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REPORTER'S RECORD  
VOLUME 1 OF 1 VOLUMES  
CAUSE NO. 199-03472-2022

HENRY MISHKOFF, ) IN THE DISTRICT COURT  
Plaintiff )  
VS. ) 199TH JUDICIAL DISTRICT  
T. CHASE GARRETT, )  
SCHEEF & STONE, LLP, AND )  
SONIA BRYANT, )  
Defendants. ) COLLIN COUNTY, TEXAS

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MOTION TO COMPEL  
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On the 15th day of March, 2023, the following  
proceedings came on to be heard in the above-entitled and  
numbered cause before the Honorable Angela Tucker, Judge  
presiding, held in McKinney, Collin County, Texas;  
Proceedings reported by machine shorthand.

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APPEARANCES

FOR THE PLAINTIFF:

Mr. Hank Mishkoff  
Pro Se Plaintiff  
4062 Windhaven Lane  
Dallas, TX 75287  
Phone: 214-458-3600  
Hankmishkoff@gmail.com

FOR THE DEFENDANTS:

Mr. J. Mitchell Little  
SBOT: #24043788  
Scheef & Stone, LLP  
2600 Network Boulevard  
Frisco, TX 75034  
Phone: 214-472-2100  
Mitch.little@solidcounsel.com

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**CHRONOLOGICAL INDEX**  
**VOLUME 1 of 1 VOLUMES**  
**(MOTION TO COMPEL)**

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1 P R O C E E D I N G S

2 THE COURT: This is 199-03472-2022 styled  
3 Mishkoff versus Garrett, Scheef and Stone and Bryant.

4 MR. LITTLE: Yes, Your Honor. May we approach?

5 THE COURT: Yeah. If everyone could please  
6 state their names on the record.

7 MR. LITTLE: Sure, Your Honor. Mitch Little on  
8 behalf of the movant defendants.

9 THE COURT: Your name, sir?

10 MR. MISHKOFF: Henry Mishkoff, pro se.

11 THE COURT: Thank you.

12 We're scheduled for a Motion to Compel. I am  
13 ready.

14 MR. LITTLE: Thank you, your Honor. If I may --

15 MR. MISHKOFF: Your Honor, I don't mean to  
16 interrupt but I have some objections to this hearing taking  
17 place at all and I'd like to discuss that with you before the  
18 hearing starts, but I understand that's up to you.

19 THE COURT: So when he's standing, that means  
20 he's signalling to me that he is talking to me, so if you're  
21 going to object to something, I need for you to stand because  
22 that signals to him, to me and to the court reporter that you  
23 wish to speak; that way I don't have two people speaking at the  
24 same time. So the only thing I have on my docket is a Motion  
25 to Compel. What is it that you're seeking to urge?

1                   MR. MISHKOFF: I have submitted objections to  
2 the Court, one as recently as yesterday, but several -- a few  
3 months ago, and I'd like to discuss those with you. And there  
4 are objections --

5                   THE COURT: So let me pause.

6                   I get thousands of pages of documents filed into  
7 files in my court every day. They go to the clerk's office.  
8 The only time I'm aware of what's being filed is if someone  
9 schedules a hearing, sets it and then it comes to my attention.  
10 So though you filed something as late as yesterday, I haven't  
11 seen any of that because judges just don't go through and read  
12 everything that comes through. Some of it I'm maybe not  
13 supposed to read; it might be ex parte communications. So  
14 though you might have several things you filed previously, I  
15 need for you to understand since you're representing yourself  
16 that I probably haven't reviewed or seen any of that.

17                   So let's start with what you're directing me to  
18 so I can go to the file and pull up the document that you want  
19 me to review.

