

Subj: **Debonneville v. Pierce**
Date: 4/11/2008 5:15:15 P.M. Central Daylight Time
From: C2Coast
To: hayesm@gtlaw.com
CC: ScottDP@GTLAW.com, WongG@gtlaw.com, GriesingF@gtlaw.com

Matt,

It has now been almost 2 hours since we got off the phone. You have not sent me anything new, nor have you returned my call from 1 hour ago. It is now past 3pm pst, which I believe is most likely the cut off time for your client to make a timely wire today.

It is clear that your client intends to try to delay this process and avoid payment. Please contact me immediately so that we may discuss scheduling the deposition date for your client. As you will recall, we previously agreed to schedule the settlement conference on the basis that if no settlement was reached, we would be taking your client's deposition the following day. Accordingly, I need deposition dates for your client for next week.

Jose

Jose Portela
The Beckham Group
3400 Carlisle, Suite 550
Dallas, Texas 75204
(214) 965-5104 Direct Dial
(214) 965-9301 Fax

It's Tax Time! Get tips, forms and advice on [AOL Money & Finance](#).

EXHIBIT 1
9

Subj: **Deposition Date Request**
Date: 4/13/2008 12:00:25 P.M. Central Daylight Time
From: C2Coast
To: hayesm@gtlaw.com
CC: ScottDP@GTLAW.com, GriesingF@gtlaw.com

Matt,

I have now asked three times for deposition dates for Mr. Pierce. You have failed to respond. Accordingly, on Monday, I will simply notice your client for deposition for a date during the last week of April. I normally try to coordinate deposition scheduling with opposing counsel, but when you repeatedly refuse to answer me, you leave me with no alternative.

Jose

Jose Portela
The Beckham Group
3400 Carlisle, Suite 550
Dallas, Texas 75204
(214) 965-5104 Direct Dial
(214) 965-9301 Fax

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EXHIBIT 2[^]
10

Subj: **Debonneville v. Pierce**
Date: 4/14/2008 5:22:48 P.M. Central Daylight Time
From: C2Coast
To: hayesm@gtlaw.com
CC: ScottDP@GTLAW.com, GriesingF@gtlaw.com, WongG@gtlaw.com

Matt,

Since Friday, I have left several telephone messages for you which you have not returned. If I am calling you, it means that I need to talk to you about something and not just speak with you via email. I am not sure what the practice is in California, but I assume that you observe the same professional courtesies that lawyers in Texas do. I ask that when I call you, you call me back.

Jose

Jose Portela
The Beckham Group
3400 Carlisle, Suite 550
Dallas, Texas 75204
(214) 965-5104 Direct Dial
(214) 965-9301 Fax

It's Tax Time! Get tips, forms and advice on [AOL Money & Finance](#).

EXHIBIT 3
11



THE BECKHAM GROUP
TRIAL LAW

April 14, 2008

Mr. Matt Hayes
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, California 90404

Via Facsimile (310) 586-7800

RE: *Debonneville v. Pierce; Case No. CV 07 3776 R (MANx)*

Dear Mr. Hayes:

Attached please find the Third Notice of Intent to take Oral and Videotaped Deposition of Brock Pierce. Please note that we have scheduled Mr. Pierce's deposition for April 28 through April 30. I have requested mutually agreeable deposition dates for Mr. Pierce from you at least 3 times. To date you have failed to respond to any of my requests. Accordingly, you leave me with no choice but to simply notice the deposition for a day of our choosing.

Please feel free to contact me if you have any questions.

Very truly yours,


José M. Portela

JMP/lvs
Enclosure

I:\Debonneville\Correspondence 2008\Hayes 04-14-08.doc

EXHIBIT 4
12

3400 Carlisle
Suite 550
Dallas, Texas 75204
Phone: 214.965.9300
Fax: 214.965.9301

PETER OSTROFF (CA SBN: 45718)
SEAN A. COMMONS (CA SBN: 217603)
SIDLEY AUSTIN, LLP
555 West 5th Street
Los Angeles, CA 90013
(213) 896-6000
(213) 896-6600 (facsimile)

BLAKE L. BECKHAM (TX SBN: 02016500)
JOSE M. PORTELA (TX SBN: 90001241)
THE BECKHAM GROUP P.C.
3400 Carlisle, Suite 550
Dallas, Texas 75204
(214) 965-9300
(214) 965-9301 (facsimile)

Attorneys for Alan Debonneville

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALAN DEBONNEVILLE,

Plaintiff,

v.

