

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

ADRIANO TISINO, ET AL.

§

V.

§

§ CIVIL ACTION NO. G-10-244

§

DANILO BECERRA, ET AL.

§

OPINION AND ORDER

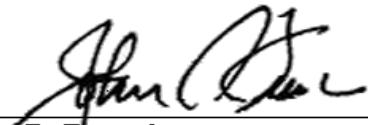
On March 5, 2012, this Court granted Defendant MBC's "Motion to Permit Disclosure of Confidential Documents" from a prior arbitration proceeding between, *inter alia*, MBC and R&R, with the exception of the transcript of the deposition of or Robert Paul Ross, II, (Ross) taken during the arbitration. The Court invited further briefing from any Party seeking the transcript's release. On March 30, 2012, the Tisino Plaintiffs filed such briefing and the Ross Defendants filed a timely response in opposition.

Ross appeared at the deposition in the capacity of a representative of R&R. The Ross Defendants in this case have refused to waive the confidentiality protection afforded to arbitrations and want to preclude or at least limit, the use of the deposition in this proceeding.

This Court must respect the confidentiality of an arbitration proceeding, ITT Educational Services, Inc. v. Arce, 533 F.3d 342 (5th Cir. 2008); however, upon a proper showing the Court may compel discovery related to such a proceeding, Knapp v. Wilson N. Jones Memorial Hospital, 281 S.W. 3d 163, 172-176 (Tex. Civ. App. -- Dallas, 2009, reh'g overruled). It is obvious that the Tisino Plaintiffs already have a copy of the deposition in their possession, but there is presently no evidence before the Court to support compelling its use in this proceeding absent a waiver by the Ross Defendants.

It is, therefore, **ORDERED** that MBC's "Motion to Permit Disclosure of Confidential Documents" (Instrument no. 437) insofar as it seeks to disclose the transcript of the deposition of Ross is **DENIED**, without prejudice to being reurged in a formal Motion to Compel addressing the need, if any, for the use of the transcript in this cause.

DONE at Galveston, Texas, this 17th day of August, 2012.



John R. Froeschner
United States Magistrate Judge