

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MIKHLYN, et al.,

Plaintiffs,

v.

BOVE, et al.,

Defendants.

* Case No. 08-CV-03367 (CPS)

*

* Brooklyn, New York

* June 18, 2009

* 10:40 a.m.

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TRANSCRIPT OF CIVIL CAUSE FOR PRETRIAL CONFERENCE
BEFORE THE HONORABLE RAMON E. REYES, JR.
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiffs:

DANIEL AKSELROD, ESQ.

ERIC WERTHEIM, ESQ.

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For the Defendants:

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1 records from 2002? They want to look at gross sales and be
2 able to verify it with their own eyes --

3 THE COURT: Well, the --

4 MR. KOGAN: -- and we would not be entitled to see
5 the customer list and the records of each customer --

6 MR. AKSELROD: Customer lists are sensitive --

7 MR. KOGAN: -- from 2002?

8 THE COURT: That's --

9 MR. AKSELROD: Customer lists are always --

10 MR. KOGAN: It's our customers from 2002.

11 MR. AKSELROD: -- always considered to be a
12 sensitive matter.

13 THE COURT: Okay. Well, that -- you might end up
14 getting that at the end of the day. What you -- what the --
15 you -- the preface to this discussion was you wanted to see
16 the progression of the business, vis-a-vis the customer
17 list. That can be done a number of ways.

18 It can be a proffer or it could be producing the
19 customer list without the email addresses, because
20 typically, at least with our -- my email systems both at
21 home and at work, when I send out emails, it'll have the
22 person's name and then it'll have the email address. So you
23 can take off the email addresses. Their concern is that
24 they'd be giving you their --

25 MR. AKSELROD: An instant --

1 THE COURT: -- their -- what they consider to be
2 their customer list now and over time, and then your clients
3 would then use that to solicit business. And that's the
4 problem.

5 My preference would be, if possible, to give them
6 snapshots over time show -- to show how the customer list
7 has grown with the names of the customers and redact the
8 email addresses because the email addresses is the access.
9 I mean, they could -- theoretically I guess they could take
10 the names and then do a search somehow and try to find email
11 addresses and get to -- you know, but --

12 MR. AKSELROD: Or -- yes, or maybe we could just
13 do like first initial and last -- I don't know, whatever.
14 The names --

15 THE COURT: They're -- I think they're entitled to
16 the information --

17 MR. AKSELROD: Okay.

18 THE COURT: -- in a way that can be controlled and
19 I think this definitely whether it -- however it's redacted
20 or produced is -- what was it --

21 MR. KOGAN: Attorney's eyes?

22 THE COURT: -- confidential business records or
23 whatever it is?

24 MR. KOGAN: Commercially sensitive?

25 THE COURT: Commercially sensitive documents. So