BROCK PIERCE,

Defendant.

) No. CV 07-03776 R (MANx)

) **THIRD NOTICE OF INTENT TO**
) **TAKE ORAL AND VIDEOTAPED**
) **DEPOSITION OF BROCK**
) **PIERCE**

YOU ARE HEREBY NOTIFIED THAT pursuant to Fed. R. Civ. P. 30, Plaintiff Alan Debonneville, by and through his attorneys of record, will take the deposition of Brock Pierce at the offices of Greenberg Traurig, 2450 Colorado Avenue, Suite 400E, Santa Monica, CA 90404, commencing at 10:00 a.m. on **April 28, 2008 through April 30, 2008**. If the deposition is not completed, the taking thereof will

THIRD NOTICE OF INTENT TO TAKE ORAL AND VIDEOTAPED DEPOSITION OF BROCK PIERCE

PAGE 1

EXHIBIT 4

be continued from day to day thereafter at the same place, Sundays and holidays excepted, until completed, or at such time and place as is agreeable to the parties noticing the deposition. The deposition will be recorded by stenographic method. Notice is further given that the deposition testimony may be recorded by audio and video tape and by instant visual display of the testimony pursuant to Fed. R. Civ. P. 30(b)(2).

WITNESS: Brock Pierce

TIME AND DATE: 10:00 A.M.,
Monday, April 28, 2008 through
April 30, 2008

PLACE: Greenberg Traurig
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

**THIRD NOTICE OF INTENT TO TAKE ORAL AND
VIDEOTAPED DEPOSITION OF BROCK PIERCE**

PAGE 2

EXHIBIT 4

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DATED: April 14, 2008

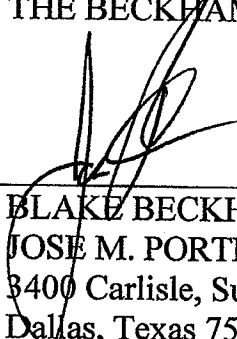
Respectfully submitted,

SIDLEY AUSTIN, LLP

PETER OSTROFF
SEAN A. COMMONS
555 West 5th Street
Los Angeles, CA 90013
(213) 896-6600
(213) 896-6600 (fax)
Attorneys for Plaintiff
ALAN DEBONNEVILLE

THE BECKHAM GROUP, PC

By: _____


BLAKE BECKHAM
JOSE M. PORTELA
3400 Carlisle, Suite 550
Dallas, Texas 75204
(214) 965-9300
(214) 965-9301 (facsimile)
Attorneys for Plaintiff
ALAN DEBONNEVILLE

I:\Debonneville\Depositions\Pierce, Brock\3rd Depo Notice Pierce 04-14-08.doc

**THIRD NOTICE OF INTENT TO TAKE ORAL AND
VIDEOTAPED DEPOSITION OF BROCK PIERCE**

PAGE 3

**EXHIBIT 4
15**

CASE NAME: Alan Debonneville v. Brock Pierce
COURT: USDC –Central District
CASE NO.: CV 07-03776 R (MANx)

PROOF OF SERVICE

STATE OF TEXAS)
)
COUNTY OF DALLAS)

I am a resident of Dallas County; I am over the age of eighteen years and not a party to the within action. On April 14, 2008, I served the within copy (or copies) of:

THIRD NOTICE OF INTENT TO TAKE ORAL AND VIDEOTAPED DEPOSITION OF BROCK PIERCE

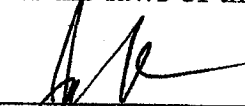
on the interested parties in said action addressed as follows:

Francine Griesing Greenberg Traurig Two Commerce Square, Suite 2700 2001 Market Street Philadelphia, PA 19103	John M. Gatti David A. Theaker Diana Scott Matt Hayes Greenberg Traurig 2450 Colorado Avenue, Suite 400E Santa Monica, CA 90404
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() **BY MAIL** – by placing a true copy thereof enclosed in an envelope addressed as set forth above. I am readily familiar with this office’s practice whereby the mail is sealed, given the appropriate postage and placed in a designated mail collection area. Each day’s mail is collected and deposited in a United States mailbox after the close of each day’s business

(XX) **BY FACSIMILE TRANSMISSION** -- by causing a true facsimile thereof to be electronically transmitted to the parties, by using their facsimile number.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

