

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**JUDGE R. BROOKE JACKSON**

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Courtroom Deputy: Laura Galera  
Court Reporter: Kara Spitler

Date: March 8, 2013

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Civil Action No. 12-cv-00869-RBJ

Parties:

JOHN NIEMI,  
ROBERT NAEGELE, III, and  
JESPER PARNEVIK,

Plaintiffs,

v.

MICHAEL FRANK BURGESS,  
ERWIN LASSHOFFER,  
INNOVATIS GMBH,  
INNOVATIS IMMOBILIEN GMBH,  
INNOVATIS ASSET MANAGEMENT SA,  
LEXINGTON CAPITAL & PROPERTY  
INVESTMENTS, LLC,  
BARRY FUNT,  
CREDIT SUISSE AG,

Defendants.

Counsel:

Christopher Madel  
Robert Miller  
Aaron Thom

Phillip Douglass and Kevin Evans

Kathleen Craigmile

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**COURTROOM MINUTES**

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**MOTION HEARING**

**Court in session: 9:00 a.m.**

Appearances of counsel.

Mr. Miller advises the Court as to the status of the Tenth Circuit case.

Court addresses the parties regarding Plaintiffs' Request for Entry of Default Against Defendants

Erwin Lasshofer, Innovatis GMBH, Innovatis Immobilien GMBH, and Innovatis Asset Management, SA, Pursuant to Rule 55(a) #[52].

Mr. Madel and Mr. Evans respond to the Court's inquiry.

Mr. Madel moves to withdraw Plaintiffs' Motion for Appointment of Special Master #[57].

Court addresses the parties regarding jurisdiction.

Argument by Mr. Douglass and Mr. Madel as to The Innovatis Defendants' Rule 12(b) Motion to Dismiss #[67].

Argument by Mr. Madel and Mr. Evans as to Plaintiffs' Motion to Compel Discovery or for In Camera Review of Documents #[82] and Plaintiffs' Motion for Contempt and Sanctions #[83] .

Argument by Mr. Miller as to Plaintiffs' Motion for Contempt and Sanctions #[83].

Ms. Craigmile addresses the Court regarding Plaintiffs' Motion to Compel Nominal Defendant Credit Suisse AG and the Lasshofer Defendants to Answer Question #[101].

Mr. Madel moves to withdraw Plaintiffs' Motion to Compel Nominal Defendant Credit Suisse AG and the Lasshofer Defendants to Answer Question #[101].

Mr. Evans, Mr. Madel and Ms. Craigmile address the Court regarding Plaintiffs' Motion for Summary Judgment Against the Lasshofer Defendants and Credit Suisse AG #[151].

Mr. Madel addresses the Court regarding Plaintiffs' Motion for Limited Discovery #[159].

For the reasons as stated on the record, it is:

**ORDERED:** Plaintiffs' Request for Entry of Default Against Defendants Erwin Lasshofer, Innovatis GMBH, Innovatis Immobilien GMBH, and Innovatis Asset Management, SA, Pursuant to Rule 55(a) #[52] is DENIED.

**ORDERED:** Plaintiffs' Motion for Appointment of Special Master #[57] is MOOT.

**ORDERED:** The Innovatis Defendants' Rule 12(b) Motion to Dismiss #[67] is DENIED.

**ORDERED:** Defendants to respond to the complaint no later than **March 22, 2013**. The Court will hold the defendants in default if no response is filed by that date.

**ORDERED:** Plaintiffs' Motion for Oral Argument #[68] is GRANTED.

**ORDERED:** Plaintiffs' Motion to Compel Discovery or for In Camera Review of Documents

#[82] is GRANTED.

**ORDERED:** A Show Cause Hearing as to Plaintiffs' Motion for Contempt and Sanctions #[83] is set **March 26, 2013 at 9:00 a.m.** The motion will be held in abeyance pending the hearing.

**ORDERED:** Plaintiffs' Motion to Compel Nominal Defendant Credit Suisse AG and the Lasshofer Defendants to Answer Question #[101] is MOOT.

**ORDERED:** Defendants to file a response/surreply to Plaintiffs' Motion for Summary Judgment Against the Lasshofer Defendants and Credit Suisse AG #[151] no later than **March 22, 2013.** This motion will be held in abeyance and addressed at the March 26, 2013 hearing.

**ORDERED:** Plaintiffs' Motion to Compel the Lasshofer Defendants to Respond to Plaintiffs' First Set of Interrogatories and Requests for Production of Documents #[152] is GRANTED. The response shall be filed no later than **March 22, 2013.**

**ORDERED:** Plaintiffs' Motion to Compel the Lasshofer Defendants to Participate in Fed.R.Civ.P. 26(f) Conference #[153] is GRANTED.

**ORDERED:** Plaintiffs' Motion for Limited Discovery #[159] is GRANTED.

**Court in recess: 9:59 a.m.**

Hearing concluded.

Total time: 00:59