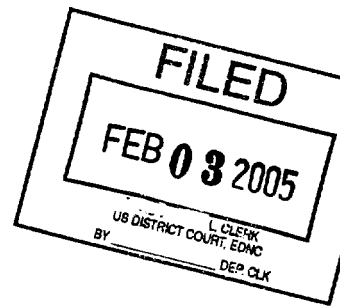


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:05-CV-48-FL(1)



Richard P. Nordan, as Ancillary
Administrator for the separate Estates of
STEPHEN H. HELVENSTON, MIKE R.
TEAGUE, JERKO GERALD ZOVKO and
WESLEY J. K. BATALONA,

Plaintiff
v.

BLACKWATER SECURITY
CONSULTING, LLC, a Delaware Limited
Liability Company; BLACKWATER
LODGE AND TRAINING CENTER, INC.
a Delaware Corporation, JUSTIN L.
McQUOWN, an individual; and THOMAS
POWELL, an individual,

Defendants.

RESPONSE TO MOTION
TO DISSOLVE EX PARTE
STATE COURT ORDERS
PERMITTING NOTICE OF
DEPOSITION

RESPONSE TO MOTION TO DISSOLVE
EX PARTE STATE COURT ORDERS
PERMITTING NOTICE OF DEPOSITION
(Local Civil Rule 7.1(e), EDNC)

Defendant, Justin L. McQuown, hereby submits the following Response to the
Motion to Dissolve Ex Parte State Court Orders Permitting Notice of Deposition filed by
Defendants Blackwater Security Consulting, LLC, and Blackwater Lodge and Training
Center, Inc. ("Blackwater").¹

¹ Defendant McQuown files this response in a timely fashion pursuant to Local Civil
Rule 7.1(e), EDNC.

The Motion to Dissolve filed by Blackwater seeks to dissolve an *Ex Parte* Order obtained by Plaintiff permitting the service of a Notice of Deposition on John Potter prior to January 28, 2005, as well as an *Ex Parte* Order obtained by Plaintiff commissioning the State Court of Alaska to administer the deposition of Mr. Potter.

As grounds for its Motion to Dissolve, Blackwater contends that (1) the proposed deposition is premature under Rule 26(d) of the Federal Rules of Civil Procedure; and (2) that the Defendants would be prejudiced if discovery is allowed to proceed at this stage of the proceedings.

Defendant McQuown agrees with and supports the Motion to Dissolve filed by Blackwater for the following reasons:

(1) This Defendant respectfully contends that it would be inappropriate for discovery to proceed in this matter until this Court rules on the pending Motions to Dismiss the Complaint filed by *all* Defendants, particularly given the dispositive legal defenses raised in those Motions;

(2) This Defendant respectfully contends that it would be inappropriate for oral or written discovery to commence in this matter until (a) the Rule 26(f) Conference has taken place; (b) a proposed Scheduling Order is submitted to the Court by counsel for the parties; and (c) a Scheduling Order is filed by this Court pursuant to FRCP 16(b); and

(3) This Defendant would be severely prejudiced if Plaintiff is allowed to take Mr. Potter's deposition before the Defendants have had an adequate opportunity to prepare for the deposition, particularly given the fact that based on the allegations in the Complaint the proposed deponent is a significant material witness.

For the above-stated reasons, as well as for the reasons set forth in the Motion to Dissolve filed on behalf of Blackwater, Defendant McQuown respectfully requests that the Motion to Dissolve be granted.

Dated: February 3rd, 2005

Respectfully submitted,

Powell Goldstein LLP



Ralph J. Caccia
DC Bar No. 412557
William C. Crenshaw
DC Bar No. 968545
901 New York Ave., N.W.
Third Floor
Washington, D.C. 20001
202-624-7380 (phone)
202-624-7222 (fax)

Cranfill, Sumner & Hartzog, LLP



Patricia L. Holland
Post Office Box 27808
Raleigh, North Carolina 27611-7808
Telephone: (919) 828-5100
Facsimile: (919) 828-2277
State Bar No. 8816
LR 83.1 Counsel

ATTORNEYS FOR JUSTIN L. MCQUOWN

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing RESPONSE TO MOTION TO DISSOLVE *EX PARTE* STATE COURT ORDERS PERMITTING NOTICE OF DEPOSITION in the above-entitled action on all of the parties to this cause by:

_____ Hand delivering a copy hereof to the attorney for each said party addressed as follows:

Depositing a copy hereof, postage prepaid, in the United States Mail, addressed to the attorney for each said party as follows:

_____ Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each said party as follows:

_____ Telecopying a copy hereof to the attorney for each said party as follows:

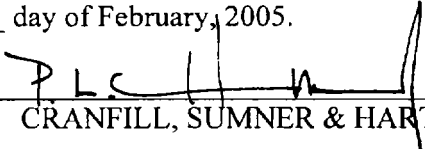
David F. Kirby, Esq.
William B. Bystrynski, Esq.
Kirby & Holt, LLP
Post Office Box 31665
Raleigh, North Carolina 27622
Attorneys for Plaintiff

Daniel J. Callahan, Esq.
Brian J. McCormack, Esq.
Marc P. Miles, Esq.
Callahan & Blaine, APLC
3 Hutton Centre Dr., Ste. 900
Santa Ana, California 92707
Attorneys for Plaintiff

Fred F. Fielding, Esq.
Margaret A. Ryan, Esq.
WILEY REIN & FIELDING, LLP
1776 K Street NW
Washington, DC 20006

Mark A. Ash, Esq.
Kirk G. Warner, Esq.
SMITH, ANDERSON, BLOUNT, DORSETT, MITCHELL &
JERNIGAN, L.L.P.
Post Office Box 2611
Raleigh, North Carolina 27602
*Attorneys for Blackwater Lodge and Training Center, Inc., and
Blackwater Security Consulting, LLC*

This the 3rd day of February, 2005.



CRANFILL, SUMNER & HARTZOG, L.L.P.