

PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



_____)
IN THE MATTER OF)
)
MSC. SOFTWARE CORPORATION,) Docket No. 9299
)
a corporation)
)
_____)

**THIRD-PARTY HARRY SCHAEFFER'S MOTION FOR
LEAVE TO FILE SUPPLEMENTAL AFFIDAVITS**

Third-Party Dr. Harry Schaeffer hereby requests that leave be granted to file the attached Supplemental Affidavits of Paul M. Porter, Esq., and Alfred M. Clark, Esq. These Supplemental Affidavits are necessary in order to correct factual misrepresentations that appear in MSC.Software Corporation's opposition to Dr. Schaeffer's Motion to Quash.

Third-Party Dr. Harry Schaeffer will suffer prejudice if the Supplemental Affidavits are not accepted, and therefore respectfully requests that they do be accepted.

DATED: May 24, 2002

Respectfully submitted,
HILL, FARRER & BURRILL LLP

By: 
PAUL M. PORTER
CA Bar No. 155852

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Attorneys for Dr. Harry Schaeffer

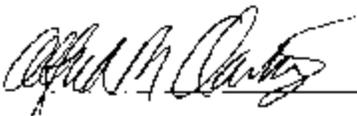
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lodged against us, which appears to suggest we were less than forthright with counsel for MSC in a deliberate attempt to thwart its discovery efforts. We are baffled by that attack upon us because our May 21, 2002 letter to Mr. Kass explained that our client would be willing to appear for a deposition upon reasonable notice, and it was our understanding Mr. Kass would attempt to either obtain consent from the FTC or permission from the Court for the scheduling of the deposition. I am aware that FTC and MSC have made similar arrangements for at least one other witness. We filed our Motion to Quash when MSC unilaterally set the deposition, and then refused in correspondence to even make that attempt.

3. In its opposition, counsel for MSC represents that prior to May 16, 2002, counsel for Dr. Schaeffer had advised MSC that Dr. Schaeffer was willing to submit to an interview with counsel for MSC. I had several conversations with Mr. Kass beginning as early as December, 2001, discussing MSC's interest in getting information from Dr. Schaeffer. Both I and my partner, Paul M. Porter, participated together in several of those conversations, and at no time did I alone, or we together, ever agree to voluntarily make Dr. Schaeffer available for an interview. In fact, during the conversations with Mr. Kass prior to the May 16, 2002 conversation referenced in MSC's Opposition papers (again, in which both I and Paul Porter participated), we advised Mr. Kass that we had concluded that any interview with Dr. Schaeffer should be on the record pursuant to a subpoenaed deposition. Indeed, during the May 16, 2002 conversation, we queried whether it was appropriate for MSC to insist on obtaining

deposition testimony in this time period, given the current ongoing negotiations between our client and MSC relating to the possible sale by MSC of some of its assets. We suggested that given MSC's ability to arrange for a post discovery cut-off deposition of a different witness, that Mr. Kass should make a similar arrangement here. Mr. Kass asked for available dates for a deposition, but restricted the time period for that deposition to the period before May 28, 2001. However, we contacted Dr. Schaeffer and learned that given Dr. Schaeffer's travel plans, there simply were no available dates within that short time frame. That conversation was on a Thursday. We received the subpoena the following Tuesday - May 21, 2002.

FURTHER, affiant sayeth not.


Alfred M. Clark, Esq.

Sworn to and subscribed before me on this 21st day of May, 2002.

Carol Yuson Mitchell

[Notary Public]

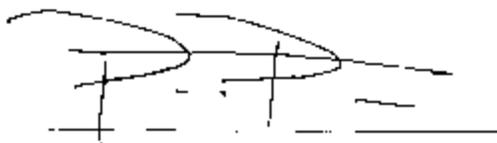


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FURTHER, affiant sayeth not.



Paul M. Porter, Esq.

Sworn to and subscribed before me on this 21st day of May, 2002.

Carol Yuson-Mitchell

[Notary Public]



CERTIFICATE OF SERVICE

This is to certify that on May 24, 2002, I caused copies of the attached **THIRD-PARTY HARRY SCHAEFFER'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL AFFIDAVITS, AFFIDAVIT OF ALFRED M. CLARK, III IN SUPPORT OF THIRD-PARTY HARRY SCHAEFFER'S MOTION TO QUASH SUBPOENA AD TESTIFICANDUM SERVED BY MSC.SOFTWARE CORORATION** and **SUPPLEMENTAL AFFIDAVIT OF PAUL M. PORTER IN SUPPORT OF THIRD-PARTY HARRY SCHAEFFER'S MOTION TO QUASH SUBPOENA AD TESTIFICANDUM SERVED BY MSC.SOFTWARE CORPORATION** to be served via facsimile and/or Federal Express, upon the following:

Federal Express Only

Richard B. Dagen, Esq.
Federal Trade Commission
601 Pennsylvania Avenue, N.W.
Washington, DC 20580

Federal Express Only

Karen Mills, Esq.
Federal Trade Commission
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Federal Express and Fax

Hon. Michael D. Chappell
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
Fax: (202) 326-2427

This is to further certify that copies of the attached **THIRD-PARTY HARRY SCHAEFFER'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL AFFIDAVITS, AFFIDAVIT OF ALFRED M. CLARK, III IN SUPPORT OF THIRD-PARTY HARRY SCHAEFFER'S MOTION TO QUASH SUBPOENA AD TESTIFICANDUM SERVED BY MSC.SOFTWARE CORORATION** and **SUPPLEMENTAL AFFIDAVIT OF PAUL M. PORTER IN SUPPORT OF THIRD-PARTY HARRY SCHAEFFER'S MOTION TO QUASH SUBPOENA AD TESTIFICANDUM SERVED BY MSC.SOFTWARE CORPORATION** were served via e-mail to Secretary@ftc.gov. I hereby certify that paper copies of the attached documents are being filed with the Secretary of the Federal Trade Commission, and that the attached electronic copies are true and correct copies thereof.

Executed on May 24, 2002, at Los Angeles, California


Shirley Williams