

*In the 219th Judicial District Court
of the State of Texas
Curt B. Henderson, Judge Presiding*

No. 199-00596-97

DSC Communications Corporation

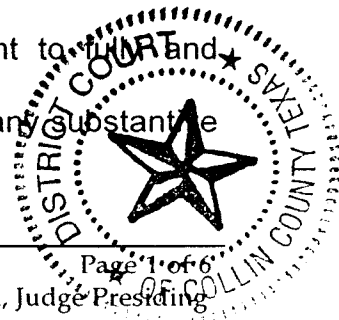
vs.

Evan Brown

ORDER

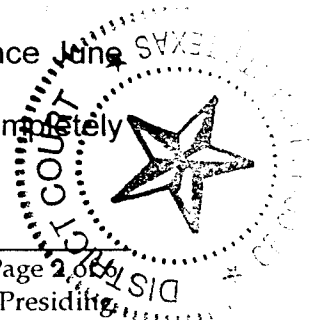
On June 10, 1999, the Court heard Plaintiff DSC's Second Motion to Compel Interrogatory Responses and For Sanctions (the "Motion"). The parties appeared through their attorneys of record and announced ready to proceed on the Motion. In the Second Motion, DSC demonstrated that the Court ordered that Defendant fully and completely disclose the Solution in its June 30, 1997 Temporary Injunction Order. In connection with entering the Temporary Injunction Order, the Court entered orders (1) requiring strict confidentiality of the Solution once it had been disclosed; and (2) requiring DSC to compensate Defendant for the time he spent making the disclosure. Defendant willfully refused to comply with the terms of the Temporary Injunction Order.

In this Second Motion now before the Court, DSC further demonstrated that DSC served interrogatory requests seeking for Defendant to fully and completely disclose the Solution. Defendant refused to provide any substantive



response to that Interrogatory, forcing DSC to file its First Motion to Compel and for Sanctions (the "First Motion"). After a hearing concerning DSC's First Motion, the Court granted that Motion and ordered (for the second time) that Defendant Brown fully and completely disclose the Solution to DSC. In connection with granting that First Motion, the Court entered orders (1) requiring strict confidentiality of the Solution once it had been disclosed; (2) allowing Defendant to apply to the Court for compensation in connection with the time spent making the disclosure; and (3) warning Defendant that any failure to fully and completely disclose the Solution might result in sanctions, including the striking of Defendant's pleadings and the entry of default judgment against Defendant. Again, Brown willfully refused to fully and completely disclose the Solution to DSC as required by the Court's Order. Now, two and one-half (2½) years later, there has been no disclosure of the Solution. At each stage of these proceedings, the Court has entertained new justifications why compliance has not been forthcoming. In good faith, the Court will again afford Defendant all benefit of the doubt and accommodate his latest explanation in hopes that Defendant will finally acquit himself of his failure to obey the directive of the Court. Such accommodation, however, comes with a price.

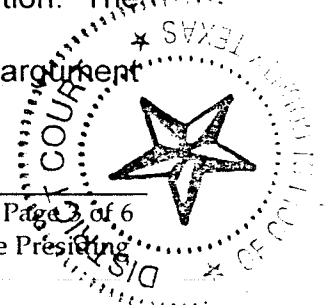
Based on the facts of this case, the Court concludes it has on two prior occasions ordered Defendant to provide to DSC a full and complete disclosure of the Solution. These two orders, one of which have been in place since June 30, 1997, provided Defendant with ample opportunity to fully and completely



disclose the Solution to DSC. Defendant's failure to fully and completely disclose the Solution in compliance with these orders is in willful violation of the Court's orders and constitutes bad faith and an abuse of the discovery process. Moreover, in connection with the Court's Order on DSC's First Motion, the Court sanctioned Defendant and advised Defendant that any further violation of the court's Order would result in additional sanctions, including the dismissal of his pleadings and the entry of a default judgement against him. Notwithstanding this order, Defendant failed and refused to fully and completely disclose the Solution. Defendant's conduct demonstrates a willful and continuing refusal to comply with the Court's orders and the discovery process in general.

