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STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY )

APR 9 2014  
2013 CP 21 0098  
SC Court of Appeals

RAWCLIFFE RESORTS, INC., )

Plaintiff, )

Transcript of Record

vs. )

February 10, 2014

MATT BECKER & ASSOCIATES, )

ET AL. )

Defendant. )

**B E F O R E :**

Honorable Larry B. Hyman, Jr.  
Horry County Courthouse  
Conway, South Carolina

**A P P E A R A N C E S :**

James L. Hills, Esquire  
Jennifer D. Hills, Esquire  
**Attorney for Plaintiff**

Randall K. Mullins, Esquire  
**Attorney for Defendant**

Kay H. Richardson  
**Circuit Court Reporter**

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3 (February 10, 2014)

4 THE COURT: All right, gentlemen. Let's just go down the  
5 list, Motion to Compel filed by Matt Becker & Associates for  
6 the Defendant.

7 MR. HILLS: Your Honor, I'd like to point out that  
8 they're not coming up on the roster in the order they were  
9 filed.

10 THE COURT: Well, tell me what order in which they were  
11 -- what's the order in which they were filed? It looks like  
12 they're in reverse order.

13 MR. MULLINS: That's correct, Your Honor.

14 THE COURT: Well, let's go to 7/18/2013, protective  
15 order, filed by the Defendant.

16 MR. HILLS: That's the first one, Your Honor.

17 THE COURT: Okay. All right. That would be Mr. Mullins'  
18 motion.

19 MR. MULLINS: And Judge, that only applied at this point  
20 from the standpoint of protecting some of my clients' business  
21 and personal data. The underlying criminal case has been  
22 resolved so there's no need to protect them for their  
23 depositions. We had told Mr. Hills in October we were ready  
24 to proceed with all scheduled depositions, so ---

25 THE COURT: All right. So, you're withdrawing that

1 motion?

2 MR. MULLINS: In part, Your Honor, just the part  
3 regarding the depositions of Mr. and Mrs. Becker or -- either  
4 one of them is a 30(b)(6) for the corporate entity. We're  
5 ready to proceed on that now.

6 THE COURT: All right. Let me hear it.

7 MR. MULLINS: The remaining part, Your Honor, is there --  
8 these two companies -- Your Honor, my client is very small  
9 business. They are operating a rental company that one-fourth  
10 of their business comes out of the resort which is the issue  
11 before the Court. We've exchanged various discovery back and  
12 forth and I've given opposing counsel a copy of my chart on  
13 this matter. If I may approach?

14 THE COURT: Yes.

15 MR. MULLINS: And we're having discovery issues, Judge.  
16 Here is our biggest issue is the Plaintiff has asked for  
17 certain things from these Defendants including a lot of  
18 personal data and various documents that involves most of the  
19 operations of their business. We, at this point, have asked  
20 the exact same questions back to the Plaintiff. In other  
21 words, what's fair for the goose is fair for the gander. You  
22 show us yours and we'll show you ours and that's what happened  
23 since the time we appeared before Your Honor back in October  
24 when you continued this matter.

25 Pursuant to the order of the Court, we sent the letter

1 that said we're ready to proceed when you are. We engaged in  
2 some discovery and we didn't receive responses. We filed a  
3 motion to compel; we received partial responses. And then  
4 today, I received responses that aren't really responses. So,  
5 all these issues kind of dovetail on all the motions pending  
6 here, Judge. They want our client list, they want to know who  
7 came to the rental program for the Defendants from the  
8 Plaintiff's resort and we need some protection from them.  
9 They were the big guys. We were afraid that as soon as they  
10 get that client list, all they have to do is say, well, we'll  
11 give you a lot of free stuff if you'll come rent with us and  
12 don't do business with the Defendants anymore. We have a good  
13 faith basis for that. Ms. Ball, who was deposed last week,  
14 says just as soon as I signed an affidavit for the Plaintiff,  
15 they gave me a whole bunch of free stuff worth hundreds of  
16 dollars. So, as soon as we give them that data, Judge, we  
17 feel that's what's gonna happen. They're gonna force this  
18 small business out of existence. I understand that you need  
19 discovery to plead your case but on the other hand, if it's  
20 just gonna be free investigation into this small business, we  
21 think the Court needs to protect that data.

22 THE COURT: Well, what if I give them your information  
23 and attach an order restraining them from any contact with  
24 those persons?

25 MR. MULLINS: Well, that would work, Judge.

1 THE COURT: How about that, Mr. Hills, if that's not what  
2 you're intending to do, you shouldn't ---

3 MR. HILLS: That won't work at all, Your Honor.

4 THE COURT: Well, it sounds to me like you intend to  
5 contact them.

6 MR. HILLS: We do. And we have a good reason for wanting  
7 to do so.

8 THE COURT: All right. Tell me why,

9 MR. HILLS: Thank you, Your Honor. I represent Rawcliffe  
10 Resorts, which is a fairly large organization, Your Honor.  
11 During the summer, they have a like a thousand employees and  
12 thousands, several thousand rooms they rent and they are  
13 connected among others with the Sand Dunes, the Sand Dunes  
14 Motel. I don't know if you remember when we were back in  
15 front of Your Honor on October 2nd, but that was the day that  
16 Mr. Mullins shows up and said he was in and Robert E. Lee was  
17 no longer with them. But we had been trying for some time to  
18 get certain information. Rawcliffe Resorts Corporation owns  
19 things like the waterpark which right next-door, it abuts the  
20 property. And as an amenity, if you rent through them, you  
21 have access to the waterpark, to various and sundry things in  
22 there that other people who rent don't. The whole purpose of  
23 the lawsuit was Ms. Becker was very commonly renting. She's  
24 sign up people, rent them, advertise them as if they had all  
25 those amenities and then when they get there, they don't have

1 the amenities and we're all of a sudden the bad buy because if  
2 we stop them using it, we look terrible. They write us up on  
3 Trip Advisor, although we're not the people who told them they  
4 could have them in the first place and they can't have them.  
5 When last summer it became apparent to us -- and that's part  
6 of the rule that's already filed, Your Honor -- that Ms.  
7 Becker was very commonly giving out wrist bracelet, these  
8 little wrist bracelets. To get into things like that  
9 waterpark, you have to have a wrist bracelet. Well, Rawcliffe  
10 Resorts, we have codes for ours, so we can tell if it's a  
11 guest. If you will look back to the temporary order that was  
12 issued and Ms. Becker's affidavit in support of it, Ms. Becker  
13 admitted she was giving out wrist bands, she just said, just  
14 go buy them. Since then, we have brought the rule against her  
15 because they've been giving out -- as best I can tell,  
16 everybody who rented through her, she's just very commonly  
17 gave them wrist bands and we had security start stopping them.

18 THE COURT: It'd be a wrist band that was similar in  
19 appearance to the one that your client gave out?

20 MR. HILLS: Identical except for the writing. They're  
21 not hard -- they're generic, you can find them anywhere. But  
22 we coded ours, so then we knew when we started quizzing people  
23 where they're coming from, well, guess where they're coming  
24 from, Ms. Becker is very commonly giving them out.

25 We took -- you know, we got an affidavit from several

1 people, we got the head of security because it all boiled down  
2 to everybody they took wrist bands off of gave them two names.  
3 One is Ms. Becker; one is another renter who is not involved  
4 in this lawsuit. I mean, this is a stack of them. We're not  
5 talking about a couple dozen. So, we filed the rule to show  
6 cause sometime last summer with Mr. Robert E. Lee. He says,  
7 well, I've got to get off, I've got a conflict. We'd already  
8 scheduled her deposition and he said, no, we're not gonna show  
9 up, you can't do it until we get a protective order worked  
10 out. I called and left messages over and over with them and  
11 said tell me what wording we can work out and maybe we can  
12 work out -- but, of course, we want them, we want to know her  
13 rental contracts because we need that to determine the amount  
14 of damages in this lawsuit. We need -- you know, as best we  
15 can tell, she's got sixteen rooms, it's a sixteen-week season  
16 basically, so that's 256 possible weeks figuring an average of  
17 \$1800 per week, per room, you're left with over \$400,000 ---

18 THE COURT: What makes you think that the fact that  
19 somebody rented from her would've been renting from you had it  
20 not been for the fact that she was there? I mean, it may've  
21 been someone else renting in the slot, so to speak.

22 MR. HILLS: We have to talk to those people, Your Honor.  
23 We have to have somebody go talk to them and find out, did  
24 they tell you that you'd have access to these amenities.  
25 Remember, if you've read the pleadings the part -- and I'm

1 sure you have, Your Honor -- part of the whole basis for the  
2 lawsuit is they had all this advertising that said that  
3 basically people could have access and they can't. They don't  
4 have it. If you don't rent it through this program, they  
5 don't have access to those things. So, she's out renting  
6 rooms and telling them but then they get there -- we have any  
7 number of instances when you've got a like a mother and three  
8 children and they're crying, their kids have just been told  
9 they can't use the waterpark. It's right there. And I know  
10 Mr. Rawcliffe, out of the goodness of his heart, there again,  
11 any number of times this summer, says, okay, I'll take you in.  
12 He has a weakness for crying children and he said, look, I'll  
13 give you access. So, that's -- every time you allow somebody  
14 in, you know, it's like a theft of services. You know, it's  
15 money out of his pocket or out of the company's pocket, Your  
16 Honor.

17 THE COURT: All right. Mr. ---

18 MR. HILLS: So, without talking to them, we don't know  
19 who was given the wrist bracelets, you know, other than the  
20 few instances we've managed to track down in order to get her  
21 held in contempt for something blatantly violating the Court's  
22 order.

23 THE COURT: All right. Mr. Mullins?

24 MR. MULLINS: All right. Your Honor, Mr. Hills -- I've  
25 been litigating with him for twenty-eight years or better, I

1 can't even remember years at this point -- but he says  
2 commonly as if they have mounds and mounds of evidence.  
3 Here's what they have, unless somebody is gonna take the  
4 witness stand and say something different, they have a  
5 deposition of Ms. Ball. Ms. Ball didn't make the reservation,  
6 it's in the mother-in-law's name. She signed the affidavit  
7 two days after she got here on vacation. It was signed at the  
8 request of another Mr. Hills, counsel's son, who is a Vice  
9 President for Rawcliffe.

10 MR. HILLS: He was then and let's keep it straight, it is  
11 my son, Your Honor.

12 MR. MULLINS: I'm not saying Mr. Hills did it, I'm saying  
13 his son was present when that occurred. The reservation isn't  
14 in her name. She's -- has a prior criminal conviction. She  
15 received things of value in exchange for that and she did not  
16 testify that Karen Becker came to her room and gave her these  
17 wristbands.

18 THE COURT: Well, who said that she has given out the  
19 bracelets?

20 MR. MULLINS: Mr. Hills just did.

21 THE COURT: Okay. Well, it seems like we can clear this  
22 up by simply turning over the people who rented from you last  
23 summer and let's ask them.

24 MR. MULLINS: And that is where I need help. Because if  
25 I give those to Mr. Rawcliffe, then all they have to do is the

1 same thing they did before.

2 THE COURT: Well, what I'm gonna do is I'm gonna make you  
3 give it to them but I'm going to have a caveat that they may  
4 contact them solely for investigative purposes and not for  
5 solicitation in any form or fashion.

6 MR. MULLINS: Is that for Mr. Hills or does Mr. Rawcliffe  
7 get to do it?

8 THE COURT: It's gonna be all through Mr. Hills' office.  
9 Mr. Hills is going to monitor the investigation, let's put it  
10 that way.

11 MR. HILLS: Just so I'm clear, Your Honor, does it have  
12 to be one of my employees, because I'd have to hire somebody  
13 to ---

14 THE COURT: Someone under your supervision, so you're  
15 gonna be responsible if that person steps over the line.

16 MR. HILLS: That we can do.

17 THE COURT: All right. I don't want that person stepping  
18 over the line. It's not for solicitation of business. It's  
19 solely for investigation of this matter. Okay? Fair enough?

20 MR. MULLINS: Fair enough.

21 MR. HILLS: It can be -- I want to make sure; I hate to  
22 obtuse but ---

23 THE COURT: It can be someone who ---

24 MR. HILLS: Can it be an employee of the Rawcliffe  
25 Enterprises as long as they ---

1 THE COURT: I don't care if it's an employee of Rawcliffe  
2 Enterprises as long as you are responsible for that person's  
3 activities. Okay? Your firm. All right? And that your  
4 client understands that. If they want to use one of their  
5 employees, provide that employee for this purpose, fine, but  
6 they're a party in this suit and you're an officer of the  
7 Court and I expect it to be done properly. Okay?

8 MR. HILLS: It will be, Your Honor.

9 THE COURT: All right. Thank you. I have no doubt.

10 All right. Let's move on -- and Mr. Mullins, if you'll  
11 prepare an order in that regard.

12 MR. MULLINS: Yes, sir.

13 THE COURT: And get it to me within seven days if at all  
14 possible.

15 MR. HILLS: Your Honor, what about the rental contracts?

16 THE COURT: I didn't know we were talking about -- isn't  
17 that included? I mean, if you're gonna have the names of the  
18 people, isn't it gonna involve the rental contact -- I'm gonna  
19 give you the names everybody and I'm gonna let you ask them  
20 about their rental contract. Okay?

21 MR. HILLS: That'll be fine, Your Honor, but we need the  
22 name, address, phone numbers, contact information, whatever  
23 they've got.

24 THE COURT: That's it. You -- they're gonna give you  
25 that and you're gonna use it for this limited purpose. Okay?

1 MR. HILLS: That we can do, Your Honor.

2 THE COURT: Okay. You say that's all you need it for so  
3 that's all we need it for. All right.

4 MR. MULLINS: And, Judge, I hate to interrupt ---

5 THE COURT: Yes.

6 MR. MULLINS: --- but you know that I do on occasion. Is  
7 that for this resort only? In other words if my clients ---

8 THE COURT: Yes, yes. I mean, that's all we're talking  
9 about.

10 MR. HILLS: That's all we're asking for is this resort.

11 THE COURT: All we're talking about is this one.

12 MR. HILLS: Sands Resort and Ocean Dunes is it.

13 THE COURT: All right. Let's go down to Number Twenty-  
14 eight, which is a motion to compel by the Plaintiffs. Mr.  
15 Hills' motion. And I don't know what this is. It says motion  
16 to compel Plaintiff's first set of Interrogatories -- and then  
17 we've got subject type, it says permanent injunction. So,  
18 quite frankly, Mr. Hills, I don't know what this is -- perhaps  
19 you can help me.

