

EXHIBIT E

1	STATE OF SOUTH CAROLINA)	IN THE COURT OF
)	COMMON PLEAS
2	COUNTY OF BEAUFORT)	CASE NO.: 2012CP0703746
3	ALBERT R. LaFLEUR and)	
	EILEEN LaFLEUR,)	
4)	
)	
5	PLAINTIFFS,)	
)	
6	VS.)	TRANSCRIPT OF RECORD
)	
7	CORAL RESORTS, LLC.,)	
)	
8	DEFENDANT.)	
)	
9	_____)	June 26, 2013
)	Beaufort, South Carolina

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BEFORE:

THE HONORABLE CARMEN T. MULLEN, JUDGE

APPEARANCES:

Joseph DuBois, Esquire
Zachary S. Naert, Esquire
Attorneys for the Plaintiffs

Nekki Shutt, Esquire
Brian Lysell, Esquire
Attorneys for the Defendant

Deborah A. Anderson
Circuit Court Reporter

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INDEX

No Testimony Taken
Certificate of Reporter page 56

EXHIBITS

None

1 MS. SHUTT: But, your Honor, again, we're talking about discoverability. They
2 already have this.

3 THE COURT: I understand.

4 MS. SHUTT: The question is they have filed it into the public record and so that
5 brings a whole new level. So, and again, what I am asking is that it be subject - - they've
6 got it. You know, we don't know how they got it. Part of it was an unsanctioned disclosure.
7 We'd ask that it be subject to a protective order and confidentiality, taken out of the public
8 record. Then we hash through what's relevant and what's not, but putting it into the - - -

9 THE COURT: My problem with - - I would agree with you, but to the extent that - -
10 and this happens, I can tell you in so many cases and particularly with hospitals and doctors,
11 is they have a number of clients in the like situation and they want to use this stuff in those
12 cases as well and - - and that's why they won't agree to a confidentiality and so agreement.
13 So I am tempted to say we're taking this out of the record. We're gonna keep it sealed in the
14 record. We're gonna turn it all over in discovery. Although, I don't know that all of its
15 discoverable, quite frankly, that I need to understand through [REDACTED]; certainly, what is and
16 was not within here that's discoverable and I am gonna tell you all and everyone on the
17 record, I have not been through seven hundred and fifty-five pages because I flat out don't
18 have the time, so I'm - - I'm telling you that right now. But - - but the point is, is that I think
19 we need to turn it over in discovery. I am not making any ruling as to relevance and I do
20 think we need to have a hearing with [REDACTED] and I think Willie Foiles needs to come
21 and I need to hear testimony from someone. I understand. I mean, Ms. Shutt is gonna all
22 day long yell that this is a trade secret and you're gonna yell all day long that it's
23 discoverable and relevant. But I need to hear from someone who can actually tell me
24 because I don't run a timeshare. I certainly never created one. I certainly am not Mr. True.
25 Again, and I'm - - and I'm certainly not in the place of either the Pile's or the LaFleur's

1 I mean, they may have an explanation for it all. They may not. I have no idea.

2 MS. SHUTT: And, your Honor, they have filed two motions to quash, which they,
3 apparently, they already have. We also filed a motion to quash and protective order. I
4 would also ask for Plaintiff's, you know, rather than filing freedom of information acts in
5 this case that they do it by subpoena or some other transparent way. Um, you know, I - I
6 think that's fair as well, too.

7 THE COURT: I think you can choose either. I think you can choose either method
8 if he wants to.

9 MR. DUBOIS: There's no provision under law that I have to abide by that kind of
10 rule. In fact, I think the specific reason for FOIA is to have an open government and I think
11 that's what defense counsel is trying to impair.