20                   MR. MISHKOFF: Okay. May I sit?

21                   THE COURT: Sure, if you use the microphone.

22                   MR. MISHKOFF: Yes.

23                   THE COURT: What is it that you're drawing my  
24 attention to in the file?

25                   MR. MISHKOFF: We are on the record, are we not?

1 THE COURT: This court reporter has the  
2 responsibility of taking down every single word that is said in  
3 the courtroom. When I called the case, that is when I say the  
4 number, I said what the style of the case was. I said everyone  
5 state their names. All of that goes on the record. She only  
6 goes off the record if I say go off the record. I have not  
7 said go off the record so assume every word that is spoken in  
8 this hearing is on the record. That's her job.

9 Next question.

10 MR. MISHKOFF: Okay. Defendants submitted their  
11 discovery requests back in October. I objected to those  
12 discovery requests in November, and according to the rules as I  
13 understand them -- and I'm not an attorney, of course -- the  
14 Court -- well, I'll just read this. "The respondent party may  
15 file a written objection with the Court within 30 days of  
16 receiving a request," which I did. "If an objection is filed,  
17 the judge must hold a hearing to determine if the request  
18 is" --

19 THE COURT: So pause right there.

20 Remember what I said. You can file a thousand  
21 documents and I'm never going to know that you filed anything  
22 until you request the hearing. What you just said, the Court  
23 will have a hearing, you are responsible for requesting the  
24 hearing if you want to have a hearing. The Court doesn't just  
25 go through files all day and go, oh, this was filed and I need

1 to set a hearing on it. If you file a document and you want to  
2 have a hearing, it's your responsibility to notify the Court.  
3 Leila will give you a date, you will give the other side notice  
4 and that is how we have hearings.

5 What's your next question?

6 MR. MISHKOFF: Well, if I may -- and I don't  
7 want to belabor the point and I understand what you're saying.  
8 I don't mean to nitpick but I assumed that when the rule said  
9 that the judge must hold a hearing, it would be at your  
10 initiative. You've explained that. I do understand my mistake  
11 but I didn't see anywhere in the rules that said -- either in  
12 the Texas rules or the local rules -- that said I had to  
13 initiate that process.

14 THE COURT: So I don't know if that's a question  
15 but what I'm going to tell you is as the judge in this case, I  
16 am not permitted to give you legal advice. I'm not permitted  
17 to give him legal advice. If you are choosing to represent  
18 yourself -- be a self-represented litigant -- the Court has to  
19 hold you to the same standard as I would a lawyer. So I am not  
20 permitted to assist you with the interpretation of the law.

21 You read the law. I'm trying to explain to you  
22 that's not how the process works because the law does allow me  
23 to explain basic procedure. So from a procedure standpoint, it  
24 would be your responsibility to contact my coordinator. People  
25 call her or they email her to say they need a hearing and then

1 she gives you dates and then you send out the notice of  
2 hearing. So that's the process of how that works.

3 MR. MISHKOFF: At this point, I know you're  
4 thinking I'm just being argumentative but I don't understand  
5 how I was supposed to know that. Now, I know that --

6 THE COURT: Well, you may not but that is the  
7 way that it works. So if you wish to tell me the next question  
8 you have, because I've already answered that one now twice.

9 Do you have another question?

10 MR. MISHKOFF: Yes. The rules say that when a  
11 hearing is set there has to be an agreement. One party has to  
12 contact the other party and we have to come to an agreement.  
13 The first I knew about this hearing was when I got a notice of  
14 hearing from Mr. Garrett. This time is incredibly inconvenient  
15 for me and I would have liked to have settled on another time,  
16 but in spite of the rules saying that that's what he had to do,  
17 he did not do that. First I heard of it was when I got a  
18 notice that we were going to have a hearing and I don't think  
19 this is right. I'd like them to follow the rules and set up a  
20 hearing according to the rules.

21 THE COURT: Is that a question or just a  
22 statement?

23 MR. MISHKOFF: That's an objection to this  
24 hearing.

25 THE COURT: Well, there are ways in which to

1 express your thoughts, opinions, requests, and from a legal  
2 standpoint that has not been done.

