

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**OLDCASTLE BUILDINGENVELOPE,)
INC.**

Plaintiff)

V.)

Civ. No. 3-11CV2668-F

JON TODD STALEY)

Defendant)

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR
EARLY DISCOVERY AND BRIEF IN SUPPORT**

TO THE HONORABLE JUDGE OF SAID COURT:

1. Jon Todd Staley ("Staley"), the Defendant, files this Defendant's Response to Plaintiff's Motion for Early Discovery and Brief in Support and would respectfully show the Court

2. On October 12, 2011, Plaintiff Oldcastle Building Envelope, Inc. ("Oldcastle") filed a Motion for Early Discovery and Brief in Support of its Motion for Summary Judgment. Plaintiff Oldcastle Building Envelope, Inc. ("Oldcastle") filed a Motion for Early Discovery and Brief in Support of its Motion for Summary Judgment. Plaintiff Oldcastle Building Envelope, Inc. ("Oldcastle") filed a Motion for Early Discovery and Brief in Support of its Motion for Summary Judgment.

employees, Mollie Hines and Mary Carol Witry, in January, 2012.

4. Those depositions are scheduled for January 17, 2012 and January 19, 2012 and Defendant believes that Plaintiff's request for a forensic review of Defendant's hard drive is premature until facts and evidence are established by Plaintiff to entitle Plaintiff to an inappropriate invasion into Defendant's and his family's private affairs. This response is based on the memorandum in support as set forth herein.

Memorandum in Support

5. As of this date, Plaintiff's evidence and proof of any misdeed is no greater than it was on October 13, 2011, the date the Court Ordered a copy of Defendant's hard drive from his

with its request to perform a forensic review of the hard drive in the Court's possession,

Defendant stated it would discuss the request after the depositions of Ms. Witry and Ms. Hines. It

is Defendant's belief that the information will be used to identify and locate the hard drive.

[REDACTED]

10. Defendant understands the Court prefers the parties attempt to agree on reasonable and timely requests. Plaintiff's requests are unreasonable in again requesting emergency discovery before Plaintiff had produced its witnesses for deposition as Ordered by the Court on December 14, 2011; before Defendant had been allowed to conduct any discovery.

WHEREFORE, Defendant prays Plaintiff's Motion for early discovery be in all matters denied at this time, and for such other relief to which Counter-Plaintiff may show himself justly entitled.

Respectfully submitted,

Law Offices of David Bell, P.C.

By: _____ s/ David Bell

David Bell

Texas Bar No. 02075500

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Dallas, Texas 75231

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Attorney for Defendant

Jon Todd Staley

CERTIFICATE OF SERVICE

I certify that on January 17, 2012, a true and correct copy of the foregoing was served on opposing counsel pursuant to the Federal Rules of Civil Procedure.

s/ David Bell

David Bell

THE LAW OFFICE OF
DAVID BELL, P.C.

ATTORNEYS AND COUNSELORS

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January 6, 2012

Robert A. Vincent
Gibson, Dunn & Crutcher LLP
2100 McKinney Avenue, Suite 1100
Dallas, TX 75201-6912

VIA FAX 214.571.2921

Re: Oldcastle BuildingEnvelope v. Jon Todd Staley
Civ. No. 3-11-cv-2668-F

Dear Robert:

You requested emergency relief and were granted that relief to the extent that copies of the hard drive were captured and delivered to the Court. You also were allowed to take Mr. Staley's deposition. None of the discovery conducted so far has in any way demonstrated you have a legitimate claim against our client. Over your objection, the Court has now granted Defendant the right to conduct a little discovery, namely the depositions of Mollie Hines and Mary Carol Witry. If at those depositions, your client produces some objective evidence that supports its claims, we will gladly discuss a proper procedure for a forensic evaluation that still properly protects our client's privacy rights.

Further, as you have pointed out on numerous occasions, discovery in this case is not proper until a scheduling order has been entered. As you know, that will be due at the end of January, 2012. By that time, we will have taken both Ms. Hines' and Ms. Witry's depositions (assuming you ever get me proposed dates for Ms. Witry's deposition) and we can meet to discuss a forensic evaluation. The Court has indicated it prefers the parties to try to and reach agreement before filing motions. I also think the Court would be taken aback by your client requesting additional emergency relief before Defendant is able to conduct the depositions ordered by the Court.

The bottom line is simple: Your client has misrepresented that they investigated their claims. Those statements will be shown to be contrary to the facts.

Very truly yours,


DAVID BELL

cc: client

EXHIBIT "A"

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January 9, 2012

VIA EMAIL

David Bell
Law Offices of David Bell, P.C.
8350 Meadow Road, Suite 186
Dallas, TX 75231

Re: *Oldcastle BuildingEnvelope, Inc. v. Jon Todd Staley*

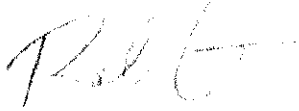
Dear Mr. Bell:

Your response simply highlights why any further delay in resolving this issue would be completely fruitless. You erroneously state that there is no evidence supporting Oldcastle's claim, and you state that you will only consider Oldcastle's request if Oldcastle presents some new, "objective evidence" at the depositions of Ms. Hines and Ms. Witry. Let me repeat the facts that I stated in my prior letters, and that have been set forth in Oldcastle's Complaint and confirmed in Mr. Staley's deposition, to wit: Oldcastle does not have

GIBSON DUNN

David Bell
January 9, 2012
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Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Vincent".

Robert Vincent

RAV

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