

United States District Court
For the Northern District of California

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E-FILED on 7/13/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ECLECTIC PROPERTIES EAST, LLC, a
California Limited Liability Company, et al.,

Plaintiffs,

v.

THE MARCUS & MILLICHAP COMPANY,
a California corporation, et al.,

Defendants.

No. C-09-0511 RMW

ORDER GRANTING IN PART MOTION
FOR LEAVE TO TAKE JURISDICTIONAL
DISCOVERY

[Re Docket No. 89]

Plaintiffs' motion for leave to take jurisdictional discovery came on for hearing before the court on July 10, 2009. Defendants Paul Morabito and Baruk Management Inc. oppose the motion. Since the filing of the motion, the parties have met and conferred further and have reached some agreement regarding the taking of limited jurisdictional discovery, but the parties were unable to fully resolve the dispute. Having considered the papers submitted by the parties and the arguments of counsel, the motion is granted in part and denied in part.

Plaintiff may take the deposition of defendant Morabito in Nevada, or at any other place mutually agreed to by the parties. The deposition shall be limited to one-half day, unless the parties mutually agree to extend the duration.

Plaintiff may serve, and defendant shall respond to, Requests for Production Nos. 3, 4, 5, 10, 11, 12 and 14, as limited by the parties' agreement to narrow the scope of such requests to

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1 "documents sufficient to evidence" the subject matter at issue in each request, rather than "all
2 documents related to" such subject matter.

3 The parties were unable to reach agreement on Requests for Production 1, 2, 6, 7, 8, 9, 13,
4 23, 24 and 25. The court has considered these requests, and the subject matter of many of them
5 appear to be more appropriately explored in deposition rather than through requests for the
6 production of documents. Accordingly, plaintiffs may serve, and defendant shall respond to, a
7 request for production seeking production of documents sufficient to identify each business interest
8 or investment property, including real estate held for investment, existing in the State of California
9 that is currently owned by defendant Morabito or by an entity controlled by him. This limitation on
10 document discovery, however, shall not preclude inquiry into the subject matter of the other requests
11 at Mr. Morabito's deposition, subject to appropriate protection of Mr. Morabito's privacy interests.

12 Plaintiffs may serve the proposed third party document subpoena on Jiffy Lube International,
13 although the court suggests that plaintiffs consider narrowing the scope of the request. This order is
14 without prejudice to any objections Jiffy Lube International may assert.


15 Plaintiffs' motion to serve the proposed third party documents subpoena on NetJets, Inc. is
16 denied.

17 The parties are ordered to meet and confer with regard to adjusting the briefing schedule on
18 defendant Morabito's pending motion to dismiss to enable plaintiffs to brief the personal jurisdiction
19 issue and defendant to reply to plaintiff's arguments, while retaining the existing September 25, 2009
20 hearing date.

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23 DATED: 7/10/09



RONALD M. WHYTE
United States District Judge

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23 Counsel are responsible for distributing copies of this document to co-counsel that have not
24 registered for e-filing under the court's CM/ECF program.

28 **Dated:** 7/13/09

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Chambers of Judge Whyte