

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

JUDGE PETER J. WALSH

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WILMINGTON, DE 19801
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July 8, 2004

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**Re: Maxxim Medical, Inc. v. Professional Hospital Supply, Inc. and
Karen McCauley
Adv. Proc. No. 03-57040 (PJW)**

Dear Counsel:

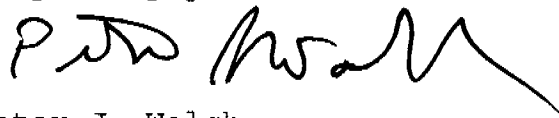
This is with respect to the motion (Doc. # 36) of Defendants to (a) permit additional deposition testimony and (b) direct Plaintiffs to produce documents and computer items. For the reasons briefly recited below, I will grant the motion as to the first request and deny it as to the second.

In its motion, Defendants assert that counsel for Intervening Plaintiff Medline Industries, Inc. ("Medline") unduly interfered with the conduct of the depositions of Messrs. Pilkington and Julian. Medline responds that the length of depositions were unduly extended by reason of Defendants' counsel's lengthy inquiry into irrelevant subjects. Defendants' motion and Medline's objection (Doc. # 42) do not furnish me with sufficient information to make an informed judgment regarding these two assertions. However, it does seem to me that Defendants should be given the opportunity to conclude the two depositions. Defendants will therefore be permitted to renotice the depositions at a location convenient to the two witnesses and to serve subpoenas in an appropriate fashion.

With respect to the production of additional documents and computer items, I find Defendants' request to be procedurally defective. First, the two production requests, as quoted in paragraphs 3 and 4 on page 2 of Defendants' motion, are patently overly broad and ambiguous. I find Medline's response to the request, as recited on page 12 of the objection, to be appropriate under the circumstances. Defendants' motion is effectively a request for a different discovery demand. That request should be directed to Medline in an appropriately focused Rule 34 demand.

Enclosed herewith is a form of order which has been docketed.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter J. Walsh". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Peter J. Walsh

PJW:ipm

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:) Chapter 11
)
MAXXIM MEDICAL GROUP, INC.,) Case No. 03-10438 (PJW)
et al.,) (Jointly Administered)
)
Debtors.)
_____)
MAXXIM MEDICAL, INC.,)
)
Plaintiff,)
)
v.) Adv. Proc. No. 03-57040 (PJW)
)
PROFESSIONAL HOSPITAL SUPPLY,)
INC., and KAREN McCAULEY,)
)
Defendants.)

ORDER

For the reasons stated in this Court's letter ruling of this date, Defendants' motion (Doc. # 36) is GRANTED as to the request to permit additional deposition testimony by two non-party witnesses and DENIED as to the request to direct Medline Industries, Inc. to effect production.


Peter J. Walsh
United States Bankruptcy Judge

Dated: July 8, 2004