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5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 TED BURKE, MICHAEL KEHOE, et al.,)

CASE NO. A558629

8 Plaintiffs,)

DEPT. XI

9 vs.)

10 LARRY HAHN, HAHN'S WORLD OF)
11 SURPLUS, INC., et al.,)

Transcript of Proceedings

12 Defendants.)

13 BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

14 HEARING ON STATUS CHECK

15 TUESDAY, SEPTEMBER 13, 2011

16 APPEARANCES:

17 For the Plaintiffs:

JENNIFER L. TAYLOR, ESQ.

18 For the Defendants:

M. NELSON SEGEL, ESQ.

DAVID M. KORREY, ESQ.

PATRICK C. CLARY (In Proper Person)

19 RECORDED BY: JILL HAWKINS, COURT RECORDER

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CLERK OF THE COURT

1 LAS VEGAS, NEVADA, TUESDAY, SEPTEMBER 13, 2011, 9:06 A.M.

2
3 THE COURT: Then if I could go to Burke versus Hahn. And my sole
4 purpose today is to try and find out if I have counsel who will be appearing on behalf
5 of Mr. Clary and on behalf of Kokoweef.

6 So, Mr. Korrey, I guess by the fact you're here.

7 MR. KORREY: I'm here on behalf of Kokoweef, Your Honor.

8 THE COURT: Okay. And, Mr. Clary, I understand, and I don't know
9 how I know this, that you may be having a lawyer be involved on your behalf as
10 well?

11 MR. CLARY: I beg your pardon?

12 THE COURT: You're going to retain counsel to represent you as well?

13 MR. CLARY: Yes. I have really -- I think I've already done that, but
14 unfortunately I've been out of town and this counsel's been out of town and we
15 haven't been able to formalize it. And, unfortunately, this particular attorney who I
16 believe will be representing me is out of town today. So that's the reason I came
17 down here.

18 THE COURT: Okay. So, let me ask a couple of questions. I need to
19 get some scheduling on track.

20 Mr. Korrey, since you're new I have a bunch of motions that are on. By
21 bunch, I mean, like, ten. I need you to tell me your best estimate of when you can
22 be ready to fully participate on those issues.

23 MR. KORREY: Your Honor, could I take the Court's time to ask a
24 couple of kind of maybe dumb questions? But since I'm new --

25 THE COURT: You can ask any questions you want.

1 MR. KORREY: You're the best.

2 What I did was -- when I -- I just got -- I just appeared a few days ago.

3 Actually, I've never met Mr. Clary.

4 I'm David Korrey, sir. Nice to meet you.

5 MR. CLARY: Very nice to meet you.

6 MR. KORREY: In any event, Your Honor, in looking at the motions,
7 what I saw was the Court had what appeared to be four motions on calendar that
8 had been bumped over. There was sort of a combined motion that was Kokoweef's
9 and then Mr. Clary's personal motions. There were two motions for sanctions and
10 then there was a motion that was brought by Mr. Hahn and HNS, apparently filed by
11 Mr. Segel. And then while I was trying to put some facts together just to figure out --
12 'cause I knew the Court would want to know how much time that, you know, you
13 would want to get from me, I was trying to pull the documents off -- first of all, I went
14 to the ROA and there's lots of documents.

15 THE COURT: What's ROA?

16 MR. KORREY: The Register of Actions --

17 THE COURT: Okay.

18 MR. KORREY: -- which identifies all the documents filed in the case.
19 So I tried to get the ones that were the pending motions. So I was pulling down the
20 pending motion documents and I was trying to figure out, okay, since I represent
21 Kokoweef, some of these motions may not apply to me. I may have nothing to do
22 with them.

23 THE COURT: I think every one of them applies to you, unfortunately.

24 MR. KORREY: You've answered my question. Roughly, there's --

25 THE COURT: And I didn't think you really wanted to know that answer,

1 but I really think that's the answer.