3           So typically if someone has a conflict with the  
4 date, they either reach out to the other side to say I have a  
5 conflict, can we schedule a different date, or they file a  
6 Motion for Continuance signalling to the -- and ask for a  
7 hearing on their Motion for Continuance, letting the Court know  
8 that they need to move it to a different date.

9           So, again, you're choosing to represent  
10 yourself. The Court is just telling you procedurally that's  
11 how it normally works.

12           MR. MISHKOFF: Well, I did contact your  
13 scheduler to ask her --

14           THE COURT: What did I -- I gave you two  
15 options. I said that you could either contact the other side.  
16 So if you got a notice of hearing and you say I'm out of the  
17 country, I'm on vacation, that's a bad day for me. So the  
18 first option would be to notify the other side I have a  
19 conflict with that date so can we select a different date.  
20 That's option one.

21           If they won't budge, they won't agree, then your  
22 second option is you would have filed a Motion for Continuance,  
23 you would have contacted my court coordinator to say I need a  
24 hearing on my Motion for Continuance, I want to move this  
25 hearing date. Then she would have given you a date to be

1 heard. So those were the two options.

2 MR. MISHKOFF: I'm probably going to get myself  
3 in trouble for saying this but what I feel like is happening is  
4 that you're describing local procedures. I understand you have  
5 the right to set any procedures you want but there's literally  
6 no way for me to know about them. They're not in the State  
7 rules, they're not in the local rules.

8 THE COURT: Do you have any other objections  
9 that you wish to state on the record?

10 MR. MISHKOFF: Yes, I do.

11 At the time that Mr. Garrett set this hearing,  
12 there was no valid motion before this Court to be heard. He  
13 set the hearing on -- let me make sure I have the right dates.  
14 He set the hearing on February 14th but the motion was not  
15 filed with the Court until the 15th, and as I understand the  
16 Court rules, you can't set a hearing on a motion that has not  
17 yet been filed.

18 THE COURT: What's your next statement?

19 MR. MISHKOFF: Well, my final objection is that  
20 I received yesterday morning an amended motion, which was the  
21 first valid motion that they had filed; the motions that he had  
22 filed last month were totally invalid. They mentioned other  
23 parties; they didn't even mention me. So basically the first  
24 valid motion that Mr. Garrett filed was filed yesterday  
25 morning, which is too late. It's against the rules of the Court

1 to file a motion that late. That doesn't give me a chance to  
2 adequately respond. I did submit a response yesterday  
3 afternoon. When I left home this morning, I had not even  
4 received notice that it had been filed by the clerk, and even  
5 if it had been, that just was not enough time for me to  
6 respond.

7                   So as far as I'm concerned, the first valid  
8 Motion to Compel that this Court has received was yesterday  
9 morning and that just does not give me enough time to prepare  
10 for the hearing.

11                   THE COURT: So you obviously are representing  
12 yourself so your 'e not really stating the objections as you're  
13 calling them in a way that we would normally receive them.  
14 What I believe -- and you can correct me if I'm wrong. I  
15 believe the objection that you are attempting to make is that  
16 you believe you have the right to have three days' notice and  
17 you did not have three days' notice. Is that what you're  
18 attempting to tell the Court?

19                   MR. MISHKOFF: Well, I don't know how many days  
20 notice I'm supposed to have but I know I had one day's notice.  
21 So if there's a rule that says I'm supposed to have three days'  
22 notice, I did not have it.

23                   THE COURT: Here's the deal. What I'm not going  
24 to do -- and I've tried to explain this now several times. You  
25 have chosen to represent yourself. It is unethical, meaning I

1 cannot -- there are judicial rules that prohibit me from giving  
2 you legal advice. I'm doing the best I can to walk that  
3 tightrope understanding that you're representing yourself but I  
4 can't give you legal advice. I also don't want to spend an  
5 hour of time that I do not have going around and around and  
6 around. So if you could just state all of your objections,  
7 that would be helpful and then I would give them an opportunity  
8 to respond to your objections.