20 MR. HILLS: Your Honor, if she's gonna give us the  
21 contact information so that we can contact those people, that  
22 will tell us ---

23 THE COURT: That takes care ---

24 MR. HILLS: Of that -- from that, I think we can get the  
25 information that we need.

1 THE COURT: All right. Very well. Okay.

2 Number Three, would be the motion -- Number Twenty-six,  
3 looks like a motion filed on 8/7/2013, it was filed by the  
4 Defendant. It's a protective order or a motion for a  
5 protective order, I guess, a motion to see scanned documents.  
6 I'm not sure exactly what it is. What is it Mr. Mullins?

7 MR. MULLINS: That was filed by a Mr. Lee, Your Honor.  
8 There was -- that was regarding the confidential business  
9 information, confidential research, customer list, and other  
10 propriety information as well as the tax returns of my  
11 clients.

12 THE COURT: Is that resolved?

13 MR. MULLINS: It's not resolved, Judge, either way.

14 THE COURT: Okay.

15 MR. MULLINS: And I can take them one at a time if I can.

16 THE COURT: Okay.

17 MR. MULLINS: Tax returns, Judge, once again, this is a  
18 small mom-and-pop operation. I don't want my client's tax  
19 returns being sent to their current customers or their other  
20 customers saying that they don't -- look how small they are  
21 and how insignificant. I don't want that data shared outside  
22 of this. I'm willing to do the same for Mr. Rawcliffe's  
23 entities' tax returns.

24 THE COURT: Well, I'll let you share tax returns but it's  
25 going to be under the protective order both ways, not to be

1 disseminated, used only for the purposes of this lawsuit.

2 All right? Fair enough, Mr. Hills?

3 MR. HILLS: Well, I can't agree with it, Your Honor.

4 Don't have a problem with getting their tax returns, they're  
5 the people who are being sued for -- you know, we need some  
6 idea if they can even pay it, Judge.

7 THE COURT: Why do you need the Plaintiffs'?

8 MR. MULLINS: Well, it dovetails into this problem and  
9 here's where this whole thing -- here's where the rubber meets  
10 the road, Your Honor, is we are getting these rentals because  
11 Mr. Rawcliffe that has taken the position that anybody who  
12 owns there, an owner, has to be on his rental program and  
13 they're charging a fifty percent commission rate.

14 THE COURT: Fifty percent?

15 MR. MULLINS: I thought you had to have a law degree for  
16 that, Judge, but you know, that's what the commission rate --  
17 that's why we're getting these customers and they want these  
18 customers froze out.

19 MR. HILLS: I'd like very much to respond to that, Your  
20 Honor.

21 THE COURT: You know, perhaps they're doing that but, you  
22 know, it is what it is, if they can get fifty percent, they  
23 get fifty percent; do you need a tax return to confirm that?

24 MR. MULLINS: I do because part of the issue is, is he  
25 says I need attorney's fees and costs as if he needs money for

1 this matter and we need to know how much money he makes. Are  
2 we truly bankrupting Mr. Rawcliffe by asking for -- for  
3 defending this case or does he actually have money to pay an  
4 attorney.

5 THE COURT: Mr. Hills?

6 MR. HILLS: Your Honor, it's kind of like the cable  
7 company, if they catch you stealing services and they sue you  
8 for the value of the services you stole and you, in response,  
9 you say, well, I want to see the tax returns for the cable  
10 company, what do they need it for? That is the information  
11 they don't need, not relevant to the lawsuit. So, why would  
12 we ---

13 THE COURT: I don't see the relevancy ---

14 MR. HILLS: Why would we want to give them that kind of  
15 information.

16 THE COURT: I just don't see the relevancy of their tax  
17 returns. Perhaps it may be relevant, I mean, maybe some  
18 relevance as to their net worth, if you wanted to know that or  
19 something like that but a tax return, I quite frankly don't  
20 think that that's relevant to this determination and I'm gonna  
21 deny that motion.

22 MR. HILLS: Your Honor, I need to ask again, does that  
23 mean you're denying it both ways?

24 THE COURT: I'm gonna let you look at what he did but  
25 it's gonna be under a protective order. I think it goes to

1 what they may or may not have made but you're to use it only  
2 for the purposes of this lawsuit; it's not to be disseminated.  
3 Okay?

4 MR. HILLS: Thank you, Your Honor.

5 THE COURT: All right. Number Four is the motion filed  
6 8/9/2013, a motion -- it looks like a motion to stay perhaps;  
7 I'm not sure. It looks like it's Mr. Mullins' motion. What  
8 is that, Mr. Mullins?

9 MR. MULLINS: Yes, Your Honor. That was the order to  
10 stay. There were depositions scheduled on this matter before  
11 I took over and Mr. Lee wanted these matters stayed until the  
12 criminal case was resolved.

13 THE COURT: Do you tell me that's been ---

14 MR. MULLINS: And that's been done, Judge. And if I  
15 could, Judge, on the motion for protective order, there are a  
16 couple of other items that we were arguing about.

17 THE COURT: Oh, okay; I'm sorry.

18 MR. MULLINS: And I apologize, back on -- I'm back on Mr.  
19 Lee's ---

20 THE COURT: Okay. I'm sorry.

21 MR. MULLINS: They also wanted confidential business  
22 information such as where we advertise and other matters such  
23 as that, confidential research that we have on this project,  
24 why we're renting at Sands Resort, customer list and other  
25 propriety information. I just assume, Your Honor, I'd like to

1 make sure that what you've told us to do is give us the rental  
2 contacts and the rental just out of this resort ---

3 THE COURT: Exactly. That one only. Okay?

4 MR. MULLINS: Okay.

5 THE COURT: And if you did any specific advertising as to  
6 that resort -- that's what you want, right, Mr. Hills?

7 MR. HILLS: Your Honor, our whole allegation is they're  
8 using our brand in their advertising, so we need to know  
9 everywhere they've used it. How do we make sure it's been  
10 stopped, you know, with the internet, you don't know exactly  
11 where they've put it. You don't know whether they're using  
12 your own brand.

13 THE COURT: It's simple. You do a Google search.

14 MR. HILLS: Do a Google and find everything you can, but  
15 we don't know where all they've got everything.

16 THE COURT: Well, if you can't find it on a Google  
17 search, it must not be much in the way of advertising.

18 You want all the advertising that may do anywhere in the  
19 world?

20 MR. HILLS: Only for the units in these buildings, not  
21 for any other ---

22 THE COURT: That's what I'm saying.

23 MR. HILLS: If she rents in other places, we don't care  
24 about that.

25 THE COURT: All right. I think he's entitled to it, as to

1 this project. Okay? And that would be the ---

2 MR. HILLS: Sand Dunes and the Ocean Dunes.

3 THE COURT: The Sand Dunes and the Ocean Dunes, if you do  
4 any advertising for that. Okay? Is that the only -- what  
5 else do we have on that particular motion, Mr. Mullins?

6 MR. MULLINS: And, Judge, is that for year-round  
7 advertising because this waterpark is only open three months.

8 THE COURT: Well, if it has to do with those units,  
9 period, yes.

10 What else do we have covered by the protective order?

11 MR. MULLINS: Judge, such things as our business  
12 licenses; we've already given them to them as well as our  
13 liability policies, we've given them those. But anything else  
14 outside of that -- in other words, Mr. Becker is sales. You  
15 can see he's got -- he's with Better Homes and Gardens, it's  
16 up in North Myrtle Beach. Those records, those documents  
17 shouldn't go to them under any circumstances had nothing to do  
18 this with unless Mr. Becker has got a unit under contract down  
19 there.

20 THE COURT: Mr. Hills?

21 MR. HILLS: Your Honor, under South Carolina law  
22 everybody knows you have to have a specific separate business  
23 license for each room that you rent out in these  
24 circumstances.

25 THE COURT: I didn't know that.

1 MR. HILLS: I didn't either until we started this case,  
2 Your Honor. But my client is well aware of it cause got 1200  
3 of them that he has to get every year. We want to see the  
4 business licenses for each of those sixteen rooms or ---

5 THE COURT: How were these sixteen units ---

6 MR. HILLS: --- she's supposed to have.

7 MR. MULLINS: And, Your Honor, I rent out rooms, I rent  
8 out obviously have rentals myself and I own a management  
9 company and all these other things.

10 THE COURT: Mr. Mullins, I would imagine you rent it out  
11 by the hour.

12 MR. MULLINS: Well, Your Honor, back twenty years ago,  
13 perhaps, Judge, but those days have passed for me. If you've  
14 noticed, I'm not in the adult entertainment war anymore and  
15 neither is Mr. Hills who I learned it from.

16 But, normally, the owner gets the license to rent out  
17 their property down there, not the management company and  
18 that's a little bit different. As I understand it, I have a  
19 license for ---

20 THE COURT: What difference does it make to you, Mr.  
21 Hills, if they had a license or not?

22 MR. HILLS: Because it ---

23 THE COURT: Does it really make any difference whether  
24 he's doing it in compliance with the city ordinance or out of  
25 compliance with the city ordinance. It doesn't make any

1 difference. If it damages you; it damages you, period.

2 MR. HILLS: Your Honor, we've got a lady who is going  
3 around telling everybody that we're overcharging and that our  
4 percentages are outrageous. But everything we're trying to  
5 get is to show, yeah, you don't do this like you're supposed  
6 to, we do, it comes out of that fifty percent. You don't have  
7 a waterpark, we do. It cost us \$3,000,000 for that waterpark;  
8 that comes out of the fifty percent. You don't have these  
9 other benefits that we do. How do we respond -- we'd like to  
10 know if she's in compliance with the law.

11 THE COURT: Well, wouldn't it be the responsibility of  
12 the unit owner and not the realtor? I refer to it as a  
13 realtor; why don't we call it a rental agent, I don't know.

14 MR. HILLS: The Real Estate Commission requires they have  
15 them, Your Honor, so they would have to either have it or make  
16 sure the owner has it. Either way, they should know. I'm  
17 gonna ask her all the questions in her deposition anyway and I  
18 just want to make it clear she's gotta answer them.

19 THE COURT: All right. Let's go ahead and provide any as  
20 to those sixteen units.

21 All right. Anything else under that protective order?

22 MR. MULLINS: No, Your Honor.

23 THE COURT: Okay. The motion to stay, I believe you said  
24 is really a moot issue now?

25 MR. MULLINS: It is, Your Honor. We -- Your Honor has

1 told me to -- when I was in front of you in October you said,  
2 tell Mr. Hills when you're ready to proceed. I handed up a  
3 copy of the letter I faxed to Mr. Hills in October that says,  
4 I'm ready to proceed with depositions. Let me know.

5 THE COURT: All right. So, essentially, that's moot  
6 then?

7 MR. HILLS: Now, that we understand the protective order,  
8 we can take the deposition and we'll do it fairly quickly.

9 THE COURT: All right. Motion by the Plaintiffs that  
10 appears to be a rule to show cause in September of 2013. Tell  
11 me about, Mr. Hills.

12 MR. HILLS: It is, Your Honor. This has to do with all  
13 those wristbands. There -- she was giving out wristbands  
14 after the Court's temporary order saying that she could not in  
15 any way do things like that. You know, we're gonna have an  
16 issue that's gonna crop up immediately, I'm sure, because when  
17 we took the deposition last week, the practice has always been  
18 in Horry County if you want to take a phone deposition, just  
19 tell the other side, set it up and if they have an objection,  
20 they'll tell you and you go to the Court and get an order.  
21 We've been set -- this was set up for three to two days after  
22 the October 2nd hearing as a telephone deposition, nobody ever  
23 said anything.

24 THE COURT: It's a rule to show cause for contempt in  
25 some fashion?

1 MR. HILLS: For violating the Court's order, Your Honor.

2 THE COURT: All right. And who issued the order?

3 MR. HILLS: Part of our main proof is going to be the  
4 deposition we took last week. Mr. Mullins, when he got there,  
5 he said, you know, I object, it's a telephone, we want an  
6 order. So, I'm kind of ---

7 THE COURT: So, you don't have anything ---

8 MR. HILLS: I need to know if we're gonna be able to use  
9 it any -- to use it since nobody objected for months.

10 THE COURT: All right. Are you saying this one needs to  
11 be carried over until you've taken the deposition?

12 MR. HILLS: I guess so, Your Honor. Can we take it again  
13 if he's not gonna allow it in.

14 MR. MULLINS: I withdraw the objection, Judge.

15 THE COURT: Okay.

16 MR. HILLS: Then it's in.

17 THE COURT: All right. So, that one will stay on the --  
18 on the non-jury roster for the next term. Okay?

19 MR. HILLS: I was gonna say we're ready to do it now if  
20 he's gonna not object to the deposition.

21 THE COURT: Oh, do you have the deposition?

22 MR. HILLS: Yes, Your Honor. We don't have the original  
23 but we've ---

24 THE COURT: I'm sorry; I thought you didn't have the  
25 deposition. All right. Let's hear it, Mr. Hills.

1 MR. HILLS: All right. Your Honor, this will take  
2 several witnesses and, of course, this deposition. We'd call  
3 Mr. Rawcliffe to the stand.

