

WILLIAM B. CHANDLER III
CHANCELLOR

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

COURT OF CHANCERY COURTHOUSE
34 THE CIRCLE
GEORGETOWN, DELAWARE 19947

Submitted: August 11, 2005
Decided: August 12, 2005

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Pepper Hamilton LLP
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P.O. Box 25130
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Re: *FMAC Loan Receivable Trust 1997-C, et al. v. William
Ostrie, et al.*
Civil Action No. 20222

Dear Counsel:

Plaintiffs in this action have moved for a protective order that one of their agents, Mr. Rosselot, not be required to appear for a deposition noticed for September 8, 2005, in New York, New York. Mr. Rosselot resides in Denver, Colorado. Plaintiffs object to having Mr. Rosselot's deposition in New York, instead preferring Wilmington, Delaware as the location for the deposition, with Denver, Colorado as an alternate but much less desirable location. Plaintiffs do not object either to the deposition of Mr. Rosselot himself, nor the date thereof.

To receive a protective order pursuant to Court of Chancery Rule 26(c), the moving party must show "good cause" that the order is necessary to "protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." Plaintiffs' motion for a protective order concedes that the protection contemplated by Rule 26(c) is not for the proposed deponent, Mr. Rosselot, but instead for counsel, who would be required to travel to New York. Plaintiffs' argument is essentially that it

would be unfair to have Mr. Rosselot's deposition in New York because that arrangement is more convenient for defense counsel and less convenient for plaintiffs' counsel. Unfortunately, inconvenience for counsel and expenses are part of the decision to litigate.

Therefore, *unless the parties earlier come to an amicable agreement* regarding the location for Mr. Rosselot's deposition and/or the apportionment of the expenses thereof, it is hereby ORDERED that the deposition of Mr. Rosselot noticed *in this action* for September 8, 2005, will be held in Denver, Colorado. This is the most convenient scenario for Mr. Rosselot. All attorneys will be inconvenienced equally and all will be forced to incur travel expenses, such that neither party will obtain an unfair advantage as a result of Mr. Rosselot's deposition.

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in cursive script that reads "William B. Chandler III". The signature is written in black ink and is positioned above the printed name.

William B. Chandler III

WBCIII:amf