9                   Do you have any other objections that you wish  
10 to make? The last objection you just made is that you believe  
11 that you should have more time to prepare to the motion, the  
12 amended motion that was filed yesterday. Do you have any other  
13 objections that you wish to state on the record?

14                   MR. MISHKOFF: No, that's it, Your Honor. Thank  
15 you.

16                   THE COURT: Thank you. So now I will switch over  
17 to Mr. Little.

18                   Do you wish to respond to any of the objections?

19                   MR. LITTLE: Just very briefly, Your Honor.

20                   This is a very simple Motion to Compel. It's  
21 post-judgment discovery responses. As I understand it,  
22 Mr. Garrett made a correction to a typographical error  
23 yesterday morning because one of the parties was described  
24 improperly. I think it previously had stated Equipment Depot  
25 instead of Scheef and Stone; however, it doesn't affect the

1 substance of the motion. There's no reason for Your Honor to  
2 grant any type of continuances. This is very straightforward.  
3 There's no substantive changes to the motion. I believe  
4 Mr. Mishkoff has filed a response and made his position  
5 abundantly clear to the post-judgment discovery responses. So  
6 I think Your Honor is okay to proceed; however, we are here to  
7 proceed at Your Honor's leisure.

8 THE COURT: I think the other question -- I  
9 guess you're calling it an objection but it sounds more like a  
10 question. You're not really understanding how things work  
11 procedurally.

12 So an attorney can file a document today; for  
13 example, the clerk's office closes at 4:30 every day.  
14 Attorneys typically are still in their office until at least  
15 5 o'clock, most of them well beyond that. So they are required  
16 to eFile documents. So if they eFile a document and the clerk  
17 doesn't get to it that day, the file mark stamp is going to be  
18 the following day or whatever day they actually get to it. So  
19 when you say he didn't file the document timely, I don't know  
20 that to be accurate. He could have filed it but the clerk has  
21 to then accept the document in the system, file it and then  
22 push it to the file. So there's multiple steps. When you all  
23 eFile, it doesn't automatically come to me. It doesn't  
24 automatically come to the Court's file. So they have to  
25 physically go into the computer, pull that document out and

1 then file it. So I don't know if that explains the process to  
2 you in a better way. That's how that works.

3 Anything else, Mr. Mishkoff, that you wish to  
4 state with respect to the objections?

5 MR. MISHKOFF: Yes, just one last thing.  
6 Mr. Mitchell makes it sound like the motion that he filed --

7 THE COURT: Mr. Little?

8 MR. MISHKOFF: Mr. Mitchell -- Mr. Little. I'm  
9 so sorry.

10 MR. LITTLE: It's okay.

11 MR. MISHKOFF: That it was just a minor  
12 typographical error in the motion he filed a month ago that he  
13 had to correct yesterday morning. If I may, I'd just like to  
14 read to you the first paragraph.

15 THE COURT: I've already read the first  
16 paragraph. I don't need you to read it.

17 MR. MISHKOFF: Of the motion that he -- not the  
18 motion he filed yesterday --

19 THE COURT: I just read it. Yes.

20 MR. MISHKOFF: The motion he filed a month ago,  
21 and you see it mentions two other companies. It mentions  
22 Equipment Depot, Texas. It mentions Rodolfo (phonetic) -- I'm  
23 sorry.

24 THE COURT: I just told you that I've read it  
25 and I told you that I didn't need you to read it to me. So I

1 don't know how more clear -- how much more clearer I need to  
2 be. When you made the objection, remember when you started you  
3 said, Judge, I filed several things. My file is up. So when  
4 you're citing me to something, there's something you want me to  
5 review, I click on that document. So a minute ago you made an  
6 objection so I went to the document so I could read it for  
7 myself. So when I tell you I've already read it and I don't  
8 need you to read it to me, that means I've read it and I don't  
9 need you to read it to me.