4 LEE RAWCLIFFE, HAVING BEEN DULY  
5 SWORN, TESTIFIES AS FOLLOWS:

6 CLERK: Please state your name and spell your last name  
7 for the record.

8 MR. RAWCLIFFE: My name is Lee Rawcliffe, last name is  
9 spelled R-A-W-C-L-I-F-F-E.

10 THE COURT: All right, sir.

11 MR. HILLS: Thank you, Your Honor.

12 DIRECT EXAMINATION OF LEE RAWCLIFFE BY MR. HILLS:

13 Q: Mr. Rawcliffe, do you live here in Horry County?

14 A: I do.

15 Q: All right. And do you have any association with  
16 Rawcliffe Resorts, Inc.?

17 A: I do.

18 Q: What is that relationship?

19 A: I am the principal owner and chief executive officer.

20 Q: Is the corporation duly authorized in South Carolina?

21 A: It is, sir.

22 Q: And who is the president of that corporation?

23 A: That would be Kenneth Metcalfe.

24 Q: All right. He's one of the employees for that business  
25 among others?

1 A: For that business, yes, sir.

2 Q: And how long has Rawcliffe Resorts been in operation?

3 A: Six years, sir.

4 Q: And can you thumbnail it for us what it is that Rawcliffe  
5 Resorts does?

6 A: Rawcliffe Resorts trades under the name Sands Resorts.

7 We have six different resorts which we either own outright or  
8 own all the commercial element in and do rentals in.

9 Q: All right. Now, so that the Court understands, what does  
10 it mean when you say -- well, let's narrow it down. For the  
11 purposes of this case, Sands and the Ocean Club ---

12 A: Sand Dunes.

13 Q: Sand Dunes.

14 A: Yes, sir.

15 Q: How many units does Rawcliffe Resorts own in that ---

16 A: I'm not sure of the number. It's a fair number. We own  
17 all the commercial element there as well.

18 Q: For the record, what does it mean when you say own the  
19 commercial elements?

20 A: That our corporation owns all of that real estate and all  
21 of the furnishings, fixtures, so forth.

22 Q: All right.

23 A: We also have all the grantors rights.

24 Q: The first floor in a lot resorts have things like a gift  
25 shop.

1 A: Yes.

2 Q: Is that sold as a commercial element?

3 A: Yeah, we own the entire first floor.

4 Q: Y'all own everything, all the businesses ---

5 A: We own the entire first floor.

6 THE COURT: I understand. I understand, the pool and the  
7 walkways and the grounds?

8 A: Yes, sir.

9 Q: That includes the pools on the premises but what about  
10 the waterpark; is that part of the Sand Dunes?

11 A: No, sir. We have an adjacent property, it's directly  
12 adjacent to it, that is a waterpark that is wholly owned by  
13 our company and exists as a benefit to our guests. We also  
14 own a convention center adjacent to the property, again, for  
15 the benefit of our guests and we own the Ocean Dunes Resort  
16 adjacent to that property which is a privately owned  
17 freestanding hotel which is our hotel.

18 MR. HILLS: Your Honor, we'll offer this into evidence.  
19 Mr. Rawcliffe, can you identify it?

20 BY MR. HILLS:

21 Q: Mr. Rawcliffe, can you identify it?

22 A: This looks like some -- an information map published by  
23 our company. And it does show the location of many of the  
24 amenities. We ---

25 MR. HILLS: Your Honor, we offer it into evidence. And I

1 believe it's without objection.

2 THE COURT: Is that right, Mr. Mullins?

3 MR. MULLINS: No objection. It helps the Court  
4 understand the layout here.

5 THE COURT: You want to mark it as Plaintiff's One.

6 PLAINTIFF'S EXHIBIT NUMBER ONE

7 ADMITTED INTO EVIDENCE

8 BY MR. HILLS:

9 Q: Mr. Rawcliffe, referring you to Plaintiff's Exhibit  
10 Number One, does this show where would things like the pool be  
11 here on this and where would the waterpark be?

12 A: Well, okay. If you'll look on here it says Sands  
13 Waterpark in the front here. And that's -- that's the  
14 waterpark. Of course, this is Ocean Dunes, which is adjacent  
15 the Sands Health Club and the Rawcliffe Conference Center,  
16 which I described as our -- those are separately owned by our  
17 company.

18 Q: All right, sir, if I can keep it as short as possible.  
19 Next to River City Café is where the waterpark is?

20 A: Yes, but you also have all the other amenities within  
21 there and if I can I'll just quickly review the other things  
22 that are exclusive to us in addition to the pools and so forth  
23 are the restaurants, the gift shop, the golf shop. There's a  
24 convenience store there, there is the Sands Kids Club, excuse  
25 me, which takes care of guest children free of charge with

1 provides them with t-shirts and hats and activities if you're  
2 a guest of ours. There's a lot more of -- I'm probably  
3 leaving a bunch out.

4 Q: Okay. And those amenities are paid for ---

5 A: There's a magic show with Carl Skenes, who is a Disney  
6 Magician that we bring in every summer.

7 THE COURT: There's an amenities package; I understand  
8 that, Mr. Rawcliffe.

9 A: Well, if I may, it was referred to that we charge a fifty  
10 percent rental commission, that's -- actually, that's a little  
11 bit misleading. The rates that we charge -- we do receive  
12 fifty percent. That isn't just for renting the unit. We  
13 provide daily housekeeping. We provide all maintenance in the  
14 units. We provide bellman service, concierge service, front  
15 desk service, access to all amenities, the amenities, half  
16 price off in our food locations, free admission to that  
17 waterpark, free admission to our waterpark Wild Water and  
18 Wheels, in which Mr. Lazarus is a partner, but our guests get  
19 to go there free and that was named one of the top ten  
20 waterparks in America -- we're proud of that -- free admission  
21 to the North Myrtle Beach Amusement Park, free admission and  
22 golf including cart fees at Diamond Back Golf Course, which we  
23 own.

24 THE COURT: Okay. I understand. I get it.

25 A: There's hundreds of dollars.

1 THE COURT: Thank you, thank you, thank you.

2 MR. HILLS: Understand, Your Honor, he's been waiting a  
3 while to explain.

4 A: I didn't intend to sound like a commercial, I apologize,  
5 but there's a lot offered.

6 Q: That's the basis of the lawsuit, somebody claiming that  
7 you can stay with us and use all the amenities.

8 MR. MULLINS: Objection, leading.

9 THE COURT: We don't have a jury. I can keep up with it.

10 A: The problem we had, if I may describe it briefly if I can  
11 is it came to our attention that the Beckers and their entity  
12 Ocean Breeze Realty was advertising, among other places, on  
13 Vacation Rentals By Owner, which is an internet site and some  
14 others, they were advertising under our trade name, they were  
15 advertising all of these amenities as being available to their  
16 guests, they had pictures of them and descriptions and through  
17 Mr. Hills in my presence, Karen Becker was contacted by  
18 telephone and informed that, number one, we owned all these;  
19 and number two, she wasn't entitled to use them, that if she  
20 wanted to rent somebody's condo, she could rent the condo but  
21 she could not rent our assets and she could not trade under  
22 our name. That activity continued; at which point, we sent a  
23 certified letter which I have here, Mr. Hills.

24 THE COURT: I understand the background, Mr. Hills, but I  
25 want to get to the order.

1 MR. HILLS: I understand.

2 A: We informed again, and I'll give you this, if you wish.  
3 We informed again that this was to cease and desist; it did  
4 not. And we then filed an action in court and the result was  
5 that Ms. Becker acknowledged giving out wristbands, claimed to  
6 have purchased them. The wristbands cannot be purchased.  
7 They're -- it's for our guests and only for our guests and  
8 that's it. So, we then acknowledged that they needed to, and  
9 I quote, settle up with us on this and that they would never  
10 do it again. That was for 2012. In 2013, they did do it  
11 again over and over ---

12 COURT REPORTER: I'm sorry. Can you just back away from  
13 this just a little bit.

14 THE COURT: Just get me to the order.

15 A: Including all of these wristbands ---

16 THE COURT: All right. Thank you, sir. Hold on just one  
17 second.

18 A: And this ---

19 THE COURT: Please. Just respond to your attorney's  
20 questions.

21 All right, Mr. Hills. Just get me to the order, okay?

22 BY MR. HILLS:

23 Q: Mr. Rawcliffe ---

24 A: Time served,

25 Q: You were present when the hearings -- when the Court

1 issued the temporary order?

2 A: I was, sir.

3 Q: And that was by consent of both parties, was it not?

4 A: Yes, sir, it was.

5 MR. HILLS: And, Your Honor, it should be in the file.

6 THE COURT: I'm looking for it.

7 MR. HILLS: I have a copy of it if Your Honor would like  
8 to see it.

9 THE COURT: There's been a lot of motion work, Mr. Hills,  
10 and just having to -- there's, obviously, no index to this.  
11 So, I'm ---

12 MR. HILLS: It was in April, Your Honor, if that helps.

13 THE COURT: Of 2013?

14 MR. HILLS: Yes, Your Honor. It was filed on April the  
15 2nd.

16 THE COURT: All right. I've got a Summons for Amended  
17 Complaint dated April the 11th. Was it after that, Mr. ---

18 MR. HILLS: It was filed April the 2nd, Your Honor.

19 THE COURT: It's not in order.

20 MR. HILLS: Your Honor, may I approach?

21 THE COURT: Yes, if you have a copy of it.

22 MR. HILLS: I do, Your Honor. I would draw the Court's  
23 attention to paragraph four on the second page.

24 THE COURT: Okay. Just let me review the order very  
25 quickly. It looks like it was Judge Culbertson's order?

1 All right, sir. Go ahead. Thank you.

2 MR. HILLS: Thank you, Your Honor.

3 BY MR. HILLS:

4 Q: Now, Mr. Rawcliffe, to keep it short, did it come to your  
5 attention that somebody might not be in compliance with that  
6 order?

7 A: Many times.

8 Q: Okay. And the wristbands, who is your facilities  
9 director?

10 A: Mr. David Rivera.

11 Q: And he's seated here in the courtroom?

12 A: He is, sir.

13 Q: And did you give him instructions concerning those?

14 A: Yes, sir, absolutely.

15 Q: Did y'all collect up a bunch of wristbands off people?

16 A: Here's a few.

17 Q: Okay.

18 A: Do you want them?

19 Q: I want them.

20 A: It's not -- okay. I think you're dropping them.

21 Q: This one in the envelope, did it come in the envelope?

22 A: Yes, that's the one that the deposition refers to, I  
23 believe.

24 Q: All right.

25 A: I also caught people -- my wife and I were in our

1 restaurant on at least one occasion with Mr. Rivera when we  
2 had a nice young lady with three kids that was bragging on how  
3 much she liked the resort and what a terrific deal and how  
4 they came there for all the amenities. She'd had her kids in  
5 our Kids Club ---

6 MR. MULLINS: Objection, Your Honor. This is going well  
7 into hearsay. I don't know who this person is, whether  
8 they've been ---

9 A: I experienced several of these and then it turned out she  
10 was -- she and her children were wearing these counterfeit  
11 wristbands and they were customers of the Beckers.

12 MR. MULLINS: Same objection.

13 BY MR. HILLS:

14 Q: Now, these wristbands, have they been in your possession  
15 or Mr. Rivera's possession ever since they were taken from the  
16 tourists?

17 A: Mr. Rivera took them and they were in a safe in the  
18 corporate offices until you asked me to bring them here today  
19 and they've been in my briefcase.

20 Q: Okay.

21 THE COURT: This is what I -- were these bracelets  
22 removed from people who were -- I'm not interested in where  
23 they may've come from but were they your customers, your  
24 visitors?

25 A: Customers of Sands Resorts?

1 THE COURT: No. Were they people that were entitled to  
2 use the amenities under the contract, the rental agreement  
3 they had with your company?

4 A: No, they were not entitled to the use them.

5 THE COURT: That's all I'm asking.

6 A: Absolutely no, no.

7 THE COURT: That's it. You answered my question. That's  
8 it. You don't have to expand on it.

9 MR. HILLS: I only have one or two more ---

10 THE COURT: All I want to know is these bracelets were  
11 from people who were not your people?

12 A: That is correct.

13 THE COURT: Okay. And they were retrieved after the  
14 issuance of the temporary restraining order?

15 A: Yes, sir.

16 THE COURT: Okay. That's all I needed to know. Those  
17 two things.

18 BY MR. HILLS:

19 Q: And do you have a coding system at your resort for the  
20 people who are your guests at Rawcliffe Resorts for the  
21 wristbands?

22 A: We do, Mr. Hills. They have to obtain those from the  
23 Amenities Center and they are encoded and that's how we were  
24 able to tell.

25 Q: Do any of these wristbands have those codes?

1 A: No, sir.

2 Q: All right. I don't have any further questions.

3 THE COURT: Okay. Now, Mr. Mullins. You may cross on  
4 that.

5 MR. MULLINS: May it please the Court? If I may, Your  
6 Honor, these have been produced. Can I look at them?

7 THE COURT: Certainly.

8 CROSS EXAMINATION OF LEE RAWCLIFFE BY MR. MULLINS:

9 Q: All right. Mr. Rawcliffe, these look like wristbands  
10 issued at various resorts here in Horry County, South  
11 Carolina, aren't they?

12 A: Could you -- yeah, please -- we're trying to keep those  
13 piles separate.

14 Q: Oh, I'm very sorry, sir.

15 A: That's all right.

16 Q: Because I haven't seen these before today.

17 A: I understand.

18 Q: You didn't give them to your attorney to give them to me,  
19 did you?

20 A: No.

21 Q: Okay. So, you've kept them secret till today?

22 A: No, sir. We did -- it wasn't secret.

23 Q: Well, did you make copies of them or say come on down  
24 here at look at them, Mr. Mullins?

25 A: No, sir.

1 Q: All right. Well, let me just pick up one here. Can I do  
2 that?

3 A: Sure.

4 Q: All right. Is there anything on that piece of plastic  
5 there that identifies that as Sands Resort?

6 A: No, there's not.

7 Q: All right. Is there anything on there that identifies it  
8 as the Becker's company?

9 A: No, there is not.

10 Q: All right. Aren't those available just about anywhere  
11 here in Horry County?

12 A: Apparently, they're available somewhere because they  
13 didn't come from us.

14 Q: All right.

15 A: I don't know.

16 Q: And there's -- and there's -- are these labeled as to who  
17 you took them off of and when?

18 A: I believe they are.

19 Q: All right. Well, where -- let me just hand you that  
20 yellow one right there on the front. Who did that come from?

21 A: Well, that was in the envelope that came from the lady  
22 that you have -- Ms. Ball.

23 Q: Ms. Ball, okay.

24 A: Yes.

25 Q: All right. Is there anything to tell me where that

1 envelope come from?

