

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANTIOCH LITIGATION TRUST,
W. TIMOTHY MILLER, TRUSTEE,

Case No. 3:09-cv-218
Judge Timothy S. Black

Plaintiff,

vs.

MCDERMOTT WILL & EMERY LLP,

Defendant.

THE ANTIOCH COMPANY
LITIGATION TRUST,

Case No. 3:10-cv-156
Judge Timothy S. Black

Plaintiff,

vs.

LEE MORGAN, *et al.*,

Bankruptcy Case No. 08-35741
Adv. Pro. 09-03409
Judge Guy. R. Humphrey

Defendants.

ORDER GRANTING MOTIONS TO COORDINATE DISCOVERY

These cases are before this Court on multiple motions to coordinate discovery.
(Docs. 33 and 36 in Case No. 3:09cv218; Docs. 17, 19, 20, 22 in Case No. 3:10cv156).

The parties agree that the cases involve the same facts and circumstances, share a common Plaintiff, the same witnesses will be deposed by the common Plaintiff on common issues and transactions in both cases, and non-deposition discovery is generally overlapping. The parties to both actions request coordination of discovery. Without coordination of discovery, this Court finds that individuals and entities will be subject to duplicative discovery, including multiple depositions by the common Plaintiff.

The only issue in dispute is which Court will preside over the coordination of discovery. The Trust argues that the Bankruptcy Court should preside, while all other parties claim that the District Court is the only court with jurisdiction over both cases.

This Court is the only court with subject matter jurisdiction over both cases. The Bankruptcy Court does not have jurisdiction over *Antioch Litigation Trust v. McDermott Will & Emory, LLP* (“MWE Action”), where federal jurisdiction is based on the complete diversity of the parties pursuant to 28 U.S.C. § 1332. Thus, there is no basis to refer or otherwise transfer the MWE Action to the Bankruptcy Court. *In re Bass*, 171 F.3d 1016, 1026 (5th Cir. 1999) (“It is clear that § 157 does not allow referral of a diversity or federal question jurisdiction case to the bankruptcy court when the case does not otherwise meet the requirement for jurisdiction of that court.”). Accordingly, the motions to coordinate discovery are **GRANTED**, and this Court shall oversee the coordination.

The parties maintain that they are capable of reaching an agreement as to the coordination of discovery in these cases. Therefore, the parties are hereby **ORDERED** to meet and confer regarding the coordination of discovery, and email¹ a stipulated plan for coordinated discovery to the Court on or before Thursday, September 15, 2011. Additionally, the parties shall participate in a telephone status conference on Friday, September 16, 2011 at 10:45 a.m.²

¹ Black_Chambers@ohsd.uscourts.gov

² The parties shall call: 1-888-684-8852; Access code: 8411435; Security code: 123456, and wait for the Court to join the conference.

IT IS SO ORDERED.

Date: 8/12/11

Timothy S. Black
Timothy S. Black
United States District Judge