10                   What is your additional statement regarding that  
11 issue, without reading it to me again.

12                   MR. MISHKOFF: From looking at this motion that  
13 Mr. Little submitted a month ago, and looking at that first  
14 paragraph that you just read, I have no idea how I was supposed  
15 to know that this was -- actually had anything to do with this  
16 case. It looks to me like it was just as likely that he sent  
17 me the wrong motion and just tacked the heading on top of it  
18 for this case. Until yesterday morning, I had no idea that  
19 this was a motion that I was actually being called to this  
20 hearing to discuss.

21                   THE COURT: Even though it has your name at the  
22 top?

23                   MR. MISHKOFF: Has my name at the top but the  
24 rest of the motion, especially that first paragraph, is about  
25 two completely different parties. Has nothing to do with me.

1 THE COURT: Mr. Little?

2 MR. LITTLE: Your Honor, I think we ought to just  
3 reset it.

4 THE COURT: So here's what we're going to do.  
5 Pull out your calendar now, Mr. Mishkoff.

6 Leila, pull up the available dates.

7 Mr. Little, how far out are you requesting for  
8 Leila to look for dates?

9 MR. LITTLE: Anywhere longer than three days,  
10 Your Honor.

11 THE COURT: I know I'm in trial coming up and,  
12 Leila, we just need about 30 minutes.

13 THE COURT COORDINATOR: I can do March 22nd at  
14 11:30.

15 MR. MISHKOFF: What day of the week is that?

16 THE COURT COORDINATOR: Wednesday.

17 MR. MISHKOFF: That works for me.

18 MR. LITTLE: We'll reset it. We'll send a notice  
19 of hearing and we'll be here at 11:30.

20 THE COURT: The Court is noting the case is  
21 being reset to March 22nd at 11:30. Both sides are present in  
22 the courtroom. So the Court is making them aware of the date  
23 and time of the hearing. Mr. Little has indicated his office  
24 will also send a formal notice of hearing stating the  
25 March 22nd date.

1 Any questions, Mr. Mishkoff, with respect to the  
2 setting.

3 MR. MISHKOFF: No, thank you, Your Honor.

4 THE COURT: Any objections to the date of  
5 March 22nd, 2023, at 11:30?

6 MR. MISHKOFF: No, Your Honor.

7 THE COURT: All right. So I will see everyone  
8 on that date.

9 MR. LITTLE: Thank you, your Honor.

10 THE COURT: Thank you. Thank you for waiting  
11 for me this morning.

12 MR. LITTLE: Of course. May we be excused?

13 THE COURT: Yes.

14 (The proceedings concluded.)

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1 COUNTY OF COLLIN )

2 STATE OF TEXAS )

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4 I, Jacqueline Love-Kimbrough, CSR, Official  
5 Court Reporter in and for 199th District Court, Collin County,  
6 Texas, do hereby certify that the above and foregoing contains  
7 a true and correct transcription of all portions of evidence  
8 and other proceedings requested in writing by counsel for the  
9 parties to be included in this volume of the Reporter's Record,  
10 in the above-styled and numbered cause, all of which occurred  
11 in open court or in chambers, and were reported by me.

12 I further certify that this Reporter's Record  
13 of the proceedings truly and correctly reflects the exhibits,  
14 if any, admitted by the respective parties.

15 WITNESS MY OFFICIAL HAND this the 3rd day of  
16 April, 2023.

17

18 /S/JACQUELINE LOVE-KIMBROUGH  
19 Jacqueline Love-Kimbrough, CSR  
20 TX CSR No. 8970, Exp. Date: 11/30/2024  
21 Official Court Reporter  
22 For: The Honorable Angela Tucker  
23 Collin County 199th District Court  
24 2100 Bloomdale Road  
25 McKinney, TX 75071  
Telephone: 972-548-4100