2 A: It says where -- no.

3 Q: All right. It certainly doesn't say the Beckers or their  
4 company, does it?

5 A: Mr. -- Mr. Rivera got that from Mrs. Ball. She gave it  
6 to him and said that's where she had received them.

7 Q: Mr. Rawcliffe, let me ---

8 MR. HILLS: Your Honor, my client is confused.

9 MR. MULLINS: Obviously.

10 MR. HILLS: That's not Ms. Ball's. I've got that sitting  
11 here.

12 A: Oh, excuse me. Okay.

13 BY MR. MULLINS:

14 Q: On this envelope right here, is there anything on that  
15 envelope -- let me get where we can all see it. Is there  
16 anything on this envelope that identifies this envelope that's  
17 coming from Mr. Becker or Mrs. Becker or their company?

18 A: No, and I wouldn't expect there would be.

19 Q: Okay. All right. How about this one? Is there anything  
20 on there to identify it comes from Mr. Becker or Mrs. Becker  
21 or their company?

22 A: I believe there's only one and it did not come from them  
23 and it went from another gentleman who has since agreed to  
24 stop and stopped. The others ---

25 Q: So, of this whole stack you have up here ---

1 A: Uh-huh (affirmative response).

2 Q: Is there anything to identify those as coming from the  
3 Defendants?

4 A: I'm sure there's not.

5 Q: Okay. And in fact, you could go down to say, 2001 after  
6 a special event and find those laying out back in the trash,  
7 couldn't you?

8 A: I don't know. I don't go there, sir.

9 Q: You don't go there? Well, is there any nightclub you do  
10 go to?

11 A: No, sir.

12 Q: You don't ---

13 A: I don't drink.

14 Q: Well, you have own; so, you don't have to.

15 A: I don't go in those very often.

16 Q: All right. I remember spending a bunch of money with you  
17 last summer, so ---

18 A: And we appreciate that very much.

19 Q: Very good. Now ---

20 A: I don't want anything that happens here to interfere with  
21 your continuing to do that.

22 Q: All right. Very good. I appreciate that. Now, you also  
23 owns RAM Corporation?

24 A: No, sir.

25 Q: Who owns RAM?

1 A: Mr. Harrison, Mr. Lowman, Mr. Franz Mustard and my  
2 children have a small amount of stock in it but I am -- don't  
3 any and I'm not active in any way in that company.

4 Q: What does RAM do?

5 A: Ram is actually short for Resort Association Management  
6 and they are a property management company in Myrtle Beach.

7 Q: All right. And RAM operates the homeowners services  
8 there at Ocean Dunes Sand Dunes, correct?

9 A: Well, RAM is the property management company for the  
10 boards at Sand Dunes and many other properties around the  
11 beach. But, yes, there they do.

12 Q: And Sand Dunes is one of the things that we're here on  
13 today, correct?

14 A: Yes, it is.

15 Q: Okay. All right. Who sits on that board for the HOA?

16 A: For which HOA, sir?

17 Q: The HOA for Sands, who sits on the board?

18 A: There are four HOAs for Sands.

19 Q: Okay. The ones we're talking about today, the building  
20 we're talking about today, who sits on that board?

21 A: Let me do the best I can here. The Sand Dunes Oceanfront  
22 Towers, would be Tom Rob serves as president; I think Mr. Mike  
23 Davis is vice president; Kenneth Metcalfe and Jerry Blunt, I  
24 don't know what offices they hold; and there's a Howard  
25 Anderson. And we have Sand Dunes North, which is Michael Rink

1 is president.

2 Q: Well, hold up for just a ---

3 A: I'm just trying to answer your question.

4 Q: Of those people you just told me, how many also worked  
5 for Rawcliffe in one capacity or another?

6 A: Kenneth Metcalfe, Jerry Blunt and Howard Anderson is also  
7 ---

8 Q: And all of them -- the answer would be all of them?

9 A: Oh, absolutely not, no.

10 Q: Okay.

11 All right. Does the HOA board have access to all the  
12 units?

13 A: Not the board; the HOA does through their property  
14 management company for things like pest control and I think  
15 that's probably -- well, an emergency, you know, if there were  
16 a water leak or a fire, yes.

17 Q: All right. And RAM works for the board, correct?

18 A: That is correct, yes.

19 Q: All right. And RAM has a key to every unit, correct?

20 A: They're supposed to, yes.

21 Q: Okay. So, anytime, any of the units being managed by the  
22 Beckers can also be opened by the HOA, correct?

23 A: Only for the purposes which I stated, sir.

24 Q: Well, is there any sort of a electronic signature where  
25 we know when the unit was opened?

1 A: On all of the units that we own and we manage, we have  
2 SAFLOK electronic security locks which are used by a card key  
3 or an RFID and those do record who has entered on -- in each  
4 case. And it maintains those records, I think, for a little  
5 over a week.

6 Q: Okay.

7 A: I deal -- the ones that are not in our program, I would  
8 not have that probably.

9 Q: Don't they open with the same key?

10 A: No.

11 Q: They do not?

12 A: No.

13 Q: There's not a RFID key to the units managed by the  
14 Beckers?

15 A: The units managed by the Beckers, I don't believe would  
16 have that type of lock, sir.

17 Q: Okay.

18 A: Because you're -- we're the only ones that can make keys  
19 for that type of lock. So, they generally, if they're not on  
20 our program, they put a different lock on.

21 Q: All right. Now, does the HOA pay any money to the  
22 waterpark?

23 A: No, no, they do not.

24 Q: Is the waterpark totally paying its own bills? Does it  
25 receive a subsidy from anyone?

1 A: It receives a huge subsidy from Rawcliffe Resorts, yeah;  
2 they pay all the bills.

3 Q: Okay. Now, is it your positions that your owners there  
4 in Sands can't do what they're doing behind the Beckers?

5 A: No, sir, I did not say that. We never -- we never said  
6 that. What we said is they can't sell or rent our corporate  
7 assets and keep the money because that's stealing.

8 Q: Okay. Let me make sure I understand. If I'm an owner  
9 there and I come down, do I get to go to the waterpark?

10 A: If you're on our rental program, excuse me -- if you're  
11 on our rental program, yes.

12 Q: All right. Can I go down in the restaurant and eat?

13 A: Yes.

14 Q: Can I go swim in the pool?

15 A: Well, you can -- we give our guests half off in the  
16 restaurants. If you're not on our rental program you would  
17 pay full price.

18 Q: All right. So, an owner then, it's your testimony,  
19 really doesn't have the right to use -- if an owner isn't  
20 linked to you, correct, they don't have the right to use the  
21 front desk, the elevators or any of this other stuff that you  
22 just described.

23 A: They don't have any business on the ground floor of the  
24 building other than to get to the elevator or staircase.

25 Q: All right. Well, how do they -- do they have a right to

1 use the elevator?

2 A: I believe I just said other than the elevator or  
3 staircase.

4 Q: All right.

5 A: And in the event of an emergency, they can get out  
6 whatever is quickest and safest way.

7 Q: All right.

8 A: In other words, if there was a fire or something.

9 Q: Now, as to holding my clients in contempt, what you have  
10 today is the deposition or Ms. Kim Ball, correct?

11 A: Well, and our own -- our own witnessing what we've seen,  
12 yes.

13 Q: All right. Well, let's talk about Ms. Kim Ball for a  
14 moment. Okay? Ms. Ball didn't rent through the Beckers, did  
15 she?

16 A: I believe she said she did.

17 MR. HILLS: Your Honor, I think the deposition will speak  
18 for itself. I was gonna offer into evidence. I'll be glad to  
19 go ahead and offer it now so that Court can look at it.

20 MR. MULLINS: No objection.

21 A: I think she said in the deposition she rented it and used  
22 her -- if I recall, and I was present at the deposition, was  
23 her mother's or mother-in-law's credit card but that she  
24 rented it, yes.

25 BY MR. MULLINS:

1 Q: All right. Well, let me ask you a different one, Mr.  
2 Rawcliffe.

3 MR. HILLS: We'd offer it into evidence, Your Honor.

4 A: And she stated that she rented there because of all those  
5 amenities.

6 Q: That wasn't my question, Mr. Rawcliffe. (To the Court)  
7 Move to strike as unresponsive, Judge.

8 THE COURT: Well, you know, we don't have a jury. I can  
9 promise you I can filter it.

10 MR. MULLINS: I know, Your Honor.

11 MR. HILLS: I think the technical definition, Your Honor,  
12 is pitting witnesses. He's asking Mr. Rawcliffe about  
13 somebody else's deposition.

14 MR. MULLINS: He's here to ask this Court to lock the  
15 Beckers up, Your Honor. And that's what he's asked for. I  
16 think I'm inclined to explore bias and prejudice here.

17 MR. HILLS: He can explore Mr. Rawcliffe's bias and  
18 prejudice all he'd like.

19 A: Yeah.

20 THE COURT: Well, it seems, Mr. Mullins -- let's do this,  
21 he says that he was there when Ms. Ball testified and we don't  
22 have a jury and I'm gonna let you ask him questions about what  
23 Ms. Ball said but let's show him the deposition when you do  
24 and point to the specific things, if there's something  
25 specific that you're speaking of. Okay?

1 MR. MULLINS: I'll cut to the chase.

2 THE COURT: And that -- and I'll let you do that because  
3 it may be in the interest of brevity to do that. Okay?

4 All right. Go ahead.

5 BY MR. MULLINS:

6 Q: Isn't it true that Ms. Ball's reservation was in Ms.  
7 Hughes' name?

8 A: She stated in her deposition that she made the  
9 reservation and used that name because it was on the credit  
10 card because she didn't want to use her own. I think she had  
11 something else that she had to buy with it or something.

12 Q: Let me ask you ---

13 A: She stated she did all the business with, with Ms. Becker  
14 that she was the one that made the reservation and she stated  
15 that she went down through VRBO and selected them because they  
16 were the only ones that offered all of these amenities without  
17 going through us and paying a higher price.

18 Q: Were you also present when Ms. Ball said that they didn't  
19 have anything in writing from the Beckers saying that the  
20 waterpark was part of the reservation?

21 A: I was.

22 Q: Okay. And were you also present when Ms. Ball stated  
23 that after she signed the affidavit for one of your corporate  
24 officers that she got free stuff?

25 A: I was there when you insinuated that she got free stuff

1 to sign the affidavit and I was there when she said she knew  
2 nothing about this stuff until after the affidavit and that we  
3 gave it to her for the benefit of her children whose vacation  
4 was ruined and to protect the name of our resort, yes.

5 Q: Did you or did you not cause to be given to Ms. Ball a  
6 package worth hundreds of dollars for signing that affidavit?

7 A: Hundreds of dollars per person and there were ten people.  
8 So, you're looking at more like 22 or \$2300, and yes we did  
9 for the reasons that I said.

10 Q: All right. And did you encourage Ms. Ball to go to  
11 Myrtle Beach Police Department and try to get an arrest  
12 warrant for the Beckers?

13 A: I did not, no.

14 Q: All right. Well, did anyone on your behalf do so?

15 A: Not that I'm specifically aware of; I can't say that they  
16 didn't but they were engaged in stealing and I would've been  
17 fine if they had. I wish they had.

18 Q: Okay.

19 A: I mean, that's a great deal of money and the many times  
20 -- I mean, I'm not here for a few thousand dollars, sir.  
21 There was a huge amount of money that was taken from our  
22 company by the wrongful use of our assets, trade names and  
23 other items.

24 Q: Thank you. What is the entity that operates the  
25 waterpark?

1 A: It is owned by Rawcliffe Resorts.

2 Q: Rawcliffe ---

3 A: It is not a part of the Sand Dunes.

4 Q: Isn't it true that you're angry that some of your owners  
5 are going to outside rental companies other than renting  
6 through Rawcliffe Resorts?

7 A: Mr. Mullins, like any business, we'd prefer you do  
8 business with us. My anger is that we've had our assets  
9 stolen and been robbed of a great amount of money. That's not  
10 fair business. It's stealing. And, yes, I'm very angry, sir.

11 MR. MULLINS: If I may have just a moment, Your Honor.

12 No further questions of Mr. Rawcliffe at this time, Your  
13 Honor.

14 THE COURT: Counsel?

15 MR. HILLS: Well, Your Honor, you know me. My natural  
16 inclination now is to go over the deposition with him but I'll  
17 respect the Court's -- I think you can read it, Your Honor.

18 THE COURT: All right.

19 MR. HILLS: It speaks pretty much for itself. But I have  
20 no further questions for Mr. Rawcliffe.

21 Leave those up there.

22 A: All of them?

23 MR. HILLS: All of them. Not all of them were ---

24 A: What about the ---

25 MR. HILLS: The Court Reporter is reminding me we need to

1 make the deposition.

2 THE COURT: Is this the only copy you have?

3 MR. HILLS: We have a lots of copies, Your Honor, if you  
4 want more than one.

5 THE COURT: No, I just want this one

6 MR. HILLS: Well, you're welcome to use that one, Judge.

7 THE COURT: Do you have another copy to introduce.

8 MR. HILLS: Yes, sir.

9 PLAINTIFF'S EXHIBIT NUMBER TWO

10 ADMITTED INTO EVIDENCE

11 A: Jim, what about this certified letter?

12 MR. HILLS: We don't need to put that in.

13 A: I can get up now?

14 MR. HILLS: You can step down, please.

15 We'd call David Rivera to the stand.

16 DAVID RIVERA, HAVING BEEN DULY SWORN,

17 TESTIFIES AS FOLLOWS:

18 CLERK: Please state your name and spell your last name  
19 for the record.

20 MR. RIVERA: Sure. My name is David Rivera, last name is  
21 R-I-V-E-R-A.

22 DIRECT EXAMINATION OF DAVID RIVERA BY MR. HILLS:

23 Q: Mr. Rivera, are you a resident of Horry County?

24 A: Yes, I am.

25 Q: How long have you lived in Horry County?

1 A: Six years -- six and half years.

2 Q: I don't want to go too far but at one time did you work  
3 for the U.S. Government?

4 A: No.

5 Q: Okay. Now, what is your current position; where do you  
6 work?

7 A: I work right now at Sands Resorts.

8 Q: Okay. How long have you worked there?

9 A: Two years.

10 Q: Now, did you work for Rawcliffe Enterprises or Sands  
11 Resort; who do you work for?

12 A: Sands Resorts.

13 Q: Okay. And you see Mr. Rawcliffe on a regular basis?

14 A: Yes, I do.

15 Q: He's the big boss, right?

16 A: Very big.

17 Q: Now, as facilities director, do you supervise security?

18 A: As facilities manager, yes, I do.

19 Q: Okay. Facilities manager. And last summer, were you  
20 told to keep an eye on the pool?

21 A: Yes, I was.

22 Q: And the waterpark?

23 A: At the waterpark, yeah, the whole facility.

24 Q: And what were you told to look for?

25 A: The waterpark, I was told to look for people that were

1 coming in with fake wristband and we have to -- the guys in  
2 the pool calling us every time someone came in that they  
3 thought it was a fake one, they would give me a call.

