

# **Exhibit**

# **49**

**Orders on Motions**

1:09-cv-01543-WSD Maid of the Mist Corporation et al v. Alcatraz Media, LLC et al **CASE**  
**CLOSED on 06/30/2009**

APPEAL, CLOSED, SUBMDJ

U.S. District Court

Northern District of Georgia

**Notice of Electronic Filing**

The following transaction was entered on 4/22/2011 at 3:43 PM EDT and filed on 4/21/2011

**Case Name:** Maid of the Mist Corporation et al v. Alcatraz Media, LLC et al

**Case Number:** 1:09-cv-01543-WSD

**Filer:**

**WARNING: CASE CLOSED on 06/30/2009**

**Document Number:** 152

**Docket Text:**

**ORDER granting Plaintiffs' [129] Motion to Compel. Without further delay or objection, Windsor and his wife are ORDERED to provide complete responses to the Plaintiffs' discovery requests no later than May 13, 2011. Windsor is further ORDERED to produce under seal to the Court no later than May 13, 2011 information for in camera inspection (see Order for specifics). Plaintiffs are DIRECTED to submit no later than May 13, 2011, documentation regarding the attorneys' fees and expenses they reasonably incurred in bringing the motions to compel. Signed by Judge William S. Duffey, Jr. on 4/21/2011. (dfb)**

**1:09-cv-01543-WSD Notice has been electronically mailed to:**

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**1:09-cv-01543-WSD Notice has been delivered by other means to:**

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The following document(s) are associated with this transaction:

**Document description:**Main Document

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[STAMP dcecfStamp\_ID=1060868753 [Date=4/22/2011] [FileNumber=4329982-0  
] [95d398c647f6dfa054301ed51c4f9218672410935404a586d731f662ebd79e932c0  
6effd0442f8eff0272308f7bf4642268b94852200fb6ad59e1bfc807091db]]

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

MAID OF THE MIST	:	
CORPORATION et al.,	:	
Plaintiffs,	:	
	:	
v.	:	CIVIL ACTION NO.
	:	1:09-CV-1543-WSD
	:	
ALCATRAZ MEDIA, LLC, et al.,	:	
Defendants.	:	

**ORDER**

This case was opened on June 10, 2009 after William M. Windsor served a deposition subpoena on the Honorable Orinda D. Evans who had entered an order in another case finding Windsor and his co-defendants to be stubbornly litigious and requiring them to pay the Plaintiffs' attorneys' fees. *See Maid of the Mist Corp. v. Alcatraz Media, LLC*, No. 1:06-CV-714-ODE (N.D. Ga. filed Mar. 28, 2006). This Court quashed that deposition subpoena on June 30, 2009 [32]. Windsor appealed. After *sua sponte* dismissing his appeal "AS FRIVOLOUS AS BRIEFED" [52 at 2 (emphasis in original)], the United States Court of Appeals for the Eleventh Circuit imposed on Windsor "Rule 38 sanctions in the form of attorneys' fees and single costs in the amount of \$37,333.67" [54 at 2]. Windsor refused to pay.

On June 16, 2010 the Plaintiffs obtained a writ of execution and later sought post-judgment discovery from Windsor, his wife Barbara G. Windsor, and their son Ryan Windsor. Ryan Windsor responded. Windsor and his wife have resisted post-judgment discovery.

On November 3, 2010, noting that “[i]t is past time for Windsor to pay the [P]laintiffs \$37,333.67, plus accrued interest,” this Court ordered Windsor to “do so immediately” [99 at 8]. Windsor has obdurately refused.

This matter is now before the Court on the Plaintiffs’ Motion to Compel Discovery Responses Against Defendant William M. Windsor and Motion to Enforce Subpoena Against Non-Party Barabara G. Windsor and Indwelling Memorandum of Law [129], Windsor’s response [139], and the Plaintiffs’ replies [146 & 148]. The Court previously considered and ruled on various requests from Windsor and his wife for protective orders [*e.g.*, 60, 96, 99, 100, 105, 124 & 125]. For the reasons set forth below, the Plaintiffs’ motions to compel will be granted.

The post-judgment discovery that the Plaintiffs are seeking from Windsor and his wife in aid of collection of the \$37,333.67 sanctions award is appropriate under Federal Rule of Civil Procedure 69(a)(2). The motions to

compel responses from Windsor and his wife are appropriate under Federal Rules of Civil Procedure 34(c), 37(a)(3)(B) and 45(c)(2)(B)(i). The Court finds that the Plaintiffs have satisfied the requirement that they first confer or attempt to confer in good faith to resolve this discovery dispute before moving to compel, *see* Fed. R. Civ. P. 37(a)(1); LR 37.1, NDGa., by writing to the Windsors on multiple occasions from July to December 2010 to obtain the discovery requested, [*see* 129-6, 129-7 & 129-8].<sup>1</sup>

Windsor's 118-page Response to Plaintiffs' Motion to Compel

Discovery provides no basis on which to deny, in whole or in part, the post-judgment discovery sought by the Plaintiffs. Windsor's first argues that: "The Eleventh Circuit awarded financial sanctions against Windsor for a 'frivolous appeal.' Windsor's appeal was not even remotely frivolous. . . . This Court's order is wholly invalid" [Doc. 139 at 2]. Windsor has not, however,