2 MR. KORREY: You've answered my question. It looks like there's
3 about 3,000 pages of documents.

4 THE COURT: Lots.

5 MR. CLARY: Your Honor, I have -- as you know, I've not met
6 Kokoweef's new counsel before today and I think that's partially because I've been
7 out of town most of the time since the last hearing. But my files are certainly
8 available to him to save him the kind of trouble he's been going through. And
9 they're organized and it will take a big dent out of my office which I'm closing
10 anyway. So --

11 THE COURT: Okay.

12 MR. CLARY: -- if he wanted to come and get them.

13 MR. KORREY: No, I'll be happy to. In fact, I would think, Your Honor,
14 that I would be ready to go on the motions in about 30 days, then. And that's
15 maybe, you know, that's -- maybe I'm being overly aggressive and I'm going to
16 spend a lot of weekends, but in view of the fact that there's actually the four motions,
17 one sort of combined, it would look like I'm going to need that kind of time.

18 I have gotten started. I've pulled down from Wiznet a bunch of the
19 documents. I tried to summarize so I'd be able to come in here and talk intelligently,
20 at least try to. But I would think 30 days is what I would need, Your Honor.

21 THE COURT: Mr. Segel.

22 MR. SEGEL: Your Honor, the only other --

23 THE COURT: You're not going to take a position one way or the other;
24 right?

25 MR. SEGEL: Well, all I can add is I did have a chance to talk to the

1 attorney Mr. Clary is probably going to retain and she's out of town the first two
2 weeks of October. So she won't be in until, like, the 18th of October, it's about a
3 month from now. So it probably works out the same right away anyways. I don't
4 know if she's got time from now and then to work up the file, but --

5 THE COURT: Ms. Taylor.

6 MS. TAYLOR: I'm, needless to say, Your Honor, a little dismayed that
7 you provided two weeks to kind of get this in order and that for the first time today,
8 we're being told that there will be yet another new attorney, but we will not see her
9 till October. And at that point, I anticipate she'll come in and expect another 30 days
10 on her own.

11 As you know, this case has been dragging. It is our position it's not
12 been at all due to us. This last continuance had nothing to do with actions by
13 plaintiffs and I don't know what to say. Honestly, Your Honor, I'm going to be out of
14 town from October 12th to the 17th, but it sounds like that's irrelevant as Mr. Clary's
15 potential new counsel is not going to be here anyway. Mr. Korrey certainly, I think,
16 can get some assistance from Mr. Segel on getting all the documents because
17 they're in the same office space as well. They share the same address.

18 So I would like to see them shorter. I would like to see it in about two
19 weeks because I would like to get this case back on for trial. I think there's been
20 enough delay. And it just -- every day that goes by that there's some new reason for
21 a delay on the other side of the table, it just prejudices my clients.

22 THE COURT: Anything else anybody wants to say? Okay.

23 I'm going to reset the matter for the November trial stack. That stack
24 begins on November 14th, 2011. The calendar call is November 10th, 2011. And
25 we're going to argue the motions on October 20th. I am not going to grant any other

1 extensions for these pending motions. And I am not reopening the time to file new
2 motions in this case.

3 Any questions?

4 MR. KORREY: Your Honor, could I just inquire since I'm kind of new.
5 As I understand it, there's only been -- there's a first, second, third complaint.
6 There's never been any responsive pleadings other than dismissal motions or
7 summary judgment motions.

8 THE COURT: I believe that's correct for at least one of the parties.

9 MR. KORREY: And I know we're past the time to plead and add new
10 parties, but potentially as corporate counsel, and I have to admit I'm very new, I
11 would typically look to see what type of answers would be involved. Albeit, I'm sort
12 of -- I'm like a derivative kind of a party. But there may be some potential for
13 bringing either counterclaims or cross actions. And I just wanted to make sure that
14 I'm not going to step on my tie or my --

15 THE COURT: If you are going to bring in any new parties, you will have
16 to file for leave.

17 MR. KORREY: Fair enough. Okay.

18 THE COURT: How's that?

19 MR. KORREY: I didn't want to step -- I didn't want to do a responsive
20 pleading bring in something and then, you know, step on a prior court order.