4 Q: And are you personally familiar with how easy it is to  
5 tell a fake wristband from a regular wristband?

6 A: The ones we use ---

7 Q: The ones issued by the Sands?

8 A: The ones issued for the -- yeah, by Sands Resorts were  
9 fairly easy to recognize.

10 Q: Did they have a code on them?

11 A: Yes.

12 Q: Okay.

13 And did you have occasion to go down there when Kim Ball  
14 was there with her children?

15 A: Yes, I was.

16 Q: All right. And did she have fake wristbands or real  
17 wristbands?

18 A: She have fake ones.

19 Q: All right. Now, I'm showing you this envelope. Is this  
20 the envelope you gave us with the wristbands in it?

21 A: Yes, it is.

22 Q: Look at them, please, and make sure.

23 A: Yes.

24 Q: Do these envelopes -- do these have any of the codes on  
25 them?

1 A: No.

2 Q: These are the ones you got from her that day?

3 A: That day, yes.

4 Q: Kept separate all this time?

5 A: Yes.

6 Q: All right. Did she tell you where she got them?

7 A: Yes, she did.

8 MR. MULLINS: Objection, hearsay.

9 THE COURT: How about that, Mr. Hills?

10 MR. HILLS: The deposition will speak for itself, Your  
11 Honor.

12 THE COURT: Okay. Well, let's let it do that.

13 MR. HILLS: All right. Your Honor, we would at this time  
14 offer these wristbands into evidence.

15 THE COURT: Okay. Show them to Mr. Mullins and then let  
16 Kay mark them.

17 MR. MULLINS: Your Honor, I object. They haven't been  
18 previously produced for examination during discovery. Also,  
19 these are fungible items. There's no way of telling where  
20 they came from, what unit they're attached to and they are in  
21 a Sands Resorts envelope not as a Ocean Breeze Rental  
22 envelope. They're fungible, Your Honor, I guess is what I'm

23 ---

24 MR. HILLS: It does have her room number 1710 on the  
25 envelope, Your Honor.

1 MR. MULLINS: The envelope from Sands resort.

2 THE COURT: He says that he collected them.

3 A: I collected them ---

4 THE COURT: From there and I believe that the deposition  
5 says that Ms. Ball was left ten armbands in her room, correct?

6 MR. HILLS: Correct, Your Honor.

7 THE COURT: After conversations with Ms. Becker.

8 BY MR. HILLS:

9 Q: How many are in here?

10 A: Yes. I didn't count them now but ---

11 Q: Just count them and make sure it's ten.

12 A: Yes. There's nine here.

13 Q: There's nine in there?

14 A: There's nine in here.

15 Q: They're all just not there.

16 A: There's nine here. The reason they're in envelope is  
17 because after I took them away from them, I put them in an  
18 envelope so they don't be loose anywhere and I -- you know,  
19 give them -- make sure they didn't get lost.

20 Q: All right. (To the Court) Your Honor, we'd offer them  
21 into evidence.

22 THE COURT: All right. I'm gonna admit them over the  
23 objection.

24 PLAINTIFF'S EXHIBIT NUMBER THREE

25 ADMITTED INTO EVIDENCE

1 BY MR. HILLS:

2 Q: All right. Now, Mr. Rivera, I don't want you to give me  
3 a name but when you asked all these people, all these  
4 wristbands you got that summer, did you ask people where they  
5 got them?

6 A: Yes, I did.

7 Q: And did -- yes or no, did they give you names?

8 A: Yes.

9 Q: How many names?

10 A: Um ---

11 Q: Don't tell me the name but just tell me how many.

12 A: Two.

13 Q: Okay. Was it anybody other than the Beckers?

14 A: Yes.

15 Q: Okay. And is one of them -- one is the Beckers and one  
16 somebody else?

17 A: One is somebody else.

18 Q: Do you remember the percentage of all these things they  
19 were or just some for one and some for the other.

20 A: The other person there were very little, not that many.

21 Q: Okay. Nothing further. Would you answer any questions  
22 Mr. Mullins might have for you, please.

23 THE COURT: All right, Mr. Mullins.

24 MR. MULLINS: May it please the Court.

25 CROSS EXAMINATION OF DAVID RIVERA BY MR. MULLINS:

1 Q: Mr. Rivera, I can't quite place the accent, sir; where  
2 are you from?

3 A: I'm from Puerto Rico.

4 Q: All right. And you've been working for Mr. Rawcliffe  
5 about six years?

6 A: Two years.

7 Q: Two years? All right. The waterpark that's giving us  
8 all this difficulty, sir, isn't it true that the waterpark  
9 didn't have any signs keeping anybody out of it the summer of  
10 2012?

11 A: We have somebody at the front gate watching for the  
12 wristbands and watching anybody that goes in there.

13 Q: All right. And when you said that summer in response to  
14 Mr. Hills' question, which summer is that summer?

15 A: No, you were the one who said that summer. You didn't  
16 say specific which summer.

17 Q: All right. Which summer did you collect all these  
18 things?

19 A: Last year '13, 2013.

20 Q: Okay. Now, is there any difference between any of these  
21 ---

22 A: This ---

23 Q: --- that shows where they come from?

24 A: They all kinds, they all different colors but they do not  
25 have the texture that the one we give out have.

1 Q: Okay. And can you tell me where on any of this stuff  
2 does it say it came from Defendant Ocean Breeze?

3 A: Repeat the question.

4 Q: Can you tell me on any of this stuff you've testified to,  
5 where does it say Ocean Breeze on any of these documents or  
6 wristbands?

7 A: It doesn't say it there but the people that I collected  
8 were the one who said it.

9 Q: Okay.

10 A: Not Ocean Breeze; Ms. Becker.

11 Q: Okay. And were you present when Ms. Ball signed her  
12 affidavit?

13 A: Not when she signed it, no.

14 Q: Okay. All right. Were you present when she got all the  
15 free stuff, the thousands-of-dollars package she got for that  
16 affidavit?

17 A: She didn't get -- you're twisting it. We were nice, we  
18 wanted to be nice to her family because she was crying because  
19 she didn't -- her kids didn't have a place to go. So, we were  
20 nice and we gave her -- we let her stay in the waterpark so we  
21 didn't have to push her out of there.

22 Q: Were you likewise nice to other people that you've got to  
23 sign documents?

24 A: The only person who signed a document might've been her  
25 and I was not present when she did that. I did that because

1 at the time that I was taking the wristband away from her, I  
2 didn't want to get them out of the waterpark because her whole  
3 family was there. And I figure I would leave her in there but  
4 I will tell her that the wristbands were fake and that she was  
5 not supposed to -- was not entitled to go into the waterpark.

6 Q: Mr. Rivera, isn't it true that you can enter any of the  
7 units that are in Sands?

8 A: No, sir.

9 Q: All right. Haven't you entered units managed by my  
10 clients searching for evidence before?

11 A: No, sir.

12 Q: You deny that you entered Unit 1415 owned by the Currys?

13 A: If they're not in the rental program, we have no way to  
14 get in because they got keys. They got their own keys.

15 Q: All right. So, you deny having entered any the units  
16 rented by my -- managed by my clients?

17 A: I -- no. I enter in the room where Ms. Kim, Ms. Ball was  
18 because I wanted to ask her some questions. They asked me to  
19 go upstairs and talk to the -- talk to her mother.

20 Q: All right. But other than Ms. Ball, do you deny that  
21 you've entered other units searching for evidence?

22 A: I don't remember.

23 Q: You don't remember?

24 A: No, I don't.

25 Q: So, you may've done it?

1 A: If it's the -- if they in the rental program, I might go  
2 in there. If they're not in the rental program, we have no  
3 access to get in.

4 Q: Okay. Can't you use the homeowner keys to go in any  
5 unit?

6 A: The homeowner -- I don't ask the homeowner; I don't even  
7 know half of the homeowners.

8 Q: Thank you. No further questions.

9 MR. HILLS: You can step down.

10 THE COURT: Step down, Mr. Rivera, thank you.

11 A: Okay.

12 MR. HILLS: Your Honor, I also have the affidavit of  
13 Stacy Johnson that I would offer.

14 MR. MULLINS: Objection, Your Honor. Ms. Johnson's  
15 affidavit, I obviously can't ask it questions, I can't cross  
16 examine it. I don't know if she got the same compensation  
17 that anybody else got.

18 THE COURT: When were you provided that?

19 MR. MULLINS: Oh, I've gotten it in discovery.

20 THE COURT: Mr. Hills, do you believe that affidavit is  
21 appropriate in a rule to show cause?

22 MR. HILLS: Well, I've been told both ways, Your Honor,  
23 over the years by various judges that on motions and things  
24 like that you can sometimes use affidavits, sometimes you've  
25 got to have live testimony..

1 THE COURT: And it's common practice that this is a  
2 little more -- we're looking at a contempt hearing here and  
3 certainly the necessity of providing due process rises to a  
4 very high level considering the relief that you are -- or the  
5 sanctions you're asking for. I'm not gonna allow. I'm just  
6 not gonna allow an affidavit.

7 MR. HILLS: Certainly, Your Honor. I'd like to use it in  
8 -- I'm gonna want to use it in cross examination if she takes  
9 the stand, so can we go ahead and mark for identification.

10 THE COURT: Yes, you may.

11 PLAINTIFF'S EXHIBIT NUMBER FOUR

12 MARKED FOR IDENTIFICATION

13 MR. MULLINS: Your Honor, we're moving to dismiss the  
14 rule to show cause taking the evidence in the light most  
15 favorable to the Plaintiff here, the only thing they've shown  
16 is that once again that Ms. Ball, using her mother's name made  
17 a reservation. Ms. Ball allegedly made a phone call. The  
18 wristbands appeared in her unit. There's no evidence that Ms.  
19 Becker in any way handed her those wristbands or furnished  
20 them.

21 THE COURT: It says on paragraph seven -- I mean, page  
22 seven, that she spoke with Matt Becker and was informed that  
23 he would talk to Karen and call me back and she called  
24 specifically about the wristbands, didn't get a call back on  
25 Saturday -- or that was on Saturday and never got a call back

1 on Sunday. So, she called and left a message that morning and  
2 then went down to the beach. When she came back, her condo  
3 had been opened and inside was an envelope with ten  
4 wristbands. And apparently those are the wristbands that have  
5 been marked and introduced. I think there's certainly enough  
6 to -- for us to -- or for the Plaintiff to avoid your motion  
7 to dismiss.

8 Go ahead, Mr. Mullins.

9 MR. MULLINS: We'd call Matt Becker to the stand.

10 MATT BECKER, HAVING BEEN DULY SWORN,

11 TESTIFIES AS FOLLOWS:

12 CLERK: Please state your name and spell you last name  
13 for the record.

14 MR. BECKER: It's Matt Becker, B-E-C-K-E-R.

15 MR. MULLINS: May it please the Court, Your Honor.

16 THE COURT: All right.

17 DIRECT EXAMINATION OF MATT BECKER BY MR. MULLINS:

18 Q: Mr. Becker, are you one of the Defendants in this case?

19 A: Yes, sir.

20 Q: And are you also associated with Matt Becker &  
21 Associates, Incorporated?

22 A: Yes.

23 Q: Does your wife have a d/b/a under that name?

24 A: Yes.

25 Q: And what is that?

1 A: Ocean Breeze Beach Vacations.

2 Q: All right. Tell me what your role is at Ocean Breeze  
3 Beach Vacations.

4 A: I mostly just do maintenance, so when she needs something  
5 fixed.

6 Q: Do you do what your wife tells?

7 A: Yes, ma'am -- Yes, sir.

8 Q: Okay.

9 A: If she's not happy nobody is.

10 Q: All right. And do you handle the day-to-day operations  
11 at Ocean Breeze?

12 A: No, sir.

13 Q: What do you do for a living?

14 A: I sell real estate for Better Homes and Garden Elliott  
15 Realty.

16 Q: Is that in North Myrtle Beach?

17 A: Yes, sir.

18 Q: All right. Do you handle any of the bookings?

19 A: No, sir.

20 Q: Do you handle the reservations?

21 A: No, sir.

22 Q: All right. Are you familiar with the resort that we're  
23 here on today, the Sands?

24 A: Yes, sir. Sand Dunes, yes, sir.

25 Q: All right. How are you familiar with that?

1 A: I've sold a number of units in the building to owners.

2 Q: Now, are you familiar with the units that your wife has  
3 under management?

4 A: Yes, sir; a few of them, not all of them, but yes, sir.

5 Q: All right. Tell me, who has access to those units?

6 A: They have a master key that will unlock the unit -- the  
7 doors. Originally, the owners were allowed -- were made to  
8 put on lock deadbolts, their own deadbolts, and then that all  
9 changed to where the onsite office installs keys into the --  
10 each individual doorknob. And they turn off the electronic  
11 lock that's on the door.

12 Q: All right. Who as access to those units that your wife  
13 manages?

14 A: I know Paul Carshan (spelled phonetically) -- I'm not for  
15 sure on his last name but he's with the onsite homeowners.  
16 And I believe -- I believe we -- there was a security guard  
17 that walked into one of our units one time while the cleaning  
18 people were there,

19 Q: All right. How do you know who as access?

20 A: I just know of Paul Carshan with the homeowner's services  
21 does and, apparently, this security guard that walked in had  
22 access because they didn't open the door for him.