12 MS. SHUTT: I'm sorry - - -

13 THE COURT: I don't think that, okay. Before we start casting aspersions, uh, I
14 don't think that's what they're trying to avoid. I do think there are certain things, that by
15 statute, don't have to be turned over and there's reason for it. So we're all gonna learn why.
16 So are we all clear with what we're doing now? I just want - - I want to make sure that we
17 all understand and know exactly - - we're gonna take back, like I said, what was filed as far
18 as the attachments to the memo. You can leave the memo there all day long. The
19 attachments to the memo, let's just, instead of take it back, we're just gonna keep it sealed.
20 We're gonna keep it in the file. We're gonna keep it sealed. You are gonna, both, exchange
21 it and turn it over in discovery. You can use it with your clients. You can use it with your
22 potential clients. Again, you're not gonna talk to the paper. Um, you know, we're not
23 gonna publish any of these documents until there becomes an absolutely need and or a
24 hearing and that's - - that's really what I want to have. I want to figure out - - again, I am
25 not a timeshare expert. I do not know how this works. So, again, I don't think I want to be

1 THE COURT: Okay. And you said he just gave you the transcript back. He
2 didn't . . .

3 MS. SHUTT: I mean, what I recall him saying was he didn't have to rule on that.
4 He wasn't considering that. You know, and - - and I want to be clear, Mr. DuBois has said
5 that I had misrepresented something. What I said that day was, you know, most lawyers
6 when they are looking - - when Plaintiffs are looking for someone to sue they're looking for
7 someone who can pay a judgment and so what I represented to him is the party that he has
8 sued is not going to say someone else is responsible. He can, you know, he can try to bring
9 in lots of other people. You know, and who - - who will have, probably, lots of other
10 lawyers, if that's what he wants to do. Um, and maybe they had something to do with the
11 transaction or maybe they didn't. But, you know, the party that he has sued is standing up
12 and saying, this was our transaction and we're here to account for it and we're gonna defend
13 it vigorously. So that is what I have said and - - and maintained the entire time. There, you
14 know, that's all I've maintained.

15 THE COURT: Is there coverage for this? There couldn't be.

16 MS. SHUTT: No, your Honor.

17 THE COURT: I mean, it's a fraudulent - - if it's alleged a fraudulent transaction
18 there can't be coverage.

19 MS. SHUTT: No. No.

20 THE COURT: Okay. Okay. Well, I'm gonna go talk to Marvin Dukes. But if he
21 handed you back that transcript, he won't want to read it and he wasn't gonna consider it, so
22 he doesn't need it. I can assure you of that. Um, let's let everyone file their necessary
23 motions. You file your necessary FOIA requests. Let everyone have time to respond, to
24 file appropriate motions. Um, I'm gonna lift the TRO. How long do you think it's gonna
25 take to do all this? And I don't know what [REDACTED]'s schedule is at all, but what kind of

1 MS. SHUTT: Since the unsanctioned release this, you know, this was - - this was - -
2 no one was present at that hearing, so it was not a great deal of concern. But when - - when
3 someone sent this and then it was filed by the Plaintiffs into the public record it became a
4 different situation.

5 MR. NAERT: Your Honor, that doesn't get it. Others were present for this hearing,
6 specifically, the Mayor of Hilton Head, in his capacity as Mayor, was present.

7 MS. SHUTT: Again, your Honor, those are witnesses. There were no spectators
8 present.

9 THE COURT: Okay. Okay, what we're gonna do is this. Just let me take a look at
10 it. But I am gonna take everything out of the public record for right now for the file.
11 They're gonna have it. Just give me an opportunity to take a look at it. Um, because of
12 right now it will be part of the discovery and I will email y'all, um, by tomorrow morning
13 and let you know, um, again, so you won't have to fight over it. Okay. I am sure that if you
14 invite Willie Foiles to come he'd be happy to. No question.

15 MS. SHUTT: Especially if I call him Willie.

16 THE COURT: Yes, especially if you call him Willie. Um, let's just find out Ms.
17 ██████'s schedule. I don't want to be dragging her away from her brand new baby, but I'm
18 hopefully looking about a month from now or so once everything kind of gets filed,
19 responded to. Y'all have a little bit of time and, um, we'll go ahead and get it set. As
20 Allison pointed out, I'll have a new law clerk by then.

21 MS. SHUTT: Oh.

22 THE COURT: She's happy about that, I'm sure, and, uh, we'll go from there, okay.
23 Alright, y'all, thank you.

24 MS. SHUTT: Thank you.

25 MR. DUBOIS: Thank you, your Honor.