be worth considerably more than the book value.

Following oral argument, the trial court issued a written opinion and order granting summary disposition to Ewie. The court ruled that Ewie correctly sought to dissolve and wind up the affairs of the LLC because the articles of incorporation unambiguously state that the LLC

will dissolve on December 31, 2004. Further, the court held that Ewie properly attempted to perform a valuation of the LLC's assets and distribute Mahar's share. Because the sale of assets occurred after the LLC dissolved, the trial court found that Ewie did not wrongfully transfer the LLC's assets to PSMI. The court further observed that Mahar failed to show that the sale of the LLC's assets amounted to an unjust windfall to Ewie, PSMI, Mullick or Sachdeva. According to the court, Ewie had no interest in the transfer of the LLC's assets to PSMI because Ewie had no ownership interest in PSMI. Further, the court ruled that the members did not have to vote on the distribution of assets during the winding up process.

II. Analysis

A. Summary Disposition

The trial court granted summary disposition to Ewie, Mullick and Sachdeva pursuant to MCR 2.116(C)(10). We review a trial court's grant of summary disposition de novo. *Nesbitt v American Community Mut Ins Co*, 236 Mich App 215, 219; 600 NW2d 427 (1999).[2] This case also involves the interpretation of a contract, which this Court reviews de novo. *In re Smith Trust*, 480 Mich 19, 24; 745 NW2d 754 (2008).[3]

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[2] As the Court in *Nesbitt* further explained:

> When reviewing a decision on a motion under MCR 2.116(C)(10), a reviewing court must examine all relevant documentary evidence in the light most favorable to the nonmoving party to determine whether a genuine issue of material fact exists on which reasonable minds could differ. *Farm Bureau Mut Ins Co of Michigan v Stark*, 437 Mich 175, 184-185; 468 NW2d 498 (1991) [overruled on other grounds by *Smith v Globe Life Ins Co*, 460 Mich 446 (1999)]; *Shirilla v Detroit*, 208 Mich App 434, 437; 528 NW2d 763 (1995). Where the moving party has produced evidence in support of the motion, the opposing party bears the burden of producing evidence to establish that a genuine question of material fact exists. *Skinner v Square D Co*, 445 Mich 153, 160; 516 NW2d 475 (1994), citing MCR 2.116(G)(4). "Summary judgment should only be granted when the plaintiff's claim is so clearly unenforceable as a matter of law that no factual development can possibly justify a right to recovery." *Young v Michigan Mut Ins Co*, 139 Mich App 600, 603; 362 NW2d 844 (1984). [*Nesbitt, supra* at 219-220.]

[3] Our Supreme Court recently reiterated in *Smith* at 24:

> In interpreting a contract, it is a court's obligation to determine the intent of the parties by examining the language of the contract according to its plain and ordinary meaning. If the contractual language is unambiguous, courts must interpret and enforce the contract as written because an unambiguous contract reflects the parties' intent as a matter of law. However, if the contractual language is ambiguous, extrinsic evidence can be presented to determine the intent of the parties.

As noted, the trial court dismissed Mahar's claims on the ground that the articles of incorporation unambiguously state that the term of the LLC ended on December 31, 2004. Accordingly, the trial court held that it would not consider parol evidence to determine the intent of the parties and the court ruled that Ewie, Mullick and Sachdeva did not act improperly in winding up the affairs of the LLC and transferring its assets to PSMI. We hold that the trial court erred.

As the trial court observed, in September 2000, the parties executed an amendment to the articles of organization that ends the LLC on December 31, 2004. However, the operating agreement does not state that the termination date is dispositive of whether the LLC must dissolve. Article IX, Section 1 of the operating agreement provides as follows:

> 9.1 Dissolution. The company shall dissolve and its affairs shall be wound up on the first to occur of the following events: (a) at any time specified in the Articles or this Operating agreement; (b) upon the happening of any event specified in the Articles or this operating agreement; **and** (c) by the unanimous consent of all of the members; or (d) termination by General Motors Corporation of the Company's contract to provide products and services to the General Motors Corporation Willow Run Plant. [Emphasis added.]

The above section states that the company shall dissolve on the date specified in the articles of incorporation, but it also provides for "the unanimous consent of all of the members." The parties' use of the word "and" suggests an intent to require agreement for dissolution, even if a termination date is listed in the referenced documents.

