

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**DATE:** July 20, 2007

**JUDGE**  
LEONARD DAVIS

**COURT REPORTERS:**  
Therese Casterline & Jana Bald

**LAW CLERKS:** Andrea Houston, Nicole Mitchell

<p><b>AdvanceMe, Inc.</b> <b>Plaintiff</b></p> <p><b>vs.</b></p> <p><b>Capital Business Corporation, et al</b> <b>Defendants</b></p>	<p><b>CIVIL ACTION NO: 6:05-CV-424</b> <b>BENCH TRIAL</b> <b>DAY 5</b></p>
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<b>ATTORNEYS FOR PLAINTIFFS</b>	<b>ATTORNEY FOR DEFENDANT</b>
Ronald Lemieux (Paul Hastings) Michael Edelman (Paul Hastings) Robert Matz (Paul Hastings) Shanee Williams (Paul Hastings) Vid Bhakar (Paul Hastings) Otis Carroll (ICK Firm) Deborah Race (ICK Firm) Parris Sanz - In House Counsel Glen Goldman - CEO	Jeff Sanders (Roberts & Ritholz) Brian Buss (V&E) Joseph Gray (V&E) Willem Schuurman (V&E) Doug McSwane (Potter Minton) Matt Rowan (Potter Minton) <i>For Merchant &amp; Reach</i>

On this day, came the parties by their attorneys and the following proceedings were had:

**OPEN:** 9:12 am

**ADJOURN:**

<b>TIME:</b>	<b>MINUTES:</b>
9:12 am	Trial resumed.
9:12 am	Mr. Matz addressed the Court on the Anthony Leroy Wilden deposition and offered Plaintiff's the unplayed deposition as Plaintiff's Exhibit #1984. Without objection, <b>Plaintiff's Exhibit #1984 admitted.</b>
9:13 am	Mr. Buss addressed the Court on the Johnsons' ownership of company and would like to tender information on ownership as Defendant's Exhibit # 431. Mr. Lemieux asked for exhibit be sealed. <b>Court will SEAL that exhibit and Defendant's Exhibit #431 admitted.</b>
9:14 am	Mr. Gray called Tom Burnside by video deposition.

**DAVID J. MALAND, CLERK**

**FILED: 7.20.2007**

BY: Rosa L. Ferguson, Courtroom Deputy

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<b>TIME:</b>	<b>MINUTES:</b>
9:15 am	Deposition of <b>TOM BURNSIDE</b> played for the Court.
10:34 am	Mr. Gray will be calling Jeannette Gepford with time to be allotted as follows: 19 minutes to defendant and 2 minutes to plaintiff.
10:34 am	Court in recess until 10:50 am.
10:58 am	Mr. Schuurman addressed the Court and will change witness. Defendant will call expert, Donald Headlund to the stand to be examined by Mr. Sanders. Witness sworn by the clerk.
10:58 am	Direct examination of <b>DONALD HEADLUND</b> by Mr. Sanders.
11:37 am	Mr. Sanders passed the witness. Cross examination of Mr. Headlund by Mr. Edelman.
11:55 am	Mr. Edelman passed the witness. Redirect examination of Mr. Headlund by Mr. Sanders.
12:00 pm	Mr. Sanders passed the witness. No further questions of this witness. Witness excused.
12:00 pm	Mr. Gray will have two short videos. Mr. Edelman will put on . Mr. Sanders offered the demonstrative boards. Court asked for them to review during lunch break. Those exhibits will be Defendant's Exhibits 432 through 436.
12:01 pm	Court advised parties that they will come within time allotted and advised plaintiff has used 10:47 hours and defendants 10:30 hours.
12:01 pm	Court in recess until 1:00 pm.
1:03 pm	Mr. Gray offered Defendant's Exhibit 429A ( Melvin Chasen deposition dated 7/12/2007). Time to be allotted as follows: 9 ½ minutes for plaintiff and 8 minutes for Defendant. Without objection, <b>Defendant's Exhibit 429-A admitted.</b>
1:04 pm	Mr. Sanders addressed the Court on the previously offered Exhibits prior to the lunch break, and re-offered Defendant's Exhibits 432 - 436 (demonstrative boards) and without objection, <b>Defendant's Exhibits 432 - 436 admitted.</b>
1:04 pm	Mr. Gray called Mr. Nick Logan by video deposition. Video is 18 minutes all to be allotted against defendant.
1:05 pm	Video Deposition of <b>NICK LOGAN</b> played for the Court.
1:23 pm	Mr. Gray called Jeannette Gepford by Video Deposition. Time allotted to parties: 19 ½ for defendant and 2 for plaintiff.
1:23 pm	Video Deposition of <b>JEANNETTE GEPFORD</b> played for the Court.
1:45 pm	Mr. Gray offered Cliff Hardwick's deposition - time to be allotted as follows: 12 minutes for defendant and 5 minutes for plaintiff. Court inquired if Defendant also intended to offer Defendant's Exhibit #429B (Chasen's exhibits to deposition). Mr. Gray did offer. Without objection, <b>Defendant's Exhibit 429-B admitted.</b>  <b>Mr. Gray indicated Defendant rests.</b>
1:46 pm	Mr. Edelman recalled Dr. Shamos back to the stand.
1:47 pm	Direct examination of <b>Dr. MICHAEL SHAMOS</b> by Mr. Edelman.

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<b>TIME:</b>	<b>MINUTES:</b>
2:22 pm	Mr. Edelman passed the witness. Cross examination of Dr. Shamos by Mr. Schuurman.
3:04 pm	Mr. Schuurman passed the witnesses. No further questions of this witness. Witness excused.
3:05 pm	Plaintiff closes. Defendant rests and closes. Court asked for clarification on the Hardwick Deposition Exhibit previously offered. Mr. Gray indicated it was Defendant's Exhibit 436. <b>NOTE: Cliff Hardwick's Deposition dated 2/7/2007 offered and admitted as Defendant's Exhibit 436 A (Written Transcript), 436-B (Deposition Exhibits), 436-C (Video Deposition on Disk) and 436-D (Duration List).</b>
3:05 pm	Court in recess for 10 minutes.
3:46 pm	Trial resumed.
3:47 pm	Mr. Lemieux presented closing argument to the Court on behalf of the plaintiff.
4:22 pm	Mr. Gray presented closing argument to the Court on behalf of the defendant.
4:41 pm	Mr. Carroll presented rebuttal argument to the Court on behalf of the plaintiff.
4:51 pm	Court addressed the parties and thanked parties for a well-trying case. Court will take case under advisement.
4:52 pm	There being nothing further, Court adjourned.