23 Q: Tell me, have you ever had to get into a unit when you  
24 were onsite without a key?

25 A: Well, we have our keys in locked boxes mounted on the

1 doors. So, I use a code, you know, which is switched every  
2 week between cleanings.

3 Q: Have you ever had to ask somebody from the HOA to get  
4 access?

5 A: Yes. Our cleaning lady, her son -- the key was dropped  
6 -- somehow, her son shoved the key under the door, which put  
7 both our keys in the unit. And Paul Carshan met me up there  
8 and opened the door for me so I could get that key and put it  
9 back in our box.

10 Q: Okay. Now, did you receive this -- you were present for  
11 the deposition of Kim Ball?

12 A: Yes.

13 Q: And did you have that conversation with Ms. Ball?

14 A: I mean, if she says she contacted me, I guess I have. I  
15 mean, it happens quite often, you know, that people need a  
16 different code or need this or need that. And I always tell  
17 them, you know, I have no idea; I'd have to talk to my wife.

18 Q: All right. Did you promise Ms. Ball to get her waterpark  
19 wristbands?

20 A: No, sir.

21 Q: Would that be something that you would be handling in any  
22 event?

23 A: No, sir.

24 MR. MULLINS: One moment, please, Your Honor.

25 BY MR. MULLINS:

1 Q: Please answer any questions of Mr. Hills or the Court has  
2 for you.

3 A: Thank you.

4 THE COURT: Mr. Hills?

5 MR. HILLS: Thank you, Your Honor.

6 CROSS EXAMINATION OF MATT BECKER BY MR. HILLS:

7 Q: Mr. Becker, how long have you been a realtor?

8 A: About twenty years.

9 Q: Okay. And how long have you been involved with -- what's  
10 the name of your company?

11 A: Well, I have what's called a subchapter S corporation,  
12 which is Matt Becker & Associates.

13 Q: Okay.

14 A: And we set that up a number of years ago so I would not  
15 have to pay self-employment tax.

16 Q: All right. And when y'all were renting rooms last  
17 summer, did you rent them through Matt Becker & Associates?

18 A: No, sir. We do through Ocean Breeze Beach Vacations. I  
19 guess it's a subsidiary ---

20 Q: Is that a d/b/a?

21 A: Yes, sir; whatever that is, yes, sir.

22 Q: For Becker ---

23 A: It was set up by an attorney that way; yes, sir.

24 Q: Okay. All right. And you're married to Karen Becker?

25 A: Yes, sir. Twenty-five years now.

1 Q: How long?

2 A: Twenty-five years.

3 Q: Congratulations.

4 A: Thank you, sir.

5 Q: Okay. Now, prior to the temporary hearing, she signed an  
6 affidavit, did she not?

7 A: I'm not for sure what she signed, sir.

8 Q: Well, look at this. Look at this one and see if you see  
9 her signature on it.

10 A: It appears like it's her signature, yes, sir.

11 Q: All right. Prepared through her attorney, was it not, at  
12 that time, Mr. Robert E. Lee?

13 A: Yes, sir. I believe so; yes, sir.

14 Q: All right. Now, I've marked a sentence on page two,  
15 paragraph thirteen. Read that sentence for me, please.

16 A: I'm trying without my glasses but -- guest access to  
17 waterpark by processing wristbands which are readily available  
18 for purchase.

19 Q: All right. Now, did you ever give any wristbands to  
20 anybody, any of your guests staying in any of those units at  
21 those two places?

22 A: No, sir.

23 Q: You've never been them a wristband?

24 A: No, sir.

25 Q: Has your wife ever provided them with a wristband?

1 A: I'm not aware of what my wife does. Like I said, I'm not  
2 with the everyday operation.

3 Q: All right. So, you're saying you don't know if she did  
4 or not?

5 A: No, sir.

6 Q: Okay. Then read the next sentence after that one.  
7 Remember she swore to this under oath. Read it for me,  
8 please, sir.

9 A: I have always provided my guests with wristbands so they  
10 could access the waterpark.

11 Q: All right. Do you have any way -- (To the Court) Your  
12 Honor, I'd like to make this for identification at this point.

13 MR. MULLINS: No objection.

14 THE COURT: All right.

15 MR. HILLS: We're gonna offer it at some point, do you  
16 object or can I just offer it ---

17 MR. MULLINS: I said no objections.

18 MR. HILLS: Then we offer it into evidence, Your Honor.

19 THE COURT: All right.

20 PLAINTIFF'S EXHIBIT NUMBER FIVE

21 ADMITTED INTO EVIDENCE

22 THE COURT: All right. Mr. Hills, the date of that was  
23 when?

24 MR. HILLS: It's on the affidavit, Your Honor.

25 THE COURT: March 31, 2013. Wasn't the order after that?

1 MR. HILLS: The order was right after that, Your Honor.

2 THE COURT: All right, sir.

3 MR. HILLS: This is proving that it was common practice.

4 THE COURT: Okay. All right.

5 BY MR. HILLS:

6 Q: You're saying you've never been involved with getting  
7 them wristbands?

8 A: No, sir.

9 Q: Are you aware that wristbands were not available to any  
10 of your people ever?

11 A: Not that I'm aware of, no, sir. Like I said, I'm not  
12 with the everyday operation.

13 Q: All right. So, if somebody got them wristbands, if it  
14 wasn't you it had to be her?

15 A: No, sir. I mean, I'm not saying that. I don't know how  
16 or where or when; I don't know any of that information sir.

17 Q: All right. And you've never discussed this with her  
18 before today?

19 MR. MULLINS: Objection, privilege.

20 MR. HILLS: I'll withdraw it, Your Honor.

21 BY MR. HILLS:

22 Q: All right, sir. Now, you said the security guard went in  
23 that unit when you were testifying. Were you there, did you  
24 see the security guard go in?

25 A: No, the -- from what I understand, the ---

1 Q: Somebody else told you that?

2 A: The maid, our cleaning lady and her husband.

3 MR. HILLS: Somebody else told -- Your Honor, we move to  
4 strike his testimony about somebody else going in the unit --  
5 about the security guard going in the unit. He wasn't  
6 testifying to personal knowledge. Somebody told him somebody  
7 went in.

8 A: No, they ---

9 THE COURT: You did not -- you do not know of your  
10 knowledge whether anybody went in or not?

11 A: No, it's my -- the lead, the head maid and her husband  
12 were both cleaning the unit at the time and they were both  
13 witness to the security guard walking into the unit while they  
14 were in it.

15 MR. HILLS: Same objection, Your Honor.

16 A: And the door automatically locks when shut, so he had to  
17 have had the key to get in.

18 THE COURT: I understand.

19 MR. MULLINS: Mr. Becker blurted that out, Your Honor.  
20 My purpose of calling him was to show that the resort itself  
21 has access to the unit. He added that in the answer that  
22 time.

23 THE COURT: All right. I'll strike it, that part of it.

24 MR. HILLS: Okay.

25 BY MR. HILLS:

1 Q: Now, you said this security guard named Paul Carshan?

2 A: No, sir, no, he's with the -- he's with the Homeowner's  
3 Services there on site.

4 Q: He works for RAM, does he not?

5 A: He might; I'm not for sure. I know he's with an office  
6 there on the second floor.

7 Q: He is not an employee of Rawcliffe Resorts, is he?

8 A: I'm not sure. I know he's with the Homeowner's Services.

9 Q: All right. If I understand your testimony, nobody has  
10 ever called you -- Ms. Ball never called you -- nobody ever  
11 called you and said I need wristbands to be able to use the  
12 waterpark?

13 A: No, sir. I never said that. I said, you know, I talked  
14 to a number of people and if she said she called me, that's  
15 fine, and I told her that I'd have to talk to my wife.

16 Q: Okay. So, do you remember whether or not Ms. Ball called  
17 you?

18 A: I -- like I said, I'm not a hundred percent; it's been  
19 too long ago. I talked to a number of people. My most of the  
20 people I talked to about was their code, they need a different  
21 code because their code was put in wrong.

22 Q: You admit last summer, people who were renting from  
23 y'all, through y'all for those units in that Sand Dunes and  
24 Ocean Dunes were calling y'all asking for wristbands?

25 A: No, sir. I only get calls about the code.

1 Q: About the code, what code; the code for the wristbands?

2 A: No, we have lock boxes on the door and you have to have  
3 the code to get in.

4 Q: Oh, to get into the unit?

5 A: Yes, sir. So, when they show up and have the wrong code,  
6 then I have to check and see what the new code is for them and  
7 make sure they have the right code to get through the lock box  
8 to get the key to get in.

9 Q: Did anybody call you on the telephone last summer and  
10 tell you they needed wristbands to get into the waterpark?

11 MR. MULLINS: Objection, Your Honor. That's been asked  
12 and answered twice now.

13 THE COURT: Well, just answer it one more time.

14 A: No, sir.

15 BY MR. HILLS:

16 Q: All right. Does your wife write smiley faces on stuff a  
17 lot?

18 A: Not that I'm aware of, no, sir; that doesn't look like  
19 her writing at all to me.

20 Q: That's what I wanted to know. Thank you.

21 A: Uh-huh (affirmative response).

22 Q: I don't have any further questions.

23 MR. MULLINS: Nothing further, Your Honor.

24 THE COURT: All right. You may step down.

25 A: Thank you.

1 THE COURT: Anything further, Mr. Mullins?

2 MR. MULLINS: We'd call the Defendant Karen Becker to the  
3 stand.

4 THE COURT: All right. Have her come around.

5 KAREN BECKER, HAVING BEEN DULY SWORN,

6 TESTIFIES AS FOLLOWS:

7 CLERK: Please state your name and spell your last name  
8 for the record.

9 MS. BECKER: It's Karen Becker, B-E-C-K-E-R.

10 MR. MULLINS: May it please the Court, Your Honor?

11 THE COURT: Yes.

12 DIRECT EXAMINATION OF KAREN BECKER BY MR. MULLINS:

13 Q: Ms. Becker, you are one of the Defendants in this case?

14 A: Yes.

15 Q: All right. And Ms. Becker, you are aware of the order  
16 that was issued by consent in this Court that you would not  
17 advertise or use the waterpark?

18 A: Yes.

19 Q: All right. And let me ask you, ma'am, how many units do  
20 you have down there at -- in that building?

21 A: Currently twelve.

22 Q: Currently twelve, okay. And when you make a reservation  
23 for someone, do you send confirmation to them?

24 A: Absolutely.

25 Q: Okay. And did you do the same for Ms. -- in the

1 situation for Ms. Ball, who was deposed last week?

2 A: Yes, we did.

3 Q: Whose name was that reservation actually in?

4 A: It was under -- I -- I can't remember -- it was -- I  
5 can't remember the name of it. It wasn't her name.

6 Q: When you entered that order in front of Judge Culbertson,  
7 did you continue to advertise the waterpark in any way?

8 A: No.

9 Q: Did you give Ms. Ball or promise her any wristbands?

10 A: No.

11 Q: Did you or anyone on your behalf or on your company's  
12 behalf deliver those wristbands to Ms. Ball back in July of  
13 last year?

14 A: No, I had never spoken on the phone with Ms. Ball.  
15 Everything was done through email and I believe you have the  
16 email from her that I had sent her.

17 Q: Okay. Do you recall getting a call from Ms. Ball or  
18 anyone on her behalf regarding that matter?

19 A: No, I did not.

20 Q: Let me show you a document that was received during  
21 discovery that's been Bates stamped Mullins Law Firm, pages  
22 eighteen and nineteen. Do you recognize that document?

23 A: Yes, that's -- that's the reservation, Wanda Hughes, that  
24 was ---

25 Q: Okay. All right. And is there anywhere in that

1 reservation where you tell anyone that they can use the  
2 waterpark?

3 A: I never ever advertised anywhere that somebody could use  
4 the waterpark.

5 MR. HILLS: No objection if he'd like to put it into  
6 evidence, Your Honor.

7 MR. MULLINS: We move to admit it, Your Honor, as  
8 Defendant's One.

9 THE COURT: Without objection.

10 DEFENDANT'S EXHIBIT NUMBER ONE

11 ADMITTED INTO EVIDENCE

12 BY MR. MULLINS:

13 Q: Prior to this lawsuit, Ms. Becker, you had signed an  
14 affidavit regarding the practices of 2012?

15 A: Yes.

16 Q: What happened in 2012 regarding the waterpark? How was  
17 that handled?

18 A: If somebody would -- this was prior to knowing that it  
19 was exclusive to Rawcliffe only, back in 2012 -- if someone  
20 would call and they had young kids and said there's a  
21 waterpark out in the front of the resort, can we get  
22 wristbands? And we would give them wristbands for their  
23 children to get into the waterpark. Once we were told about  
24 the lawsuit, everything stopped. I sat down with our previous  
25 attorney, went through all of the ads, made sure that

1 everything was as Rawcliffe wanted and that was the end of it.

2 Q: Some of the pictures that were previously used in this  
3 matter, where did you get them from?

4 A: MLS.

5 Q: All right. And are there owners on MLS that advertise  
6 their units?

7 A: Yes.

8 Q: All right. And do some of those pictures have the  
9 waterpark in them?

10 A: Absolutely.

11 Q: Are you taking any further pictures or are using any  
12 pictures of this waterpark?

13 A: No. And I was made to take the restaurant off, I was  
14 made to take the arcade off, I was made to take anything that  
15 he said he had affiliated with -- you know, saying that our  
16 people couldn't -- was not allowed to use. I -- there's  
17 nothing left on the ads but the condos.

18 Q: All right. Now, you have a specific procedure for  
19 checking in your guests?

20 A: They just go straight to the condo. They do not come to  
21 my office.

22 Q: And do they have to go through anywhere at the resort?

23 A: No. Not unless, you know, in June, whenever he started  
24 charging for parking and making my people go to his front desk  
25 to pay for \$20 to park their car and that he would get their

1 information and give them a parking pass after they paid \$20.

2 Q: Okay. Thank you. Answer any questions Mr. Hills has for  
3 you.

4 A: All right.

5 THE COURT: Mr. Hills.

6 CROSS EXAMINATION OF KAREN BECKER BY MR. HILLS:

7 Q: Thank you, ma'am. Do y'all still reside at 3538 Golf  
8 Avenue, Little River?

9 A: Correct.

10 Q: All right. Were you there last -- how long have you  
11 lived there? Let's put it that way?

12 A: About eight years.

13 Q: Can you explain to me, ma'am, when Sands Resorts was  
14 trying to send you certified mail last February before all  
15 this started why y'all wouldn't accept it?