A contract is ambiguous when its terms are susceptible to more than one meaning. *Coates v Bastian Brothers, Inc*, 276 Mich App 498, 503; 741 NW2d 539 (2007). Because the word "and" follows subsection (b), it raises the question whether unanimous consent is required to approve dissolution at the time specified as set forth in subsection (a) or if unanimous consent is required only for subsection (b), "upon the happening of [an] event" listed in the articles or operating agreement. The parties used the word "or" before subsection (d) to differentiate it from the previous subsections and to clarify that the termination of the GM contract requires automatic dissolution, but it is simply unclear whether both subsections (a) and (b) must be read together with the language requiring unanimous consent. It is reasonable that the parties would require consent to dissolve, even in light of a specific dissolution date, given the nature of its ongoing, renewable contracts with GM. However, the contract language does not fully clarify this requirement.[4]

We hold that the operating agreement is ambiguous on this point and that the trial court erred when it ruled that the LLC automatically dissolved on December 31, 2004. Our Supreme

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[4] We note that Mahar presented uncontroverted evidence that, as a member of the LLC, it did not consent to dissolution on December 31, 2004. Mahar's Chief Executive Officer, Barbara Lincoln, testified that she did not agree to dissolve the LLC, and the record contains letters and emails indicating her opposition to the proposed dissolution.

Court made the following observations about ambiguous agreements in *Klapp v United Ins Group Agency, Inc*, 468 Mich 459, 469; 663 NW2d 447, 454 (2003):

> It is well settled that the meaning of an ambiguous contract is a question of fact that must be decided by the jury. *Hewett Grocery Co v Biddle Purchasing Co*, 289 Mich 225, 236; 286 NW 221 (1939). " 'Where a contract is to be construed by its terms alone, it is the duty of the court to interpret it; but where its meaning is obscure and its construction depends upon other and extrinsic facts in connection with what is written, the question of interpretation should be submitted to the jury, under proper instructions.' " *O'Connor v March Automatic Irrigation Co*, 242 Mich 204, 210; 218 NW 784 (1928) (citation omitted).
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> Where a written contract is ambiguous, a factual question is presented as to the meaning of its provisions, requiring a factual determination as to the intent of the parties in entering the contract. Thus, the fact finder must interpret the contract's terms, in light of the apparent purpose of the contract as a whole, the rules of contract construction, and extrinsic evidence of intent and meaning. [11 Williston, Contracts (4th ed), § 30:7, pp 87-91.]

"[A] written instrument is open to explanation by parol or extrinsic evidence when it is expressed in short and incomplete terms, or is fairly susceptible of two constructions, or where the language employed is vague, uncertain, obscure, or ambiguous, and where the words of the contract must be applied to facts ascertainable only by extrinsic evidence, a resort to such evidence is necessarily permitted." *Klapp, supra* at 470, quoting *Edoff v Hecht*, 270 Mich 689, 695-696; 260 NW 93 (1935). Because the terms of the dissolution provision are fairly susceptible of two constructions, a jury must decide the intent of the parties as to the dissolution provision based on all relevant extrinsic evidence, including the conduct of the parties, the statements of their representatives, and past practices. *Klapp, supra* at 470.[5]

We further hold that the trial court erred when it granted summary disposition because Mahar presented evidence that, regardless of the dissolution date in the articles of organization, Ewie, Mullick, Sachdeva and PSMI took steps *prior* to the alleged dissolution to take over the LLC's Willow Run contract. It is undisputed that Mullick, Sachdeva, and Freatman formed PSMI before December 31, 2004,[6] and that they also met with GM and convinced it to give the

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[5] Ewie argues that, regardless whether the members failed to agree to dissolution, Article IX, Section 1, subsection (d) was triggered when GM transferred the Willow Run contract to PSMI, thus requiring automatic dissolution. Ewie will not be heard to argue that, if it could not effectuate a dissolution under the terms of Article IX, Section 1, it could do so by renegotiating with GM and convincing it to transfer the contract to PSMI, to the direct detriment of the LLC. A jury must decide whether dissolution was proper and it must decide whether Ewie, Mullick and Sachdeva improperly caused the termination of the Willow Run contract with the LLC.

[6] The website for the Michigan Department of Labor and Economic Growth indicates that PSMI was incorporated on November 29, 2004. See the following web address for details:
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Willow Run contract to PSMI. Though Ewie contends that Mahar, as a mere member of the LLC, has no standing to asserts its claims, the Limited Liability Company Act states that, "[a] member of a limited liability company may bring an action . . . to establish that *acts of the managers or members in control of the limited liability company are illegal or fraudulent or constitute willfully unfair and oppressive conduct toward the limited liability company or the member*. If the member establishes grounds for relief, the circuit court may issue an order or grant relief as it considers appropriate . . . ." MCL 450.4515(1) (emphasis added). It is undisputed that, as 51% owner, Ewie was the "member in control" of the LLC. Thus, as another member of the LLC, Mahar was permitted to bring its claims against Ewie. The trial court should have permitted a jury to consider Mahar's evidence that Ewie, through the conduct of its owners, Mullick and Sachdeva, engaged in fraudulent, willfully unfair or oppressive conduct toward Mahar and the LLC.