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<sup>1</sup> Windsor states in his response that "[t]he Plaintiffs **MADE NO ATTEMPT TO CONFER** with Windsor or Barbara G. Windsor ("Barbara")" [139 at 4 (emphasis in original)]. That is plainly incorrect. Windsor acknowledges not only that he received the Plaintiffs' three letters to him regarding discovery, but also that he sent eight replies [139 at 5-6]. That exchange of correspondence adequately demonstrates the Plaintiffs' attempts to confer. Windsor is wrong to believe that resolution of disagreements regarding the scope of discovery on terms he dictated was also required.

successfully appealed the Eleventh Circuit's imposition of those sanctions, and there is, to the Court's knowledge, no pending proceeding in the Eleventh Circuit or the United States Supreme Court that would alter that sanctions award. Windsor's disagreement with the Eleventh Circuit's sanctions award and the resulting judgment does not warrant his refusal to provide the discovery demanded in aid of collection of that judgment.

Windsor next argues that he "believes the sole purpose of this discovery and the refusal to withdraw the discovery requests is annoyance, oppression, and undue burden" [139 at 2]. That conclusory objection does not warrant Windsor's refusal to provide the discovery demanded in aid of collection of the judgment against him. "[T]o say an interrogatory was 'overly broad, burdensome, oppressive and irrelevant' [is] 'not adequate to voice a successful objection to an interrogatory.'" *McLeod, Alexander, Powel & Appfel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990) (quoting *Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir. 1982)). The "party resisting discovery must show specifically how each interrogatory is not relevant or how each question is overly broad, burdensome or oppressive." *Id.* (internal quotation marks and citations omitted); see also *Panola Land Buyers Assoc. v. Shuman*, 762 F.2d

1550, 1559 (11th Cir. 1985) (citing *Josephs* with approval). Windsor has not done that.

The Plaintiffs are attempting to collect a judgment for \$37,333.67, plus accrued interest, from Windsor. They have sought financial information from Windsor and others to help them do that. Windsor's argument that "[n]othing requested is in any way relevant to this matter" is plainly wrong [139 at 18]. The Plaintiffs' discovery requests are directed at obtaining information about Windsor's sources of income and assets [see 129-11, 129-12 & 129-13]. That Windsor would prefer not to share that information is not a valid objection to discovery requests served on him in aid of collection of the judgment against him.

Windsor's claim that he "has provided a complete accounting to the Plaintiffs of his finances [and] [t]here is nothing more to provide" is unsupported [139 at 19]. The incomplete, heavily redacted, and extremely limited information that Windsor has thus far provided to the Plaintiffs and the Court [136] does not substitute for complete responses to the discovery requests that were served on him and Mrs. Windsor.



For the reasons the Court stated in an earlier Order [99 at 8 n.1], Windsor is mistaken in arguing that post-judgment discovery and collection of the judgment may not go forward while he pursues appeals of other, discrete issues. Windsor's further arguments [139 at 10-20] are frivolous. For example, Windsor is wrong to believe that "1:09-CV-01543-WSD is a figment of the imagination of the Clerk of the Court" [139 at 11] or that "[t]here is no basis in the rules for the discovery that the Plaintiffs seek" [139 at 13].

The motions to compel [129] are **GRANTED**. Without further delay or objection, Windsor and his wife are **ORDERED** to provide complete responses to the Plaintiffs' discovery requests no later than May 13, 2011.

Windsor is further **ORDERED** to produce under seal to the Court no later than May 13, 2011 the following information for *in camera* inspection:

1. A complete copy of each billing statement for the period October 1, 2010 to present, for each credit card that Windsor is authorized to use, whether in his name, the name of any family member, or the name of any company.
2. A complete copy of each statement for the period October 1, 2010 to March 31, 2011 for each bank, brokerage, and financial institution account on which Windsor is authorized to make withdrawals, drafts, or deposits.

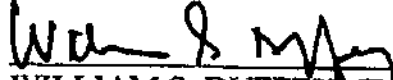
3. Complete copies of all documents showing any travel outside the State of Georgia by Windsor or Barbara G. Windsor for the period October 1, 2010 to March 31, 2011, showing the expenses incurred for transportation, food, and lodging and the businesses and locations at which such expenses were incurred.

4. A complete copy of all documents showing the purchase or sale during the period from January 1, 2010 to March 31, 2011, of any property or services the purchase or sale price of which was over \$2,500, including documents evidencing the financing of any such purchase or sale.

The Plaintiffs are **DIRECTED** to submit no later than May 13, 2011, documentation regarding the attorneys' fees and expenses that they reasonably incurred in bringing the motions to compel.

The Court will take up at a later date the Plaintiffs' Motion for Contempt Against Defendant William M. Windsor [128]. Because confinement may be imposed in appropriate cases for civil contempt, *see, e.g., SEC v. Solow*, 396 F. App'x 635 (11th Cir. 2010), the Court strongly encourages Windsor to retain counsel to advise and represent him in this matter.

SO ORDERED, this 21<sup>st</sup> day of April, 2011.

  
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WILLIAM S. DUFFEY, JR.  
UNITED STATES DISTRICT JUDGE