

COURT OF CHANCERY
OF THE
STATE OF DELAWARE

4/6

WILLIAM B. CHANDLER III
CHANCELLOR

Date Submitted: March 21, 2000
Date Decided: April 6, 2000

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Re: Derdiger v. Tallman, et al.
Civil Action No. 17276

Dear Counsel:

Plaintiff Howard Derdiger is a former shareholder of Access Health! Inc., who alleges that the former Access Health directors breached their fiduciary duty of disclosure in connection with HBO & Company's December 21, 1998, acquisition of Access Health. Plaintiff Derdiger also alleges that defendant HBOC aided and abetted the director defendants' misdisclosures. He further alleges that HBOC perpetrated an equitable fraud against Derdiger and the putative class that he represents.

On February 25, in an earlier decision in this case, I rejected defendant HBOC's argument that this Court either had no jurisdiction to

proceed or should exercise its discretion to stay further proceedings, pending the Third Circuit Court of Appeals' decision on whether it has appellate jurisdiction over HBOC's appeal of the Delaware District Court's remand order. Now before the Court is plaintiff Derdiger's motion to compel defendants to produce documents responsive to plaintiffs first request for production of documents. Defendant HBOC objects to the proposed discovery, claiming it is a needless burden and expense because such discovery will be duplicative of discovery in certain related class action litigation pending in California and various other state and federal courts. In effect, defendants contend that Derdiger's complaint here mirrors the Access shareholder class claims in the California and related lawsuits. As a result, they insist that Derdiger's proposed discovery here will cause an unnecessary burden and additional expense because it will be duplicative of discovery elsewhere. Defendants seek either a postponement of discovery in this case or coordination with the federal litigation.

I grant plaintiffs motion to compel defendants to respond to the pending document discovery. No objective evidence supports defendants' claim that the proposed discovery is onerous or burdensome. I have reviewed the proposed document request and, although it will require production of numerous documents, it otherwise does not appear oppressive

or excessive in scope. In addition, the fiduciary duty claims pending in this Court appear to be more advanced procedurally than the federal class claims in the California and related litigation. Finally, to the extent that documents produced in this action might also be relevant in related federal class actions, I foresee little inefficiency caused by requiring defendants to assemble and produce relevant documents at this particular point in time. On that score, I would only add that it might be a considerable amount of time until the federal class action claims reach the discovery stage. If I were to adopt defendants' stay or delayed coordination argument, it would mean that plaintiffs' state law claims in this Court would grind to a virtual halt. To my mind, the prompt administration of justice requires this litigation to be moved toward an expeditious conclusion, either via case dispositive motions or trial.

For all of these reasons, I grant plaintiffs' motion to compel the defendants to produce documents responsive to plaintiffs' first request for production of documents. Such production should be completed on or before April 24, 2000.

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in black ink that reads "Wm B Chandler". The signature is written in a cursive, slightly slanted style.

William B. Chandler III

WBCIII:meg

oc: Register in Chancery