

Cause No. 199-596-97

DSC COMMUNICATIONS CORPORATION,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
v.	§	COLLIN COUNTY, TEXAS
	§	
EVAN BROWN,	§	
Defendant	§	199TH JUDICIAL DISTRICT

DEFENDANT'S MOTION FOR PROTECTIVE ORDER

Defendant EVAN BROWN asks the Court to protect him from DSC COMMUNICATIONS's violation of the Court's Temporary Injunction and shows:

A. Introduction

I.

On May 13, 1997, the Court entered a Temporary Injunction Order ("the Order"), a true and correct copy of which is attached hereto as Exhibit "A," which states in pertinent part, at page 3, that "DSC shall, by May 12 (sic), 1997, select a development team comprised of no more than ten (10) persons, whose members shall be selected by DSC in its sole discretion ("the DSC Development Team"). The members of the DSC Development Team shall be identified to the Court by May 13, 1997, and they shall be bound by the Confidentiality provisions set forth in this Order." (emphasis added)

FILED

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BY *[Signature]* DEPUTY

II.

The Order further states that "Defendant Evan Brown shall begin making a full and complete disclosure of each aspect of the Solution to the DSC Development Team no later than May 14 (sic), 1997." (emphasis added)

III.

The undersigned Counsel for Defendant checked the Court's file and in the District Clerk's office at 8:30 a.m. Thursday, May 15, 1997, and no filed list of team members could be located. The undersigned received a telephone call from Eric Pinker, counsel for Plaintiff, shortly before 11:00 a.m. stating that a list of six individuals had been identified to the Court but, further, stating that a seventh individual was being added to the team as of this morning, after the Court ordered deadline of May 13th had passed.

IV.

The undersigned further was advised by counsel for Plaintiff that DSC intends, during the course of the disclosure process, to add up to an additional three persons to the Development Team as it so chooses despite the Court's order requiring that the team make-up be identified by May 13th.

V.

In addition, the undersigned was advised by "Team member" Wayne Jones and counsel for Plaintiff that the entire process was to be recorded by a court reporter and a videographer and was

further informed that such persons were not members of the Development Team identified to the Court.

VI.

Defendant asks the Court to enter an order protecting it from Plaintiff's announced intention to violate the Order.

B. Argument and Authorities

IX.

A trial court has discretion to protect a party with a protective order. Axelson, Inc. v. McIlhany, 798 S.W.2d 550, 553 (Tex. 1990); Tex. R. Civ. P. 166b(5). Defendant asks this Court to exercise its discretion and grant a protective order because:

a) the Order states that the members of the team "shall be identified to the Court" by the 13th. It makes no provision for later addition of any members after that time as long as the list does not exceed ten. The number of members was left up to Plaintiff. The limitations placed by the Court were merely a maximum number of members and the deadline for identifying the members. Addition of any members to the Development Team beyond the list of names submitted to the Court within the parameters of the Court's Order violates the Order and allows Plaintiff to determine who shall be a member of the Team after the disclosure has begun.

b) The Order requires Defendant to make disclosure "to the Development Team"; it does not include a provision requiring

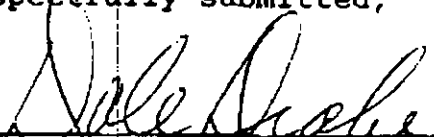
disclosure to a court reporter and/or videographer who are not members of the Team. Further, allowing a court reporter or videographer to record the disclosure was neither requested by Plaintiff nor ordered by the Court. Neither the Court nor Defendant had any say in the membership of the Development Team. Had Plaintiff chosen to designate those persons as members of the Team, they could have done so.

c) Plaintiff has sought, and obtained, extraordinary relief from the Court and Defendant should be entitled to rely on the limitations inherent in the order granting that extraordinary relief.

C. Prayer

For these reasons, Defendant asks the Court to set his motion for protective order for hearing and, after the hearing, issue an order protecting Defendant from having to disclose the idea to anyone not identified to the Court by May 13, 1997, in compliance with the Court Order.

Respectfully submitted,


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Attorney for Defendant


CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with Eric Pinker, Court P. DC 05
for Plaintiff, by telephone but an agreement could not be reached.


Dale Drake

NOTICE OF HEARING

Defendant's Motion for Protective Order is hereby set for
hearing on the 15th day of May 1997 at 12:00 Noon, by telephone
conference with the Court.


Judge Presiding

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and
foregoing motion was forwarded to counsel of record, via telephone,
facsimile, on this 15th day of May 1997.


Dale Drake