

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL NO: 08-1345 (RMC)

8 GILCREASE LANE, QUINCY
FLORIDA 32351, *et al.*,Defendants.

MOTION FOR EVIDENTIARY HEARING

Comes now Thomas A. Bowdoin, Jr., AdSurfDaily and Bowdoin/Harris Enterprises, Inc., and move the court for an Order setting an Evidentiary Hearing on the RENEWED MOTION TO RESCIND RELEASE OF CLAIMS filed by Movants and in support thereof say:

1. On September 14, 2009, Movants filed their RESPONSE TO ORDER TO SHOW CAUSE AND RENEWED MOTION TO RESCIND RELEASE OF CLAIMS.

2. In order to prove up the factual basis for rescinding the release of claims Movants must present evidence to this Court to establish such facts.

3. MIF Realty LP v. Rochester Associates, 92 F.3d 752, 756 (8th Cir. 1996) states that settlement agreements must be based upon a meeting of the minds on essential terms to be enforceable, and “as a general rule, when the parties dispute the existence or terms of an agreement, the parties must be allowed an evidentiary hearing”.

4. LCvR7(f) provides that a party may request an oral hearing and Defendants observe that the Court has the inherent power to grant the requested relief in any event, particularly since the underlying motion requires the taking of evidence.

5. Movants expect to present testimony from approximately five (5) witnesses in support of their motion.

6. Movants expect the hearing to last no more than ½ day.

7. Counsel has conferred with opposing counsel who has his opposition to this motion.

WHEREFORE Movants request the court to enter its order granting and scheduling the requested Evidentiary Hearing.

Respectfully submitted,

By:



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