

USDC SCAN INDEX SHEET



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3:02-CV-02349 DEFEVER V. SHARP
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DECL.

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10 Attorneys for Plaintiff ARTHUR DEFEVER

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 ARTHUR DEFEVER,

14 Plaintiff,

15 v.

16 DOUGLAS SHARP, an individual;
THE SHARP/DEFEVER GROUP, a California
17 corporation; SHARP DESIGN, INC, a
California corporation; and DOES 1 - 100,
18 inclusive,

19 Defendants.

Case No. 02 CV 02349L(LSP)

**DECLARATION OF ARTHUR
DEFEVER IN REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFF'S APPLICATION FOR
TEMPORARY RESTRAINING ORDER**

Date: May 9, 2003
Time: 8:30 AM
Courtroom: 14
Judge: Hon. M. James Lorenz

21 I, Arthur DeFever, declare as follows:

22 1. I am a naval architect and am the Plaintiff in this action. I have personal
23 knowledge of the following facts, and if called upon to testify, I am competent to do so.

24 2. I have not "taken affirmative steps to damage [Sharp's] professional business
25 reputation and sales by advising consumers that a 'DeFever : The Next Generation' vessel
26 designed by Doug Sharp is not on par to a DeFever design." However, when consumers contact
27 me with questions regarding Sharp's "DeFever: The Next Generation" designs, I advise them that
28

FILED

03 MAY -8 AM 11:46

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY

DEPUTY

1 I am not the designer of those vessels and that they are designed and marketed by Mr. Sharp. I
2 have neither implied nor flatly stated that Mr. Sharp's "work product" is inferior to mine.

3 3. I did not recall even "freely associat[ing]" my name with the Sharp/DeFever
4 Group, Inc. in conjunction with a licensed yacht broker in yacht-trade magazines or otherwise.

5 4. In or about 1986, I thought Mr. Sharp was adequately prepared to assume
6 responsibility for the naval architecture business that I had built over many years. Because
7 Mr. Sharp was married to my daughter, I extended him two significant courtesies that I would not
8 have extended to another businessman.

9 (a) First, I sold the business to Mr. Sharp at a fraction of its true value. At the
10 time of the sale, my naval architecture business was generating profits of close to \$200,000 per
11 year, yet I sold it to Mr. Sharp for only \$200,000.

12 (b) Second, I allowed Mr. Sharp to pay the \$200,000 over twelve years and
13 five months.

14 I made these significant concessions, at least in part, because I wanted to help Mr. Sharp
15 get established. I also believed these concessions would help my own daughter, Carolyn, Sharp's
16 wife.

17 5. Mr. Sharp made the required \$1,200 monthly payments for some time. However,
18 he stopped making any payments in June of 1992. In addition to the required business-purchase
19 payments, Mr. Sharp also owed me monthly rent of \$1,612.81 on office space he was leasing
20 from me at the time. Mr. Sharp stopped making these lease payments in June 1992 as well.

21 6. I repeatedly demanded that Sharp resume making required payments. Mr. Sharp
22 repeatedly acknowledged to me that he owed me a substantial debt, and stated that he would
23 catch up on past missed payments to make good on his commitments.

24 7. Mr. Sharp and I continued to negotiate some solution to his delinquency on the
25 business and lease payments for many years. We exchanged substantial amounts of
26 correspondence over several years in which several solutions to the situation were proposed. At
27 no time before early 2002 did Mr. Sharp tell me that he absolutely refused to repay his debt to me.
28 In fact, Mr. Sharp consistently made assurances to me that he would fulfill his contractual

1 obligations. Because Mr. Sharp is my son-in-law, I wanted to give him every opportunity to do
2 so. I gave Mr. Sharp every opportunity to fulfill his contractual obligations because I did not
3 want to sue him, and potentially damage my relationship with my own daughter. In fact,
4 Mr. Sharp consistently made assurances to me that he would fulfill his contractual obligations.

5 8. Mr. Sharp's attorney in March of 1986, Sandra Keithly, drafted the March 25,
6 1986 Agreement and its various exhibits and attachments, including the Bill of Sale.

7 9. I market DeFever vessels that I design in power-yachting magazines, such as
8 *Passagemaker*, and at boat shows all over the United States. By frequently reading
9 power-yachting magazines, I know that Mr. Sharp also advertises vessels he designed as
10 "DeFever The Next Generation" in such publications. I have also seen Mr. Sharp displaying his
11 "DeFever: The Next Generation" advertisements at boat shows I attended with distributors of
12 DeFever-designed vessels.

13 10. Since 1944, I never ceased doing business as a naval architect. After the March
14 26, 1986 Agreement, vessels manufactured by CTF Marine, Pocta International Group, continued
15 to be imported into the United States and sold under the name "DeFever" using the Burgee Mark
16 and the Wreath Mark. In addition, I consulted with CTF Marine overseas regarding these
17 designs. When Mr. Sharp defaulted on the Agreement, I resumed designing vessels.

18 11. Mr. Sharp may have been asked to speak at the 2003 DeFever Rendezvous,
19 however, he paid \$1,500 for the privilege of speaking as a sponsor

20 Executed this 8th day of May of 2003 at San Diego, California.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct.

23 
24 Arthur DeFever

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13 ARTHUR DEFEVER,
14 Plaintiff,

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PROOF OF SERVICE

15 v.

16 DOUGLAS SHARP, an individual;
THE SHARP/DEFEVER GROUP, a California
17 corporation; SHARP DESIGN, INC, a
California corporation; and DOES 1 - 100,
18 inclusive,

19 Defendants.

20
21 I am a resident of the State of California, over the age of eighteen years, and not a party to
the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH
22 LLP, 530 "B" Street, Suite 2100, San Diego, California 92101. On May 8, 2003, I served the
within documents:
23

- 24 1. Evidentiary Objection to the Declaration of Douglas Sharp in Opposition to Plaintiff's
Application for Temporary Restraining Order;
25
26 2. Arthur DeFever's Responses to Defendants' Evidentiary Objections to Material
Supporting Application for Temporary Restraining Order;
27
28 3. Memorandum of Points and Authorities in Reply to Defendants' Opposition to Plaintiff's
Application for Temporary Restraining Order; and