

**Jon Basso - January 13, 2012
Lebewohl vs. Heart Attack Grill, LLC**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JACK LEBEWOHL, JEREMY LEBEWOHL,)
UNCLE ABIES DELI, INC., d/b/a/)
2ND AVE DELI, UNCLE ABIES DELI)
ON FIRST, INC., d/b/a/ 2ND AVE)
DELI, and UNCLE ABIES DELI)
SANDWICH TRADEMARKS, LLC,)

Plaintiffs,)

against,)

Index No. 11-cv-3153(PAE)

HEART ATTACK GRILL, LLC; HAG)
LLC; JON BASSO, DIET CENTER,)
LLC, (TEXAS) and DIET CENTER,)
LLC, (DELAWARE),)

Defendants.)

DEPOSITION OF JON BASSO

Taken at DepoInternational
703 South Eighth Street
Las Vegas, Nevada 89101

On Friday, January 13, 2012
9:00 a.m.

Reported by: Renee Silvaggio, CCR No. 122

**Depo International, L.L.C.
703 South Eighth Street, Las Vegas, NV 89101 (800) 982-3299**

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1 APPEARANCES:

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For the Plaintiffs: WILLIAM W. CHUANG, ESQ.
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4 New York, NY 10013
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5

6 For the Defendants: DARREN SPIELMAN, ESQ.
KAIN & ASSOCIATES
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Suite 205
8 Ft. Lauderdale, FL 33316
954.768-9002

9

10 Also present: Jack Lebewohl
Jeremy Lebewohl

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I N D E X

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JON BASSO

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DIRECT EXAMINATION BY MR. CHUANG: 4

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CROSS-EXAMINATION BY MR. SPIELMAN: 132

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DIRECT EXAMINATION RESUMED BY MR. CHUANG: 147

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1 BY MR. CHUANG:

2 Q. Was there landlord tenant action brought against
3 that location?

4 A. No.

5 Q. Was there a dispute between the Heart Attack Grill
6 at Dallas and their landlord?

7 A. No. There is no dispute. There is no dispute.

8 Q. I'll just mark that.

9 And from May 2011 to October 2011, while the
10 Heart Attack Grill location was open in Dallas, there was also
11 the location in Arizona that was open; is that correct?

12 A. Say again, please.

13 Q. Was there a time in 2011 when two Heart Attack
14 Grills were in operation at the same time?

15 A. No, they coincided.

16 The Arizona -- the Chandler, Arizona, location
17 operated up until the day in which the Texas -- we had given up
18 our lease in Arizona and the very day that closed, the very
19 next day the Heart Attack Grill in Dallas opened up.

20 The same scenario here. The very next day we
21 opened here.

22 Q. In Las Vegas?

23 A. Correct.

24 Q. And what's the name of the company that operates the
25 Las Vegas --

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1 A. **Actually two days, excuse me. It was two days**
2 **after.**

3 Q. Okay. Thanks.

4 So what's the name of the company that operates
5 the Heart Attack Grill location here in Las Vegas?

6 A. **Diet Center, LLC, a Delaware corporation.**

7 Q. I think we've discussed the members. We've
8 discussed -- okay.

9 So I'm going to talk about -- I'm going to ask
10 you some questions about when you came up with the idea for the
11 Heart Attack Grill.

12 What was the first time you conceived of this
13 idea?

14 A. **1993, while operating the restaurant in**
15 **Oklahoma City.**

16 Q. How far along were those ideas?

17 A. **Those ideas were very far along, and so that I --**
18 **when I went through graduate school it was the subject of --**
19 **it's very common knowledge, many reporters have already covered**
20 **this topic, that it was part of a marketing thesis in 1996, the**
21 **American Graduate School of International Management, which was**
22 **the one conceived when I had the restaurant in '93.**

23 In '96 I wrote the thesis, but then continued
24 along the path with my physical fitness gymnasium and did not
25 actually physically launch the Heart Attack Grill until 2005.

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1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

)

3 COUNTY OF CLARK)

4

5 I, Renee Silvaggio, a duly commissioned notary
6 public, Clark County, State of Nevada, do hereby certify:

7 That I reported the deposition of JON BASSO,
8 commencing on Friday, January 13, 2012.

9 That prior to being deposed, the witness was duly
10 sworn by me to testify to the truth.

11 That I thereafter transcribed my said shorthand
12 notes into type writing, and that the typewritten transcript is
13 a complete, true, and accurate transcription of my said
14 shorthand notes.

15 I further certify that I am not a relative or
16 employee of counsel or any of the parties, nor relative or
17 employee of the parties involved in said action, nor a person
18 financially interested in the action.

19 IN WITNESS WHERE OF, I have set my hand and affixed
20 my official seal in my office in the County of Clark, State of
21 Nevada, on this 19th day of January 2012.

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RENEE SILVAGGIO, CCR NO. 122