By: 
Jose M. Portela

THIRD NOTICE OF INTENT TO TAKE ORAL AND VIDEOTAPED DEPOSITION OF BROCK PIERCE

Confirmation Report-Memory Send

Time : Apr-14-2008 11:24am
Tel line 1 : 2149659301
Name : BECKHAM GROUP

Job number : 977
Date : Apr-14 11:23am
To : 13105867800
Document Pages : 006
Start time : Apr-14 11:23am
End time : Apr-14 11:24am
Pages sent : 006
Status : OK

Job number : 977 *** SEND SUCCESSFUL ***



THE BECKHAM GROUP
TRIAL LAW

FAX COVER SHEET

DATE: April 14, 2008
PLEASE DELIVER TO: Matt Hayes
Greenberg Traurig, LLP
FAX NUMBER: (310) 586-7800
FROM: Jose M. Portela
NUMBER OF PAGES: 6 (Including cover page)
MESSAGE: Please see attached

This FAX contains privileged and confidential information intended only for the use of the addressee indicated above. In the event you receive this fax in error, do not copy or disseminate it. Please call (214) 965-9300.

J:\Debonnoville\FaxCover\Hayes.doc

3400 Carlisle
Suite 550
Dallas, Texas 75204
Phone: 214 965.9300
Fax: 214 965.9301

1 GREENBERG TRAUIG, LLP
2 Diana P. Scott (SBN 084875)
3 Matthew B. Hayes (SBN 220639)
4 2450 Colorado Avenue, Suite 400E
5 Santa Monica, California. 90404
6 Telephone: (310) 586-7700
7 Facsimile: (310) 586-7800
8 ScottDP@gtlaw.com; HayesM@gtlaw.com

9 Francine F. Griesing (admitted *pro hac vice*)
10 Brian T. Feeney (admitted *pro hac vice*)
11 2700 Two Commerce Square
12 2001 Market Street
13 Philadelphia, PA 19103
14 Telephone: (215) 988-7800
15 Facsimile: (215) 717-5265

16 Attorneys for Defendant and Counter-Claimant
17 Brock Pierce

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

16 ALAN DEBONNEVILLE,

17 Plaintiff,

18 v.

19 BROCK PIERCE,

20 Defendant.

21
22 BROCK PIERCE,

23 Counter-Claimant,

24 v.

25 ALAN DEBONNEVILLE and
26 ROES 1 through 10, inclusive

27 Counter-Defendant.

CASE NO.: CV07-3776 R (MANx).

[Assigned to the Honorable Manuel L.
Real, Room 218]

**OBJECTIONS BY BROCK PIERCE
TO ALLEGED NOTICE OF
DEPOSITION FOR APRIL 28, 2008**

EXHIBIT 5

18

1 PLEASE TAKE NOTICE THAT Defendant and Counter-Claimant Brock Pierce
2 (“Pierce”), by and through his attorneys of record, hereby objects to, and will not be
3 appearing for, the deposition of PIERCE allegedly noticed by Plaintiff and Counter-
4 Defendant Alan Debonneville (“Debonneville”) for April 28, 2008, on the following
5 grounds:

6 1. Waiver: The notice of deposition was served along with a letter and
7 proposed Second Amended Complaint threatening to continue the underlying litigation
8 due to the parties inability to agree upon a final written settlement agreement. However,
9 thereafter, the parties did agree upon and execute a final “Confidential Settlement
10 Agreement And Mutual Release” (hereafter “Final Settlement Agreement”) on April 17,
11 2008, whereby Debonneville released and forever discharged Pierce from all known and
12 unknown claims that Debonneville had or may have had against Pierce as of that date,
13 including all claims asserted in this action. By executing the Final Settlement
14 Agreement, Debonneville waived any right to continue prosecuting, and conducting
15 discovery upon, the claims previously asserted against Pierce in this action, and there is
16 no pending cause of action in Debonneville’s operative Complaint concerning events
17 occurring after April 17, 2008. Accordingly, there is no cause of action presently
18 pending in this action pursuant to which discovery could be taken.

