

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

ROY E. ERWIN, et al.,

Plaintiffs,

v.

BRYAN F. RUSS, JR., et al.,

Defendants.

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Case No. 6:09-CV-127-WSS

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**DEFENDANT PALMOS RUSS McCULLOUGH & RUSS, LLP'S,  
OBJECTIONS, REQUEST FOR PROTECTION, AND ANSWERS  
TO ROY E. ERWIN'S FIRST SET OF INTERROGATORIES**

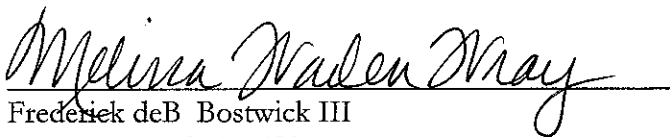
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TO: Plaintiff Roy E. Erwin, by and through his attorney of record, Ty Clevenger, Post Office Box 4806, Bryan, Texas 77805.

Defendant Palmos Russ McCullough & Russ, LLP, ("PRMR" or "Defendant") (incorrectly named as McCullough & Russ, LLP) hereby serves its objections, request for protection, and answers to Roy E. Erwin's first set of interrogatories pursuant to the Federal Rules of Civil Procedure. PRMR reserves the right to and will supplement these objections and answers in accordance with the Federal Rules of Civil Procedure.

Respectfully submitted,

**BEARD KULTGEN BROPHY  
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GENERAL PARTNER, LLC; FLARE  
ROYALTIES, LP; HEARNE BUSINESS PARK,  
LLC; JERRY BAXTER; BRYAN F RUSS III; AND  
MOLLY HEDRICK

**CERTIFICATE OF SERVICE**

I certify that on September 24, 2010, a true and correct copy of this instrument was served on all counsel of record by first class mail and/or certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure.

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**OBJECTIONS, REQUEST FOR PROTECTION, AND ANSWERS  
TO INTERROGATORIES**

**INTERROGATORY NO. 1:**

Please describe the gross and net revenues of Defendant for each year from 2003 until 2009.

**OBJECTIONS:**

Defendant objects to the interrogatory because it is not reasonably calculated to lead to the discovery of admissible evidence and it seeks information that is not relevant to the claim or defense of any party. Defendant has a pending dispositive motion that may eliminate any claims for affirmative relief to which the requested information may be relevant. Until the viability of those claims is determined by the Court, discovery of sensitive information of this nature is premature and subject to misuse.

Defendant objects to the interrogatory because it seeks confidential information in which Defendant has a reasonable expectation of privacy and, therefore, Defendant seeks protection from the interrogatory.

**INTERROGATORY NO. 2:**

Please describe all instances in which Defendant or any of its attorneys have represented Judge Robert M. Stem or any of his immediate family members in any legal matter. The term "describe" includes the persons represented, the purpose of the representation, the dates of representation, any amounts paid, the number of hours worked, and the name, case number, and jurisdiction of any litigation.

**OBJECTIONS:**

Defendant objects to the interrogatory because it is not reasonably calculated to lead to the discovery of admissible evidence and it seeks information that is not relevant to the claim or defense of any party. Defendant has a pending dispositive motion that may eliminate any claims for affirmative relief to which the requested information may be relevant. Until the viability of those claims is determined by the Court, discovery of sensitive information of this nature is premature and subject to misuse.

Defendant objects to the interrogatory because it seeks information protected by the attorney-client privilege and/or work product doctrine.

**INTERROGATORY NO. 3:**

Please describe all *ex parte* communications that any attorney working for Defendant has had with Judge Robert M. Stem since January 1, 2003.

**OBJECTIONS:**

Defendant objects to the interrogatory because it is vague in that it fails to adequately define the intended scope of “*ex parte* communications”.

Defendant objects to the interrogatory because it is not reasonably calculated to lead to the discovery of admissible evidence and it seeks information that is not relevant to the claim or defense of any party

**ANSWER:**

Subject to and without waiving the foregoing objections, Defendant answers that the only *ex parte* communications its attorneys have had with Judge Stem have been in the course of requests for injunctive or other relief that are allowed by law. Defendant’s attorneys do not consider casual greetings or social interaction *ex parte* communications.

VERIFICATION

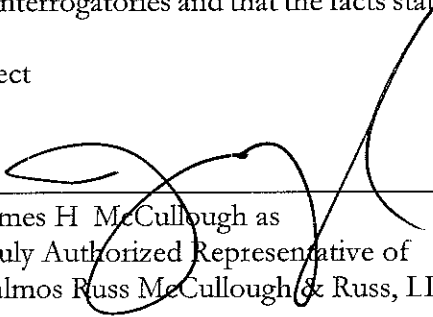
STATE OF TEXAS

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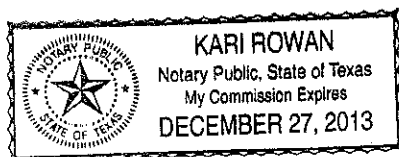
COUNTY OF ROBERTSON

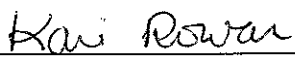
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Before me, the undersigned notary, on this day personally appeared James H. McCullough, a duly authorized representative of Palmos Russ McCullough & Russ, LLP, and a person whose identity is known to me. After I administered an oath to him, upon his oath he said that he read the foregoing objections and answers to Roy E. Erwin's first set of interrogatories and that the facts stated therein are within his personal knowledge and are true and correct.

  
James H. McCullough as  
Duly Authorized Representative of  
Palmos Russ McCullough & Russ, LLP

Sworn to and subscribed before me by James H. McCullough on September 22, 2010.



  
Notary Public in and for the State of Texas  
My commission expires: