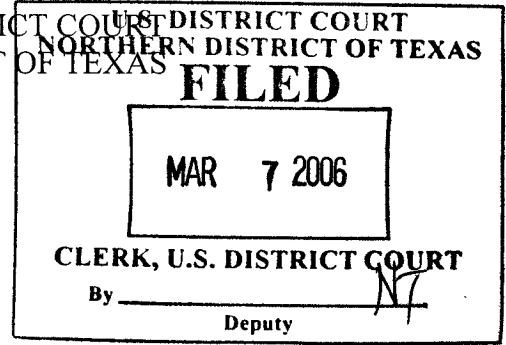


LW
ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



MICHAEL J. QUILLING, RECEIVER FOR
SARDAUKAR HOLDINGS, IBC AND
BRADLEY C. STARK,

Plaintiff,

vs.

HANS TSCHEBAUM and MICHAEL
TSCHEBAUM,

Defendants.

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Civil Action No. 3:05-CV-1465-*HL*

**DEFENDANTS' OBJECTION, MOTION FOR PROTECTIVE ORDER
AND BRIEF IN SUPPORT REGARDING PLAINTIFFS' NOTICES OF
DEPOSITIONS OF HANS TSCHEBAUM AND MICHAEL TSCHEBAUM**

TO THE HONORABLE SAM A. LINDSEY, UNITED STATES DISTRICT JUDGE:

Pursuant to FED.R.CIV.P. 26, Hans Tschebaum and Michael Tschebaum (“Defendants”) file this Motion for Protective Order and Brief in Support regarding Plaintiffs’ respective notices of depositions (Deposition Notices) for Hans Tschebaum and Michael Tschebaum.

1. Plaintiff, Michael J. Quilling, has served a Notice of Deposition for both Defendants Hans Tschebaum and Michael Tschebaum. The Deposition Notices are dated February 21, 2006, and seek to depose the Defendants on consecutive days on March 9 and 10, 2006, in Addison, Texas.

2. Defendants object to the time and place of deposition as indicated in the respective Notices. This motion is supported by the declarations of Hans Tschebaum (Exhibit A-1) and Michael Tschebaum (Exhibit A-2), filed concurrently herewith in a separate appendix and incorporated herein by reference for all purposes. As evidenced by Exhibits A-1 and A-2,

Defendants reside in California. Defendants did not commit any acts relevant to this lawsuit in Texas, nor has Plaintiff alleged that Defendants have done so. Defendant Michael Tschebaum has not been to Texas in the last eight to ten years. Defendant Hans Tschebaum has not been to Texas in approximately nine (9) years. The other parties for which Plaintiff serves as Receiver, Bradley C. Stark and Sardaukar Holdings, IBC, are also in California.

3. Defendants request that the Court issue a Protective Order in connection with the Deposition Notices for the following reasons:

a. The Notices require Defendants to travel over 1,400 miles unnecessarily to have their depositions taken.

b. Neither Hans nor Michael Tschebaum committed any acts in connection with this lawsuit in the State of Texas.

c. Plaintiff's Deposition Notices to Defendants, if complied with, would cause Defendants undue burden and/or expense, and justice requires that they be protected from same.

4. Defendants do not request that this Court protect Defendants from providing the requested testimony. Rather, Defendants only request that discovery from them in the form of oral testimony be taken in or around Los Angeles, California, where they both reside.

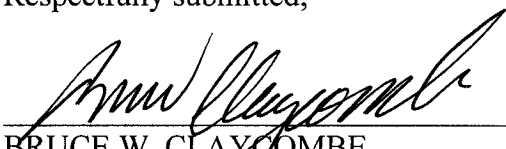
5. FED.R.CIV.P. 26(c)(2) gives this Court the ability to make an Order that Defendants be protected from such a discovery request, and that the requested testimony be had only on specified terms and conditions, including a designation of the time and place. The Courts discretion to protect the movant with a Protective Order is broad. *See*, F.R.C.P. 26(c); *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 34-36, 104 S.Ct. 2199, 2208-09 (1984). Additionally, courts have held that parties seeking discovery must go where desired witnesses are normally located unless special

circumstances exist. *See, e.g. Work v. Bier*, 107 F.R.D. 789, 792 n.4 (D.D.C. 1985). If necessary, the Court can specify the time and place for any deposition. *See, e.g., Redland Soccer Club v. Dep't of the Army*, 55 F. 3d 827, 853 n.17 (3d Cir. 1995).

6. Under the present circumstances, this Court should exercise its power under FED.R.CIV.P. 26 and issue an Order protecting Defendants from having to travel to Texas to give their oral depositions. Aside from the fact that neither Defendant has been in Texas in the past NINE (9) years, and the undue burden it would place upon them to require them to travel such a distance, the Plaintiff has traveled to California to collect property and assets in connection with his duties as Receiver. Perhaps justice would be best served by coordinating Defendants' depositions at such time when Receiver has reason to be in California in connection with said Receivership duties. Regardless, it serves no logical or equitable purpose to require Defendants to travel from California to Texas when Plaintiff could obtain the very same testimony from Defendants in California.

WHEREFORE, Defendants request that this Court enter an Order protecting Defendants from discovery in the form of oral testimony at the time and place contained in Plaintiffs' Notices of Hans and Michael Tschebaum respectively, and for all other relief to which they may be justly entitled.

Respectfully submitted,



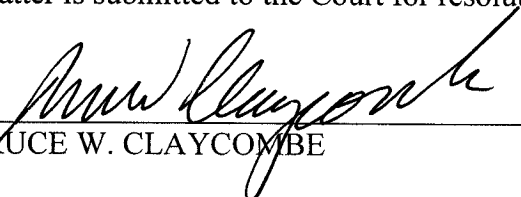
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF CONFERENCE

The undersigned counsel affirms that he has conferred with Michael Clark, counsel for Plaintiff, concerning the relief sought herein and an agreement could not be reached. This Motion is opposed by the Plaintiff. Accordingly, this matter is submitted to the Court for resolution.

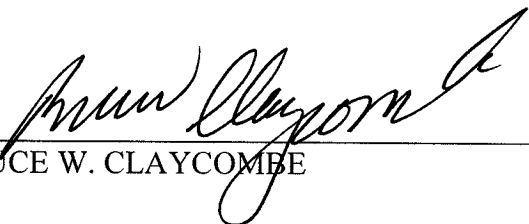


BRUCE W. CLAYCOMBE

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of March 2006 the foregoing document was served upon the following counsel of record in accordance with Rule 5(b) of the FEDERAL RULES OF CIVIL PROCEDURE via First Class Mail, postage pre-paid:

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