Ewie argues that it was within its rights to force dissolution of the LLC pursuant to MCL 450.4805. However, MCL 450.4805 states that, "[e]xcept as otherwise provided in the articles of organization, an operating agreement, or this section, the members or managers who have not wrongfully dissolved a limited liability company may wind up the company's affairs, but the circuit court for the county in which the registered office is located may wind up the limited liability company's affairs on application of, and for good cause shown by, any member, his or her legal representative, or assignee." Mahar presented evidence that a reasonable jury could conclude shows that Ewie "wrongfully dissolved" the company because its owners wished to usurp the GM contract from the LLC. Furthermore, absent Mahar's approval, Ewie was required to show "good cause" to dissolve the company and "good cause" would not include Mullick and Sachdeva's formation of a new company, PSMI, to take over the LLC and all of its employees, inventory, work space and contracts.

The terms of the operating agreement also state that "[e]very Member shall discharge his or her duties as a Member in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the Company." Article VII, Section 3. A jury must decide whether Ewie, et al., violated this clause by forcing the dissolution of the company when it was engaged in an ongoing contract with GM.

Moreover, the operating agreement contains a non-compete clause which provides that "[n]either Mahar nor [Ewie] will compete for renewal of the Willow Run supply contract in the event that the Company's contract with the General Motors Corporation Willow Run Plant is terminated." Article X. Though Ewie asserts that it did not violate the non-compete clause because PSMI took over the contract, not Ewie, a jury should consider to what extent Ewie and its owners, Mullick and Sachdeva, attempted to take over the contract prior to the formation of PSMI, whether any of the negotiations took place in Ewie's name, and how Ewie benefited from this conduct.

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http://www.dleg.state.mi.us/bcs_corp/dt_corp.asp?id_nbr=42251D&name_entity=PRODUCTION%20SERVICES%20MANAGEMENT,%20INC.

The Limited Liability Company Act also states the following with regard to wind-up procedures:

> Unless authorized in advance by an operating agreement, a transaction with the limited liability company or a transaction connected with the conduct or winding up of the limited liability company in which a manager of the limited liability company has a direct or indirect interest or a manager's personal use of property of the limited liability company may be authorized or ratified only by a vote of the disinterested members entitled to vote. The manager shall disclose all material facts regarding the transaction and the manager's interest in the transaction or all material facts about the manager's personal use of the limited liability company's property before the members vote on that transaction or use. [MCL 450.4502(5).]

Under the statute, Ewie, as the managing member, was required to inform Mahar that its principals were forming PSMI to take over the GM contract and it was required to obtain the vote of the LLC's members in order to transfer substantially all of the LLC's assets to a company owned by Mullick and Sachdeva. Article VII, Section 2 of the operating agreement also requires Mahar's consent to a sale of the LLC's assets. As noted, Ewie transferred all of the assets to PSMI. Though the trial court concluded that it did not believe Section 2 applies to the winding up process, in light of the above evidence, a jury would not necessarily characterize the actions of Ewie, Mullick and Sachdeva as "winding up" simply because they made a unilateral statement that they did not wish to continue the business.

Because we hold that the trial court erred when it concluded that the documents unambiguously provide for the automatic dissolution of the LLC on December 31, 2004, we reverse the trial court's grant of summary disposition. A jury, not the trial judge, must determine the intent of the parties with regard to the dissolution provision and, in turn, the various claims arising out of the events surrounding the purported dissolution.

B. Discovery

Mahar complains that the trial court improperly limited the scope of its discovery requests to Comerica and erroneously precluded Mahar from deposing Schriemer and Freatman. The scope of discovery is set forth in MCL 2.302(B), which provides:

> Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, custody, condition, and location of books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

As this Court explained in *Cabrera v Ekema*, 265 Mich App 402, 406-407; 695 NW2d 78 (2005):

> This Court reviews rulings on motions to compel discovery for an abuse of discretion. *Ligouri v Wyandotte Hosp & Med Ctr*, 253 Mich App 372, 375; 655 NW2d 592 (2002). Further, our court rules implement "an open, broad discovery policy . . . ." *Reed Dairy Farm v Consumers Power Co*, 227 Mich App 614, 616; 576 NW2d 709 (1998).