21 THE COURT: I was supposed to be in trial in this case already. Some
22 unusual events transpired the last time we were here.

23 MR. KORREY: Well, it's an unusual one since I've walked in because
24 there hasn't been an answer.

25 THE COURT: It's highly unusual.

1 MR. KORREY: I just can't -- fair enough. Fair enough. That's okay.

2 MS. TAYLOR: Mr. Korrey probably -- the Register of Action is, I don't
3 know, 30 pages long. There were actually answers filed to the first amended
4 complaint.

5 THE COURT: So two years ago?

6 MS. TAYLOR: So two years ago. So there were actually answers filed.
7 Then motions to dismiss were filed. Well, motions to dismiss were filed, certain
8 claims were dismissed.

9 THE COURT: Hold on a second. I might be able to help you,
10 Mr. Korrey. Hold on.

11 MS. TAYLOR: Yeah.

12 MR. CLARY: Your Honor, the first amended complaint which at first
13 named me as a defendant, has been in existence for three years this month. It was
14 filed in September 2008, I believe. So I've been a defendant in this case for three
15 years.

16 MS. TAYLOR: It might have been around March 2009, Your Honor,
17 February 2009, that those first set of answers were actually filed, following
18 dispositive motions in front on Judge Denton.

19 MR. KORREY: I printed the whole thing out, Your Honor. Let me see if
20 I can find it in kind of a hurry here.

21 MS. TAYLOR: Look around March 2009.

22 MR. KORREY: In any event, was there an order allowing them those
23 answers?

24 THE COURT: February 20th, 2009, I see an answer. I don't know on
25 whose behalf it was filed. There's another answer that was filed on February 23rd,

1 2009. There are amended answers that were filed on March 16th, 2009.

2 MR. KORREY: So then would those -- has there been an order of the
3 Court allowing those answers to be applicable to subsequent pleadings?

4 THE COURT: Nobody's asked me.

5 MR. KORREY: Fair enough. Okay. I just, again, didn't want to step
6 on --

7 THE COURT: Sometimes people ask me to do that and I say no
8 problem.

9 MR. KORREY: Fair enough. I'll dig those out and look at them.

10 THE COURT: And then other people want to file new answers. And so
11 I try not to make decisions for lawyers.

12 MR. KORREY: Fair enough. And the reason that system's wonderful, I
13 was able to pull at least most of the portions of the pleading.

14 THE COURT: I just had to -- it's a large file. So I had to sort it in
15 reverse date order. I thought that would be easier to find the answer. So --

16 MR. KORREY: Right.

17 THE COURT: Mr. Clary, is there something else?

18 MR. CLARY: Well, I realize I'm out of the case as counsel, Your Honor,
19 but I, you know, still --

20 THE COURT: You're still here in your proper person capacity at this
21 point, Mr. Clary.

22 MR. CLARY: I can tell you the third amended complaint contains
23 numerous additional allegations that would have to be responded to.

24 THE COURT: I'm sure that Mr. Korrey will do something. I'm sure
25 something's going to happen. Anything else?

1 MR. KORREY: No. Thank you very much, Your Honor.

2 THE COURT: Dan's going to send you guys a new trial setting order.

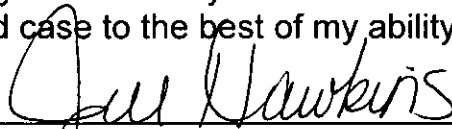
3 He will not include any date for new motions. And discovery's been closed.

4 Goodbye.

5 MR. KORREY: Thanks, Judge.

6 THE PROCEEDINGS CONCLUDED AT 9:16 A.M.

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 JILL HAWKINS
25 Court Recorder/Transcriber