19 2. Improper and Insufficient Notice: As noted above, Debonneville served the
20 notice of deposition in conjunction with a letter and proposed Second Amended
21 Complaint threatening to continue with the underlying litigation due to the inability of
22 the parties to agree upon a final written settlement agreement. Thereafter, however, the
23 parties did agree upon and execute the Final Settlement Agreement whereby they
24 released each other from all known and unknown claims existing as of April 17, 2008.
25 Pierce’s deposition was never re-noticed for any purpose following the execution of the
26 Final Settlement Agreement, which released all claims for purposes of which the
27 deposition had been noticed. Debonneville’s counsel notified Pierce’s counsel, for the
28 first time, on April 25, 2008 that it would be seeking to reinstitute and enforce the

1 defunct deposition notice in order to question Pierce about matters arising subsequent to
2 the execution of the Final Settlement Agreement. Providing three days notice of
3 deposition is improper and insufficient notice under the Federal Rules of Civil Procedure.

4 3. Improper Purpose: The deposition notice was served for purposes of
5 conducting discovery on claims that were subsequently released by Debonneville on
6 April 17, 2008 when he executed the Final Settlement Agreement. There is presently no
7 pending cause of action in the operative Complaint. On April 25, 2008, Debonneville's
8 counsel informed Pierce's counsel, for the first time, that is was seeking to reinstitute the
9 defunct deposition notice for purposes of conducting discovery upon events and alleged
10 claims arising subsequent to April 17, 2008. However, such alleged claims are not
11 presently pending in any operative Complaint in this action and are, therefore, not the
12 proper subject of discovery in this action.

13 4. Election of Remedies: Debonneville has elected to enforce the Final
14 Settlement Agreement by accepting partial performance by Pierce and by obtaining writ
15 of attachment to seize Pierce's assets for purposes of satisfying the remaining amounts
16 owing by Pierce under the Final Settlement Agreement. Debonneville is therefore
17 precluded from simultaneously seeking to repudiate the Final Settlement Agreement and
18 continue with discovery in the underlying litigation. *See Smith v. Golden Eagle Ins. Co.*,
19 69 Cal. App. 4th 1371, 1375-76 (1999) (holding that party must elect between seeking
20 enforcement of settlement agreement or repudiating settlement agreement and pursuing
21 underlying litigation).

22 5. Ratification: By accepting the benefit of Pierce's partial performance of the
23 Final Settlement Agreement and thereafter obtaining a writ of attachment to seize
24 Pierce's assets for purposes of satisfying remaining amounts owing under the Final
25 Settlement Agreement, Debonneville has ratified the Final Settlement Agreement. He is
26 therefore precluded from continuing with underlying litigation, as it is inconsistent with
27 Debonneville's obligation under the Final Settlement Agreement to release and cease
28 prosecuting all claims in the underlying litigation. *See Civil Code 1589* ("A voluntary

1 acceptance of the benefit of a transaction is equivalent to a consent to all the obligations
2 arising from it, so far as the facts are known, or ought to be known, to the person
3 accepting.”)

4 6. Proper Notice to Plaintiff: In order to avoid Debonneville’s counsel from
5 incurring the expense of preparing for and appearing at this improperly noticed
6 deposition, Pierce’s counsel informed Debonneville’s counsel of Pierce’s objections and
7 non-appearance at the allegedly noticed deposition immediately upon being informed by
8 Debonneville’s counsel on April 25, 2008 of Debonneville’s intention to reinstate the
9 defunct notice of deposition.

10
11
12 DATED: April 25, 2008

GREENBERG TRAURIG, LLP

13
14
15 By: 

Diana P. Scott

Attorneys for Defendant and Cross-
Complainant Brock Pierce

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is **2450 Colorado Avenue, Suite 400E, Santa Monica, California 90404.**

On April 25, 2008, I served the **OBJECTIONS BY BROCK PIERCE TO ALLEGED NOTICE OF DEPOSITION FOR APRIL 28, 2008** on the interested parties in this action by placing the true copy thereof, enclosed in a sealed envelope, postage prepaid, addressed as follows:

SIDLEY AUSTIN LLP
Peter Ostroff, Esq.
555 West Fifth Street
Los Angeles, California 90013
Tel: 213.896.6000
Fax: 213.896.6600

THE BECKHAM GROUP P.C.
Blake L. Beckham, Esq.
Jose M. Portela, Esq.
3400 Carlisle, Suite 550
Dallas, Texas 75204
(214) 965-9300 Tel
(214) 965-9301 Fax

(BY MAIL)

I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for mailing with United States Postal Service. The foregoing sealed envelope was placed for collection and mailing this date consistent with the ordinary business practice of my place of employment, so that it will be picked up this date with postage thereon fully prepaid at Santa Monica, California, in the ordinary course of such business.

(BY E-MAIL)

On April 25, 2008, at the request of Alan Debonneville's counsel, I also transmitted the foregoing document(s) by electronic mail.

