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January 5, 2009

Hon. Magistrate Judge Bernard Zimmerman
United States District Court, N.D. California
450 Golden Gate Avenue
15th Floor, Courtroom G
San Francisco, CA 94102

Re: *Unionamerica Ins. Co. Ltd. v. The Fort Miller Group, Inc., et al.*
U.S. District Court Case No. C05 01912 BZ

Dear Judge Zimmerman:

Plaintiff requests a telephonic conference to discuss an issue that has arisen during the parties' pre-trial preparation to avoid any issues later on.

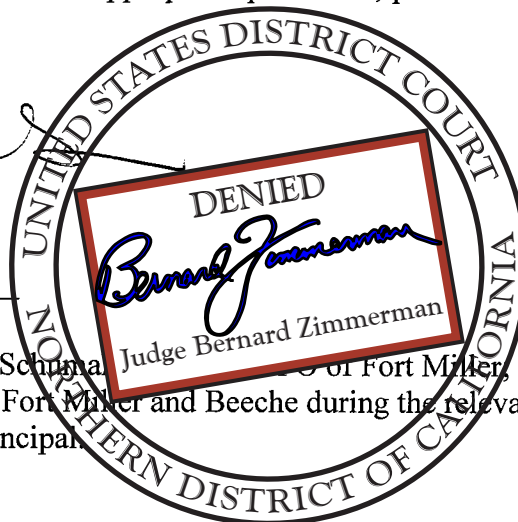
Defendants have disclosed that they will be producing four live joint witnesses, who reside out-of-state, to testify at trial.¹ Defendants represent three of these witnesses, and the fourth is a defense-affiliated witness. They refuse to allow plaintiff to utilize those witnesses for its case-in-chief, however, insisting that plaintiff present its case based upon deposition testimony of these witnesses, even though they will be rebutting the reading of the deposition transcripts through live testimony of the same witnesses.

It is plaintiff's understanding that each party's witnesses are produced for all purposes, and if a particular witness has scheduling difficulties, the parties will work around that schedule. This will not be a lengthy trial. As such, no witness will be waiting for multiple days to testify. In fact, if plaintiff is forced to read deposition transcripts, those readings will take longer than the combined testimony of the few live plaintiff-affiliated witnesses plaintiff intends to offer at trial.

Since the parties disagree on the appropriate procedure, plaintiff requests some guidance from the Court.

Respectfully submitted,


MICHELLE R. PRESS
LAURA R. RAMOS



1/7/2009 - Request for
telephone conference
DENIED. This matter will
be addressed at the Pretrial
Conference.

¹ The witnesses are Richard Schugart, a former principal of Fort Miller, Barbara Marshall, the broker; John Hedbring, President of Fort Miller and Beeche during the relevant time period; and Kirk Beeche, a former Beeche principal.