If a party believes a discovery request should not be honored, it may bring a motion under MCR 2.302(C), which states that, "on reasonable notice and for good cause shown, the court in which the action is pending may issue any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense . . . ." Here, the trial court did not state which portions of Mahar's discovery requests were overbroad or burdensome. Instead, the trial judge merely observed, "I think this is taking on something other than the ascertainment of truth."

We hold that the trial court abused its discretion when it issued a wholesale denial of Mahar's discovery requests. The court failed to articulate any reasons for its ruling or to explain why the entirety of Mahar's discovery request fails to comply with MCL 2.302(B). With regard to the documents from Comerica, in February 2005, Mahar requested all account statements for the LLC and PSMI from January 1, 2004 to the date of the request, as well as cancelled checks, wire transfers, recordings or notes of phone conversations, loan and credit applications, mortgages, lines of credit, loan or credit agreements, promissory notes, security agreements, and correspondences from Ewie, Mullick, Sachdeva, the LLC or PSMI. Ewie asserted that, with regard to the LLC, Mahar either had the documents, or Mahar could view and copy any documents it wished to discover. However, Ewie did not agree that Mahar could discover any documents related to PSMI.

We hold that Mahar's request for approximately one year of documents related to PSMI was reasonable and Ewie did not show that the documents were in any way privileged. The documents were relevant to show the transactions between Ewie and PSMI, how and for what purpose PSMI was formed, and whether Ewie's owners engaged in misconduct by acting to the detriment of the LLC in forming and financing PSMI. Accordingly, to the extent the trial court denied Mahar these documents, the trial court abused its discretion.

Mahar significantly broadened its discovery request in July 2006. Mahar requested documents from 1999 through the date of the request for all documents from the LLC, PSMI or its owners, officers or employees, Ewie and its owners, officers and employees, Mullick, and Sachdeva that refer to acquiring Mahar's interest in the LLC, dissolving the LLC, or transferring or selling the assets of the LLC. We hold that the discovery is relevant to Mahar's attempt to establish that Ewie, its owners, and PSMI acted wrongfully in dissolving the LLC, forming PSMI, and transferring all of the LLC's assets to PSMI. Presumably, there would not be many documents relating to this issue before 2004, when the possibility of dissolution arose. To that end, Mahar also requested documents from 2004 to the date of the request *from* Comerica to the above entities and persons that refer to an attempt to acquire Mahar's interest in the LLC, the dissolution, new borrowing arrangements and the transfer of the LLC's assets. For the reasons stated, the above discovery is relevant. Arguably less relevant would be Mahar's request for audits, reviews, summaries of financial conditions, recommendations, and financial projections for PSMI, though the information might relate to Mahar's request for damages.

It appears to us that the trial court did not adequately consider the relevance of Mahar's individual discovery requests or how burdensome each request would actually be on Ewie or Comerica. In giving a blanket refusal to Mahar's requests, the trial court appeared to anticipate the dismissal of the case and, therefore, did not carefully consider Mahar's specific requests. Because we conclude that the trial court improperly granted summary disposition to Ewie, much of the above evidence is relevant to permit Mahar to establish its claims at trial. Accordingly, on remand, we direct the trial court to reconsider the discovery motions in light of our holdings above.

We also direct the trial court to specifically consider whether Mahar is entitled to depose Schriemer and Freatman. As this Court explained in *Reed, supra* at 618-619:

> The attorney-client privilege attaches to direct communication between a client and his attorney as well as communications made through their respective agents. *Grubbs v K Mart Corp*, 161 Mich App 584, 589; 411 NW2d 477 (1987). The scope of the attorney-client privilege is narrow, attaching only to confidential communications by the client to his advisor that are made for the purpose of obtaining legal advice. *Yates v Keane*, 184 Mich App 80, 83; 457 NW2d 693 (1990). Where an attorney's client is an organization, the privilege extends to those communications between attorneys and all agents or employees of the organization authorized to speak on its behalf in relation to the subject matter of the communication.

To the extent Mahar seeks to depose either attorney about their legal work and advice to individuals, the information would be privileged and not discoverable. *Reed, supra*. However, as a member of the LLC, Mahar is entitled to information from either attorney about their representation of the LLC. *Fassihi v Sommers, Schwartz, Silver, Schwartz & Tyler, PC*, 107 Mich App 509, 519; 309 NW2d 645, 650 (1981). Moreover, to the extent Freatman may have acted with Ewie, et al., to fraudulently withhold information to which Mahar was entitled, the privilege would not apply. *Id*. Again, the trial court must consider this matter within the scope of the attorney-client privilege and, if necessary, place guidelines about Mahar's areas of inquiry.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Henry William Saad
/s/ Karen M. Fort Hood
/s/ Stephen L. Borrello