Mahroom, et al v. Best Western International, Inc. Doc. 205

E-Filed 4/22/2009

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

ADIBA MAHROOM, et al., Plaintiffs, v. BEST WESTERN INTERNATIONAL, INC., Defendant.	Case Number C 07-2351 JF (HRL) ORDER[1] GRANTING REQUEST FOR WITNESS TO TESTIFY TELEPHONICALLY [re: doc. nos. 201 & 202]

Defendant Best Western International, Inc. ("BWI") requests that a trial witness, Mary Walfoort ("Walfoort"), be allowed to testify telephonically at the bench trial scheduled to begin on April 27, 2009. Walfoort is a Senior Contract Sales Representative for BWI. She communicated with Plaintiffs Adiba and Majid Mahroom ("the Mahrooms") throughout 2005 and 2006 with respect to supplies and purchase orders for the Mahrooms' motel. BWI states that Walfoort is expected to testify as to the practices of BWI's supply department and the Mahrooms' communications and orders with that department. BWI estimates that Ms. Walfoort's direct examination will take thirty minutes. Although BWI provided notice to the Mahrooms as to the potential relevance of Walfoort's testimony prior to the discovery cut-off,

[1] This disposition is not designated for publication in the official reports.

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the Mahrooms never sought to depose her.

BWI states that it learned on April 17, 2009 that Walfoort is the primary caregiver for her three grandchildren and is unable to set aside time to drive to California for trial. Walfoort apparently does not travel by plane. The Mahrooms oppose the instant request on the ground that they should have the opportunity to cross-examine Walfoort in person. They also are concerned that Walfoort may use notes or other inadmissible "coaching" materials during her testimony.

Good cause appearing, the Court will grant the request, subject to a protective order that Walfoort be prohibited from using any notes during her testimony and that no other person may be present while she is testifying. The fact that Walfoort will be testifying in a civil bench trial and that Walfoort's testimony does not concern the most critical disputed issues in the case limits any potential prejudice to the Mahrooms.

IT IS SO ORDERED.

DATED: April 22, 2009

JEREMY FOGEL
United States District Judge

This Order has been served upon the following persons:

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