(FEDERAL) I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on April 25, 2008, at Santa Monica, California.



David Margolis

Subj: **Debonneville v. Pierce- Pierce Deposition**
Date: 4/26/2008 8:33:49 A.M. Central Daylight Time
From: C2Coast
To: ScottDP@GTLAW.com
CC: hayesm@gtlaw.com, GriesingF@gtlaw.com

Diana,

We disagree with your Objections. This case is still active and is set for trial for May 20, 2008. Since April 10, 2008 your client has been in breach of the various settlement agreements in this case. We now have an Injunction hearing set for May 5, 2008. You never filed a Motion to Quash the deposition notice which I sent you on April 14, 2008. In fact, at the Court house, you clearly showed you did not even know about this deposition notice.

As a result of your refusal to provide Mr. Pierce for a properly noticed deposition, I will be filing a Motion to Compel and Motion for Sanctions. Please contact me immediately to conference on that Motion.

Further, given that we do have an Injunction hearing on May 5, 2008, please provide me with deposition dates for your client for some day next week. If you do not do this, we may be forced to ask the Court to extend the TRO and reset the Injunction hearing, or simply just grant the Injunction as a result of your client's refusal to cooperate.

Jose

In a message dated 4/25/2008 9:04:08 P.M. Central Daylight Time, margolisd@gtlaw.com writes:

Mr. Portela,

Please see attached PDF. Same sent via US Mail.

Sincerely,

David Margolis, Paralegal for
Matthew B. Hayes, Esq.

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. To reply to our email administrator directly, please send an email to postmaster@gtlaw.com.

EXHIBIT 6

Need a new ride? Check out the largest site for U.S. used car listings at AOL Autos.

EXHIBIT 6

23

Wednesday, April 30, 2008 AOL: C2Coast

Subj: **RE: Issues Outstanding**
Date: 4/28/2008 9:37:18 P.M. Central Daylight Time
From: ScottDP@GTLAW.com
To: C2Coast@aol.com

Hello Jose, thank you for your email. Regarding your discussion items below, I can advise as follows:

1. Regarding the deposition, as you know Mr. Pierce has responded to both requested Declarations, as required by the court's order and the remedies you have sought. The Declarations are now in your possession. Your client did not ask for an accelerated deposition without proper notice, nor did the court order one. There appears to be no need for a deposition now that you have the order and declarations. For these reasons, Mr. Pierce respectfully declines to submit to a deposition as requested before May 5th.

2. "Turnover" of property and stock: I am not sure what you are asking, but we are happy to discuss it with you. Your client has sought and received certain remedies. We have been advised by our client that the funding has been approved by his European accounts, and that the funding in cash should mature for payment within the next 5-7 days. I presume your client would prefer cash over trying to sell objects.

May I suggest we schedule a telephonic meeting around 11AM PST on Tuesday morning? Kindest regards,
Diana Scott

From: C2Coast@aol.com [mailto:C2Coast@aol.com]
Sent: Monday, April 28, 2008 3:48 PM
To: Scott, Diana (Shld-LA-EmpLaw)
Cc: Hayes, Matthew B. (Assoc-LA-EmpLaw); Griesing, Fran F. (Shld-Phil-LT)
Subject: Issues Outstanding

Diana,

I sent 4 emails on Saturday morning regarding 4 separate subjects. As of yet you have failed to respond to 3 of those emails. The subjects of the 3 emails you have not responded to are as follows:

1. Pierce Deposition Date and related Motion to Compel and Motion for Sanctions conference.
2. Pierce turnover of Stock pursuant to Writ of Attachment.
3. Coordination of Pierce's personal property levy pursuant to Writ of Attachment.

Given that we have an Injunction hearing in 1 week, I ask that you please contact me immediately regarding these issues. If Mr. Pierce chooses not to cooperate with the Writ of Attachment or provide his deposition prior to the Injunction hearing, I intend to use this as evidence of why in fact Debonneville needs an Injunction.

Also, I left messages for both you and Matt this morning. Neither of you has returned the call.

Jose

Jose Portela
The Beckham Group
3400 Carlisle, Suite 550
Dallas, Texas 75204
(214) 965-5104 Direct Dial
(214) 965-9301 Fax

EXHIBIT 7
24

Need a new ride? Check out the largest site for U.S. used car listings at [AOL Autos](#).

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. To reply to our email administrator directly, please send an email to postmaster@gtlaw.com.