16 A: I have no idea.

17 Q: Okay.

18 A: My -- I used to work at my home. I no longer work there;  
19 I have my own office now.

20 Q: Okay. Where did you -- did you work there last February?

21 A: Last February, no. No, we moved into our office May of  
22 2013.

23 Q: Okay. So, in February, you were right there, you were  
24 living there so ---

25 A: I've always lived there, yes.

1 Q: --- is that right?

2 A: I've always lived there, yes.

3 Q: Okay. Ms. Ball did reserve -- she and her family were in  
4 Room 1710, were they not?

5 A: I don't know. I was under Wanda Hughes.

6 Q: Okay. And prior to time this action was started, prior  
7 to the time of the temporary order, you said you always got  
8 wristbands for your people?

9 A: Not always. If someone would call and say we have young  
10 -- there's a waterpark out front, my kids would like to use  
11 the waterpark, can they use the waterpark, then we would give  
12 them wristbands.

13 Q: Okay. And where would you get the wristbands?

14 A: You can order them online.

15 Q: Okay. But you're not claiming you got them from  
16 Rawcliffe Resorts?

17 A: Oh, no, no, no.

18 Q: Nobody officially affiliated with the waterpark were you  
19 getting wristbands for ---

20 A: No.

21 Q: You'd just order them online and give them out to people?

22 A: Right. Just like I -- we have several different resorts  
23 that we manage. Every resort, almost every resort we manage  
24 has pool bands.

25 Q: Sure.

1 A: Every resort has to have a pool band for their people  
2 that we have to hand out.

3 Q: But even in 2012, at Sands Resort, you knew the  
4 wristbands that you were giving them to get into the  
5 waterpark, they were not entitled to those wristbands?

6 A: No, I didn't. In 2012, we did not know that Rawcliffe  
7 was the only own who owned -- it's right there in the parking  
8 lot at Sand Dunes Resort. We were not aware of that.

9 Q: Do you remember back in November of 2012 when somebody  
10 called you to tell you ---

11 A: No, I do not remember that.

12 Q: --- you can't do this and take the advertising down and  
13 stuff?

14 A: I've been told that somebody called me and I do not  
15 remember talking to anybody about that.

16 Q: Okay. And you didn't get -- did you ever get any  
17 certified mail asking you to do that?

18 A: No.

19 Q: Okay. Well, then I'm really curious, if you knew they  
20 needed a wristband, why didn't you just go down the desk and  
21 get them from them?

22 A: Why would I not go to the front desk and get them?

23 Q: Why didn't you go to the Sands Dunes desk and ask for  
24 them from the people if they're supposed to have them?

25 A: Because their onsite office is like you can't -- they

1 will not do anything if you do not rent through their office.  
2 They will not give you parking passes, they will not give you  
3 pool bands, they will not do anything for you if you do not  
4 rent through their office.

5 Q: So, you knew back in 2012 they would not give you ---

6 A: I knew ---

7 Q: --- wristbands?

8 A: That they would not give me pool bands, yes.

9 Q: Okay. But you were still getting pool bands ---

10 A: Same thing at Caravelle. I work -- I own at Caravelle.  
11 I do not get them from the Caravelle Resort; I have to go the  
12 HOA to get the wristbands.

13 Q: Okay. But you were getting fake wristbands for your  
14 people so they could get in the waterpark and you knew that;  
15 is that right?

16 A: No, I knew they were pool bands, yes, for my people to  
17 stay at the resort.

18 Q: And you knew -- you knew that the desk would not give you  
19 wristbands because your people were not renting through them;  
20 is that right?

21 A: No; that's not right.

22 Q: Well, what is it? I want to understand what your  
23 testimony is?

24 A: They were pool bands for the resort as is I can bring in  
25 every other -- Prince Resort, I can bring in Caravelle Resort,

1 I can bring in the pool bands and show you that we have to  
2 give them -- and it's not just one particular pool that they  
3 can use or not use.

4 Q: These are the wristbands that Ms. Ball said that she had.

5 A: Okay.

6 MR. MULLINS: Objection, Your Honor.

7 Q: Do they have any kind of a code -- I want you to look at  
8 them and tell me if they have any kind of code on them that'll  
9 get them through the gate?

10 A: I will look at -- our wristbands in 2012 did not have  
11 codes on them, no.

12 Q: How about 2013?

13 A: 2013, we did not give out wristbands.

14 Q: You did not give out wristbands?

15 A: We did not give out wristbands.

16 MR. MULLINS: And, Your Honor, my objection was that that  
17 was Mr. Rivera's testimony, not Ms. Ball's. She didn't id  
18 those in her deposition.

19 THE COURT: I understand. She said she got some. Mr.  
20 Rivera said these are the ones I got -- that's what's actually  
21 in the record, right?

22 MR. MULLINS: That's correct, Your Honor.

23 THE COURT: Okay. And Ms. Becker says that at no time in  
24 2013 did they give out any pool bands, right?

25 A: Correct.

1 THE COURT: Before or after April of 2013?

2 A: The waterpark is only open from the end of May till  
3 September. So, prior to the lawsuit came about, what in  
4 January of February, after that when we changed our ads, we  
5 could no longer use the word Sands Resort anymore. He made us  
6 stop using that. We had to stop using advertising the  
7 restaurant that he says nobody can enter into. The arcade,  
8 the gift shop.

9 THE COURT: All right. Go ahead, Mr. Hills.

10 MR. HILLS: Just about done, Your Honor. Give me one  
11 minute.

12 BY MR. HILLS:

13 Q: After the temporary order, that as in April, you already  
14 had paid reservations for the summer; is that right?

15 A: That's correct.

16 Q: Okay. And you could not advertise anymore about having  
17 access to -- implied access to the waterpark or anything like  
18 that; is that right?

19 A: Well, there was never anything mentioned in any of my ads  
20 ever about the waterpark, there was just photos of the front  
21 of the resort that showed the waterpark, yes.

22 Q: I understand. And Ms. Ball and her momma didn't ask you  
23 if there would be access the waterpark; that's your testimony,  
24 right?

25 A: Right.

1 Q: Okay. But in April, when you knew you couldn't do it  
2 anymore ---

3 A: Right.

4 Q: --- did you call any of those people that had  
5 reservations and say, we may have a little problem this  
6 summer.

7 A: No.

8 Q: Okay.

9 A: A lot of them, before they arrived -- we lost a lot of  
10 reservations because of that because whenever they would call  
11 to verify that they were gonna be able to use the -- all the  
12 amenities there, we would have to say no and we did lose a lot  
13 of reservations. And I can prove all of the cancellations.

14 Q: What about all the other people that didn't call the ---

15 A: Well, not everybody got -- like I said, not everybody was  
16 promised wristbands. If they have small children -- that  
17 waterpark is only for toddlers. If they had small children,  
18 yes, but if you have teenagers, there's no use to even mention  
19 the waterpark.

20 Q: So, if they had small children, they usually knew they  
21 were gonna have wristbands to get in the waterpark; is that  
22 what you're telling?

23 A: I -- if they called and said, Can my children get in the  
24 waterpark?

25 Q: Okay. I'm gonna ask you some of the same ones that I

1 asked your husband. Paul Carshan, he works for RAM, is that  
2 right?

3 A: Yes, I believe so.

4 Q: He does not work for Rawcliffe Resorts?

5 A: I do not know that.

6 Q: Okay. You don't know whether he does or doesn't?

7 A: I do not, no. I do not. I know he has keys to get into  
8 all the condos and I know he's over maintenance there; that's  
9 all I know.

10 Q: And just to verify what your husband told us, that's your  
11 affidavit that you signed in this case back in -- whatever the  
12 date is.

13 A: Yes, this is with Robert, yes, Mr. Lee.

14 Q: That's a true copy of your affidavit; is that right?

15 A: Uh-huh (affirmative response).

16 Q: Okay. You signed it?

17 A: Yes, I did.

18 Q: Sure. And if you'd read the sentence that's underlined  
19 and the one right after it, please, ma'am.

20 A: Read them out loud?

21 Q: Please.

22 A: Underlined. Okay. Mr. Bradley Bennett, is that the one  
23 you want me to read?

24 Q: Right down here.

25 A: Okay. Guest access the waterpark by possessing

1 wristbands which are readily available for purchase.

2 Q: Now, the sentence after that.

3 A: Oh. I have always provided my guests with wristbands so  
4 they could access the waterpark.

5 Q: While we're at it, read the sentence right after that.

6 A: Therefore, the inclusion of the picture in my  
7 advertisements has never created a misimpression with regard  
8 to access of the waterpark.

9 Q: That last sentence, that means there could be  
10 misimpression because you told them they could get in and you  
11 could get them in; is that right?

12 A: That was ---

13 MR. MULLINS: Objection, argumentative.

14 A: --- 2012.

15 MR. HILLS: I'm on cross examination.

16 A: That was before all of this came about.

17 Q: All right. We've been at this a little while. This case  
18 has been going on a little while ---

19 A: Too long.

20 Q: Did you ever rent from Stacy Johnson -- to Stacy Johnson.

21 A: I do not know who Stacy Johnson is but I rent to a lot of  
22 people, so ---

23 Q: Do you have a list of the people? Have you ever put  
24 together a list of the people you rented to last summer at the  
25 Sand Dunes?

1 A: I have, yeah; I have a list, yes.

2 Q: Have you provided it to your attorney?

3 A: No, I have not.

4 Q: Okay. So, she -- if she arrives on July 20th, 2013,  
5 it'll be on your list?

6 A: Yes.

7 Q: Okay.

8 A: As long as she's booked under her name and not somebody  
9 else's.

10 Q: Well, you tell me, is this a reservation confirmation  
11 from y'all?

12 A: Yes, it is.

13 Q: That would be a reservation for her?

14 A: That is. That is a reservation for Stacy Johnson.

15 Q: Okay. And it looks like y'all would have done this ---

16 A: Pardon?

17 Q: It looks like y'all would have done this; it would be a  
18 document created ---

19 A: Yes.

20 Q: Okay. So, you may have rented to Stacy Johnson; is that  
21 right?

22 A: Right.

23 Q: All right.

24 A: I do not know all of my renters names, no.

25 Q: Okay. (To the Court) If the Court will indulge me one

1 moment, Your Honor.

2 So, if I understand your testimony, when we called --  
3 when you give us all those names from last summer and we call  
4 those people, not one of them is gonna tell us that you gave  
5 them wristbands; is that right?

6 A: No, that's correct.

7 Q: Okay. I don't have any further questions.

8 A: Okay.

9 MR. MULLINS: Briefly, Your Honor.

10 REDIRECT EXAMINATION OF KAREN BECKER BY MR. MULLINS:

11 Q: Ms. Becker, how many units did you actually have in the  
12 summer of 2012?

13 A: Three.

14 Q: Three?

15 A: Yes.

16 Q: When did you get all the rest of these units?

17 A: In the fall and most of them were in the spring of 2013.

18 Q: Right about the time you were being sued?

19 A: Yes.

20 MR. MULLINS: No further questions, Your Honor.

21 THE COURT: Wait a minute now. The spring of 2002?

22 MR. MULLINS: That's correct.

23 THE COURT: All right. Okay.

24 A: Usually around February. I got a lot of them in January  
25 and February of 2013.

1 MR. MULLINS: No further questions.

2 THE COURT: You may step down.

3 MR. HILLS: Recall Lee Rawcliffe. I'm sorry, has he  
4 rested?

5 MR. MULLINS: The Defendant rests.

6 THE COURT: All right.

7 MR. HILLS: Recall Lee Rawcliffe.

8 THE COURT: He's still under oath.

9 REPLY DIRECT EXAMINATION OF LEE RAWCLIFFE BY MR. HILLS:

10 Q: Mr. Rawcliffe, just quickly, this Paul Carshan, did he  
11 work for Rawcliffe Resorts?

12 A: No, sir.

13 Q: No further questions. Thank you.

14 A: May I step down?

15 REPLY CROSS EXAMINATION OF LEE RAWCLIFFE BY MR. MULLINS:

16 Q: I've got just a little follow-up for that, Mr. Rawcliffe,  
17 if you don't mind, just a moment. All right?

18 Now, let me make sure I understand this. Rawcliffe owns  
19 all the commercial area there at the resort, correct?

20 A: That is correct.

21 Q: And the management office for the HOA, is that part of  
22 the commercial area?

23 A: No.

24 Q: It is not? Where is that at?

25 A: To my knowledge, they don't have an office there, sir. I

1 don't know what they were referring to.

2 Q: Okay. But RAM, who your children own an interest in is  
3 the management company for the HOA, correct?

4 A: They are.

5 Q: And some of the officers that are on that HOA board are  
6 Rawcliffe employees.

7 A: They are.

8 MR. MULLINS: No further questions, Your Honor.

9 REPLY REDIRECT EXAMINATION OF LEE RAWCLIFFE BY MR. HILLS:

10 Q: Just so the Court understands the implication, in your  
11 Master Deed, does it say that if you buy a unit there and you  
12 want to rent a unit, you have to go through your company?

13 A: It says we have the absolute exclusive right to all  
14 commercial activity on the property.

15 Q: Okay. Thank you.

16 A: You're welcome.

17 MR. MULLINS: If I may follow-up on that, Judge.

18 REPLY RECROSS OF LEE RAWCLIFFE BY MR. MULLINS:

19 Q: Now, are you basing this one -- and I've got a two pieces  
20 of paper from Mr. Hills, let me show him a copy ---

21 MR. HILLS: Put it into evidence, Your Honor. We don't  
22 have any objection.

23 MR. MULLINS: Okay.

24 BY MR. MULLINS:

25 Q: Is this the portion ---

1 THE COURT: All right. Do you want to put it in?

2 Q: Is this the portion of a master deed that you're  
3 referring to, Mr. Rawcliffe?

4 A: That is a portion of it. Rawcliffe Resorts is the C1  
5 owner, C standing for commercial. This talks about  
6 residential use restrictions applicable to units. It says  
7 except for the commercial units and the limited common  
8 elements which are for the exclusive use and benefit from any  
9 penthouse or commercial units. And we are also the grantors,  
10 so where you see we have all the grantor rights. So, when you  
11 see grantor in there, that refers again to our company. I'm  
12 not sure what you're asking at this point.

