

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 06-21598-CIV-HUCK/O'SULLIVAN

CC-AVENTURA, INC., a
Delaware Corporation, et al.,
Plaintiffs,

v.

THE WEITZ COMPANY, LLC, an
Iowa Limited Liability Company et al.,
Defendants.

ORDER AND NOTICE OF HEARING

THIS MATTER is before the Court on the Order on Objection and Appeal of Magistrate Judge O'Sullivan's November 4, 2008 Order (DE # 1501, 12/8/08), which sustained Coastal Masonry, Inc.'s objection as to the collateral estoppel issue and remanded to the undersigned for consideration of the collateral estoppel issue. Coastal, in its response to the plaintiff's Motion to Compel, argued that the plaintiff should be collaterally estopped from obtaining discovery of communications between Coastal and Valiant, because the issue has been decided and fully litigated in the Northern District of Florida. Collateral Estoppel does not apply here because collateral estoppel only applies to prohibit the raising of an issue or fact that has been decided in a prior lawsuit and part of the judgment in the prior lawsuit. See I.A. Durbin, Inc. V. Jefferson Nat'l Bank, 793 F.2d 1541, 1549 (11th Cir. 1986). Coastal Masonry cites no case that holds that collateral estoppel applies to a ruling on a discovery dispute in an ongoing case. Collateral Estoppel does not prevent this court from entering a non-dispositive discovery Order in this matter. Accordingly, it is

ORDERED AND ADJUDGED that the undersigned has considered the doctrine

of collateral estoppel and finds that it does not apply to the subject motion. It is further

ORDERED AND ADJUDGED that in accordance with Judge Huck's Order on Objection and Appeal of Magistrate Judge O'Sullivan's November 4, 2008 Order (DE # 1501, 12/8/08), in order to determine which documents, if any, contain third-party admissions that should be produced, an in camera inspection of the subject documents is set in this matter for Thursday, January 8, 2009, at 9:00 AM, in the 5th Floor Courtroom of the United States Courthouse, 301 N. Miami Ave., Miami, Florida.

DONE AND ORDERED, in Chambers, at Miami, Florida, this 9th day of December, 2008.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
United States District Judge Huck
All Counsel of Record