

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Michael J. Watanabe**

Civil Action No. 09-cv-02418-PAB-MJW

FTR - Courtroom A-502

Date: October 27, 2010

Courtroom Deputy, Ellen E. Miller

Parties

Counsel

MELISSA MELLOTT,

John R. Olsen

Plaintiff(s),

v.

MSN COMMUNICATIONS, INC.,

Julie M. Walker
Christina J. Valerio

Defendant(s).

COURTROOM MINUTES / MINUTE ORDER

HEARING: MOTION HEARING re: Defendant MSN Communications, Inc.'s Motion for Attorneys' Fees and Costs [Docket No. 85, Filed August 09, 2010]

Court in session: 2:50 p.m.

Court calls case. Appearances of counsel. Also at plaintiff table is attorney Diane Brown. Plaintiff fails to appear.

The Court has entered an Order of Sequestration pursuant to Fed. R. Evid. 615.

Plaintiff fails to appear as ordered by the Court. See Court Minute Order, Docket No. 106. Plaintiff's counsel makes an Oral Motion to Renew the Plaintiff's Motion to Reset this hearing. The Oral Renewed Motion is denied.

It is ORDERED: A SHOW CAUSE HEARING on plaintiff's failure to appear today is set **DECEMBER 21, 2010 at 10:30 a.m.** in Courtroom A-502, Fifth floor, Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294. A written Order to Show Cause shall issue.

This Show Cause Hearing will immediately follow the Motion Hearing set before Judge Philip A. Brimmer December 21, 2010 at 8:30 a.m.

Based upon statements made by plaintiff's counsel, the parties have stipulated into evidence Defendant's Exhibits B and D for purposes of this hearing. The Court approves and grants this stipulation. Defendant's Exhibits **B** and **D** are admitted into evidence.

Discussion is held regarding "husband-wife privilege".

3:07 p.m. Defendant's witness JASON MELLOTT is sworn and testifies.
Direct examination by Ms. Walker on behalf of defendant.
Cross examination by Mr. Olsen.
Re-direct by Ms. Walker

4:07 p.m. Witness Jason Mellott is excused and admonished that an Order of Sequestration has been entered.

4:09 p.m. Defendant's witness CLIFTON WISER is sworn and testifies.
Direct examination by Ms. Walker on behalf of defendant.
Defense moves to admit Exhibit **M**, with no objection from Plaintiff, Exhibit M is admitted.
No questions by Mr. Olsen.

4:14 p.m. Witness Clifton Wiser is excused. Witness is admonished that an Order of Sequestration has been entered.

Defendant makes an Oral Motion for the Court to consider application of Crime Fraud Exception to attorney-client privilege.

It is ORDERED: Defendant shall have to and including **NOVEMBER 05, 2010** to file any written motion regarding crime fraud exception.
Plaintiff shall have to and including **NOVEMBER 19, 2010** to file response.
Defendant shall have to and including **NOVEMBER 26, 2010** to file a reply.

Plaintiff makes an Oral Motion to Continue Hearing to tomorrow morning.

It is ORDERED: Plaintiff's ORAL MOTION TO CONTINUE HEARING TO TOMORROW MORNING is **denied**.

It is ORDERED: Defendant's MOTION FOR ATTORNEYS' FEES AND COSTS is **TAKEN UNDER ADVISEMENT**.
Further testimony and evidence to be presented at the hearing set December 21, 2010 at 10:30 a.m. in Courtroom A-502, Fifth floor, Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294.

HEARING CONCLUDES.

Court in recess: 4:21 p.m.

Total In-Court Time: 01:31

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