Following oral argument on the Motion, the Court advised the parties that it intended to enter an order granting the Motion in part. The Court finds that the Defendant has failed to disclose the Solution. The Court engaged counsel in discussion and argument in an effort to give Defendant another opportunity to disclose the Solution. 's excuses and requiring Defendant to disclose the Solution in greater detail than he had previously disclosed the Solution. Accordingly, the Court solicited supplemental briefing and comments from the parties concerning the specific manner in which Defendant should be required to disclose the Solution.

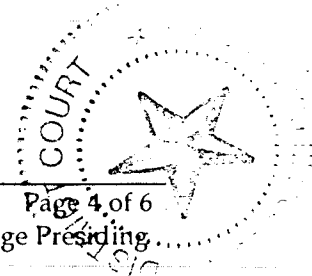
On July 12, 1999, the parties submitted to the Court letter briefs outlining the manner in which Defendant should be required to disclose the Solution. The Court evaluated those letter briefs and thereafter heard further argument



concerning the manner in which Defendant would be required to further disclose the Solution. Following that second oral argument, the Court solicited supplemental briefing from the parties concerning the differences between the two manners for disclose proposed by the parties. On September 14, 1999, the parties submitted a second letter brief outlining the differences between the proposed manners for disclosure of the Solution.

Based on the foregoing arguments and filings with the Court, as well as the Court's general familiarity with the case, the Court is thoroughly familiar with the parties' positions concerning Defendant's required disclosure of the Solution. On October 14, 1999, the Court entered a Memorandum providing that Plaintiff had the option of selecting one of two methods by which Defendant would be required to disclose the Solution. Plaintiff advised the Court and Defendant's counsel that it had selected the second option for the disclosure required by Defendant. The Court's file shall reflect the relevant follow-up correspondence between the Court and parties and the Court's efforts to structure a final resolution to this issue.

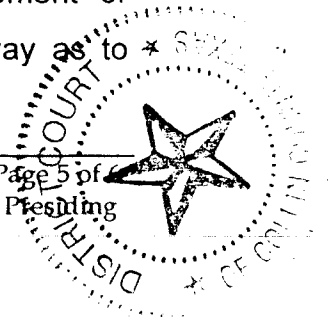
Based on these facts, as well as consideration of the pleadings on file in this case, the arguments of counsel at the June 10, 1999 hearing, the follow-up discussion with counsel, and the Court's long-standing and detailed familiarity with the factual and procedural background of this case, the Court is of the opinion that the DSC's Second Motion should be GRANTED, and that the Court



must impose some sanctions, as well as structure another opportunity for Defendant to comply with the disclosure.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that Plaintiff DSC's Motion shall be and is hereby GRANTED as follows:

1. To the extent and to the degree necessary to accomplish the following, the Court hereby strikes, in part, Defendant's Original Answer, which was filed on or about May 25, 1997; and the Court hereby enters judgment in favor of Plaintiff DSC Communications Corporation and against Defendant Evan Brown, ordering that DSC owns a 20% interest in the Solution (as defined in the Court's June 30, 1997 Temporary Injunction Order).
2. Brown shall fully and completely describe the Solution and disclose it to DSC by 5:00 p.m. on Friday, April 28, 2000.
3. Brown's disclosure shall be made using (1) Zilog Z8000 as the target language to be converted, (2) using the UNIX/BSDI-4.01 development platform, and (3) using the K&R "C" language as the language to be created as an end product of the conversion.
4. DSC shall provide Brown with the reasonable equipment and peripherals needs (but not services) required to fully and completely describe the Solution in the manner set forth in paragraph 3 hereof, provided that after DSC provides Brown with equipment and peripherals worth \$40,000, Brown shall be responsible for providing any additional equipment that he requires. DSC shall set up the equipment and peripherals in an office or conference room at Plaintiff's building known as PB-6, located at 3400 West Plano Parkway. Brown shall not damage or modify the equipment or peripherals, nor shall he utilize the equipment in such a way as to



disrupt or interfere with the ordinary business operations or working hours of DSC.

5. Brown shall not be permitted any further discovery in this matter unless and until he has fully demonstrated his compliance with the disclosure, except upon order of the Court.

Signed on Wednesday, January 19, 2000.



Curt B. Henderson
Judge Presiding