13 Q: Well, I'm asking -- I received those two pages from your  
14 attorney in discovery.

15 A: Yes, well, they do appear to be correct excerpt from the  
16 master deed.

17 Q: Okay. And is that the authority which you just based the  
18 position you testified on?

19 A: In part, it goes on throughout the master deed, there are  
20 a number of locations in which, in which that's set forth and  
21 there are some references to it here but there throughout the  
22 master deed.

23 MR. MULLINS: If I could mark that please as Defendant's  
24 Two.

25 DEFENDANT'S EXHIBIT NUMBER TWO



1 right or not, stopped an owner from using a different rental  
2 agent. We're here because we -- the reason I asked that the  
3 company bring the action was because of the theft of our  
4 assets ---

5 THE COURT: Okay.

6 A: --- not because of the rental.

7 THE COURT: Thank you very much. Anything further, Mr.  
8 Hills?

9 MR. HILLS: Nothing, Your Honor.

10 THE COURT: All right.

11 A: May I ---

12 THE COURT: You may step down.

13 A: Thank you.

14 THE COURT: All right. Anything further?

15 MR. HILLS: Nothing ---

16 THE COURT: All right, very well. I'll ask you to both  
17 submit proposed orders again discussing the -- not only the  
18 burden of proof in this matter but also the actions and  
19 evidence indicating actions by the Defendants, and that's all  
20 I want to address. I want to address the issue of contempt;  
21 that's all we're here for. Okay? The other issues are  
22 reserved for trial.

23 Now, we have a motion to compel that is 11/14 -- filed  
24 11/14/2013. It looks like it was filed by the Defendants.  
25 What is that, Mr. Mullins?

1 MR. MULLINS: Your Honor, and I had previously handed up  
2 some documents on that matter. I'd ask several questions of  
3 the Plaintiff that are similar to some of the questions they'd  
4 ask for us. And that is, show us your customer list. And the  
5 reason is is that I'd like compare that to the documents for  
6 people that they've called and enlisted as witnesses so that I  
7 know whether there's been any subsequent relationship between  
8 the Plaintiff and these proposed witnesses who they intend to  
9 call against my clients. So, it's a large amount of  
10 documents, I realize that but basically their answers ---

11 THE COURT: Wait a minute. You just want to know whether  
12 a witness they list has a financial relationship with them;  
13 that's all you want to know?

14 MR. MULLINS: Yes.

15 THE COURT: Mr. Hills, when you provide your witness list  
16 tell him whether you do or not.

17 MR. HILLS: I can provide that.

18 THE COURT: Okay.

19 MR. MULLINS: And, Your Honor, the same documents that  
20 we've asked that they produce -- that we produced; we've asked  
21 them to produce and that was what the basis of the motion was.

22 THE COURT: Well, and I -- I don't remember them asking  
23 you to produce any agreements. I think they wanted you to  
24 identify the persons that you have done business with in this  
25 particular conflict, so that's what I've allowed them to have.

1 And then, I have limited their use of that. Okay?

2 All right. Let me hear you, Mr. Hills.

3 MR. HILLS: I was just prepared to go through the  
4 questions, Your Honor. They want to know like everywhere  
5 Rawcliffe Resorts gets any income. They want to know ever  
6 bank it's ever done business with, every account.

7 THE COURT: What's the relevance of that? What  
8 difference does it make?

9 MR. HILLS: There isn't any; that's why we objected to  
10 them.

11 THE COURT: What difference would that make?

12 MR. HILLS: It's like suing IBM and saying we want all --  
13 you know, IBM suing on a bad debt and you say but I want to  
14 see all their records, all their records; we just can't do it.

15 THE COURT: Mr. Mullins, I'm gonna let you have what you  
16 need to prepare your case, but how will this help you? What  
17 -- how do you intend to use it? You said you want to make  
18 sure -- you want to know whether a witness has a prior  
19 relationship with the Plaintiff. Okay? I'm gonna require  
20 them to reveal that. If they don't reveal it and you uncover  
21 that it is, I'm going to sanction them by now allowing that  
22 witnesses to testify. I'll tell you that right now and you  
23 can put that in the form of an order. But he's gonna have to  
24 do it. And why else would you need it?

25 MR. MULLINS: And, Your Honor, really the issue comes out

1 of this waterpark. It appears when you walk this property  
2 that this is one complex. The testimony we got today, it's  
3 the first time I've gotten that testimony. I asked in October  
4 to be able to take Mr. Rawcliffe's deposition. But, if you're  
5 an owner there, you're freely able to use everything. But if  
6 you go to a different rental company, suddenly the rules  
7 change and that's why I ---

8 THE COURT: Well, the owner still can use it, can't he?

9 MR. MULLINS: I'm sorry?

10 THE COURT: The owner still can use it, can't he? I own  
11 a unit -- Mr. Hills, I own a unit there in the resort ---

12 MR. HILLS: And you don't rent from us?

13 THE COURT: I just own a unit. Does that that give me  
14 any rights to use the waterpark at all?

15 MR. HILLS: (Indicate negatively.)

16 THE COURT: They say no, Mr. Mullins.

17 MR. HILLS: Really, it does not.

18 THE COURT: They say no. So, if I don't have the right  
19 to use it and as far as who owns the waterpark and who owns  
20 the resort, all you got to do is go on line and bring up the  
21 tax record and look at the tax maps, here that's cut out.

22 MR. MULLINS: And the second thing I'm looking for, Judge  
23 is any of the money being funneled from the HOA to pay for  
24 waterpark. That's the hunt that I'm on.

25 MR. HILLS: Take it up with the HOA.

1 THE COURT: Well, I mean, wouldn't you just file a 30(b)6  
2 on the HOA?

3 MR. MULLINS: I can do that.

4 THE COURT: Say I want this information, name of the  
5 person that I can get it from, take his deposition, simple.  
6 Put it in the form of an interrogatory to Mr. Hills, Is the  
7 waterpark funded in anyway by the HOA? Make him answer it.

8 MR. HILLS: Your Honor, he asked him under oath and he  
9 said, no, it's not.

10 THE COURT: It's simple, I mean, just put in the form of  
11 interrogatory, make him answer it. Put it in the form of a --  
12 if you're worried about, put it in the form of a request to  
13 admit.

14 MR. MULLINS: Very well, Your Honor, I'll ---

15 THE COURT: I mean, there's a lot of ways you can do  
16 that, lot of ways you can do that.

17 MR. HILLS: Your Honor, Rawcliffe Resorts doesn't have  
18 much ---

19 THE COURT: I'm just not gonna make him turnover every  
20 record that they have. If you've got something specific and  
21 you've got a reason for it, I'll make them turn it over if you  
22 can use it.

23 Okay. What else did you want, Mr. Mullins?

24 MR. MULLINS: That's it, Your Honor.

25 THE COURT: Okay. All right.. Mr. Hills, you prepare

1 that order.

2 Drew, tell us who is gonna prepare what orders. Did you  
3 make a note of that?

4 All right. Look at motion Number 27, that was the motion  
5 for protective order, filed 7/18/2013. That was the Defense  
6 motion. Who is preparing that order?

7 MR. HILLS: We have the Defense is, Your Honor.

8 MR. MULLINS: I have -- that's ---

9 THE COURT: All right. I think I ruled in Mr. Mullins'  
10 favor; so, he's gonna prepare the order there.

11 The next one is Number 28, which is 7/24/2013 order.  
12 It's a motion to compel, that was a motion by Mr. Hills  
13 directed to Mr. Mullins. Who is gonna prepare that one?

14 MR. HILLS: We do, Your Honor.

15 THE COURT: All right. The third one is the motion  
16 listed as 26-807, 2013, Mr. Mullins' motion, again, for a  
17 protective order or that's what my note says. What exactly  
18 was that motion, Mr. Mullins?

19 MR. MULLINS: That was, Your Honor, during the time that  
20 there was a criminal investigation in progress, Mr. Lee had  
21 moved to stay these proceedings and that is no ---

22 THE COURT: All right. No, that's Number 25, I think.  
23 That was the motion to stay and that one was withdrawn.

24 MR. HILLS: The stay is moot, Your Honor.

25 MR. MULLINS: Yeah, the stay is moot.

1 THE COURT: Okay, it was moot. Number 26, that was a  
2 motion appears to be for protective order. It was filed  
3 8/07/213, that was the third matter we took up.

4 MR. MULLINS: That was the one -- that was the one  
5 regarding the criminal investigation, Your Honor, and that's  
6 been rendered moot, too.

7 THE COURT: Okay. All right. Then, number -- the fifth  
8 one, which is Number 24, that's the rule to show cause why  
9 they should be held in contempt. I want you both to submit  
10 orders and I told you about that. I'd like to have those  
11 orders -- I give you ten days, okay.

12 MR. MULLINS: Your Honor, can I ask something there?

13 THE COURT: Yes.

14 MR. MULLINS: You were kind enough to let me take my  
15 child to West Virginia for my -- President's Day weekend and  
16 I'll be gone ---

17 THE COURT: Two weeks?

18 MR. MULLINS: Fourteen days will be sufficient, Your  
19 Honor.

20 THE COURT: Okay. And Number 23, was a motion to compel,  
21 the last thing we just argued, and I think Mr. Hills, you came  
22 out on top on that one, so prepare an order.

23 MR. HILLS: I will, Your Honor.

24 THE COURT: All right, gentlemen. Thank you.

25 MR. MULLINS: Thank you.

1 THE COURT: All right. That's it.

2 (ADJOURNED - 4:38 P.M.)

3 C E R T I F I C A T E

4  
5 I, the undersigned, Kay H. Richardson, Official Court  
6 Reporter for the State of South Carolina, do hereby certify  
7 that the foregoing is a true, accurate and complete Transcript  
8 of Record of the motion hearing held in the case of Rawcliffe  
9. Resorts versus Becker, held in the Court of Common Pleas for  
10 Horry County, Horry County Courthouse, Conway, South Carolina,  
11 on February 10, 2014.

12 I do hereby certify that I am neither of kin, counsel,  
13 nor interest to any party hereto.

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23 March 15, 2014.

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Kay H. Richardson

Official Court Reporter

1

2

Mullins Law Firm  
P O Box 585  
N. Myrtle Beach, SC 29597

Invoice submitted to:  
Hamilton Children  
Maria Elias

March 31, 2015

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
1/21/2015	N Review of pleadings for new GAL case received from Plaintiff's attorney; Opening new file	0.60 50.00/hr	30.00
1/22/2015	N Prepare correspondence to Plaintiff's attorney enclosing executed Consent Order	0.20 50.00/hr	10.00
	N Prepare Answer of Minor Defendants	0.20	10.00
	R Execute GAL order	0.20 150.00/hr	30.00
1/23/2015	R Reviewing case file and signing answer	0.20 150.00/hr	30.00
1/27/2015	N Prepare letter to Plaintiff's attorney serving Answer of Minor Defendants; Prepare Affidavit of Mailing	0.30 50.00/hr	15.00
	N Preparing file folder	0.20 50.00/hr	10.00
	R Review & Sign Correspondence	0.20 150.00/hr	30.00
2/10/2015	N Email to Maria Williams re statud of Order Appointing GAL	0.20 50.00/hr	10.00
3/2/2015	N Update Plaintiff contact info; Scan in Order of Appointment received	0.20 50.00/hr	10.00
3/6/2015	N Telephone call to Maria Elias Williams	0.20 50.00/hr	10.00
	N Telephone call to David K. Coates	0.20 50.00/hr	10.00
	N Review calendar and email Plaintiff's counsel with unavailable dates for Hearing	0.30 50.00/hr	15.00
3/9/2015	N Review email from Plaintiff's attorney and calendar Adoption Hearing	0.20 50.00/hr	10.00
3/10/2015	N Prepare driving directions for home study	0.20 50.00/hr	10.00

Hamilton Children

	<u>Hrs/Rate</u>	<u>Amount</u>
3/10/2015 N Research Bio Mother's criminal history	0.30	15.00
	50.00/hr	
N Email correspondence with Plaintiff's counsel concerning location of biological mother	0.20	10.00
	50.00/hr	
N Discuss case status with RKM	0.20	10.00
	50.00/hr	
N Telephone call from Maria Elias Williams's assistant	0.20	10.00
	50.00/hr	
R Travel roundtrip to Plaintiff's residence from office	1.00	150.00
	150.00/hr	
R Home study	0.40	60.00
	150.00/hr	
3/13/2015 N Prepare correspondence to biological mother enclosing Order of Appointment and requesting she call of she opposes the adoption	0.20	10.00
	50.00/hr	
R Reviewing and signing letter to Defendant	0.20	30.00
	150.00/hr	
3/16/2015 N Prepare home study approval letter to Plaintiff's counsel	0.20	10.00
	50.00/hr	
R Review and Sign Affidavit of GAL Fees	0.20	30.00
	150.00/hr	
3/24/2015 N Drafting Affidavit in Support of GAL Fees	0.20	10.00
	50.00/hr	
3/30/2015 N Calculating mileage for home study for RKM	0.20	10.00
	50.00/hr	
3/31/2015 N Finish Affidavit	0.20	15.00
	75.00/hr	
R Review and sign affidavit	0.20	30.00
	150.00/hr	
4/2/2015 R Court appearance for final hearing. (estimated)	0.50	75.00
	150.00/hr	
R Travel for Conway for Final hearing (estimated and split with other files on docket)	0.50	75.00
	150.00/hr	
For professional services rendered	8.50	\$790.00
Additional Charges :		

	<u>Qty/Price</u>	
1/22/2015 Copying cost	3	0.75
	\$0.25	
	1	NO CHARGE
	\$0.00	
1/23/2015 Copying cost	2	0.50
	\$0.25	
1/27/2015 Copying cost	5	1.25
	\$0.25	
Postage	1	0.49
	\$0.49	
3/10/2015 Postage	1	0.49
	\$0.49	