

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

JEFFREY EPSTEIN and L.S.J., LLC,)	
)	
Plaintiffs,)	CASE NO. ST-10-CV-443
)	
-vs-)	ACTION FOR DAMAGES
)	
FANCELLI PANELING, INC.,)	JURY TRIAL DEMANDED
)	
Defendant,)	
)	
-vs-)	
)	
J.P. MOLYNEUX STUDIO, LTD.,)	
)	
<u>Nominal Defendant.</u>)	

PLAINTIFFS' EMERGENCY MOTION TO COMPEL THE ATTENDANCE OF MR. JEAN-PIERRE FANCELLI AT MEDIATION

The Plaintiffs Jeffrey Epstein and L.S.J., LLC (“Plaintiffs”), by and through their undersigned counsel, Hodge & Francois (Denise Francois, of counsel) move this Court, pursuant to Super. Ct. Rule 40(e) and this Court’s inherent authority, for entry of an order directing Mr. Jean Pierre Fancelli, the President of Fancelli Paneling, Inc. to appear at the mediation presently scheduled in this matter for July 13, 2012. As grounds for this Motion the Plaintiffs rely upon the following:

1. Mr. Jean-Pierre Fancelli is the president of Fancelli Paneling, Inc (“Fancelli”).

The Library Cabinetry which is the subject of the above-captioned action was fabricated by and/or the supervision of Mr. Fancelli. In fact, its Rule 26(a) Disclosures, Fancelli Paneling, Inc. it states:

Mr. Jean Pierre, the principal of Fancelli Paneling, Inc., 24 East 64th Street, New York, New York, 10021, has knowledge of all aspects of the transactions and work he provided forming the bases for some of the claims and defenses herein, including

the purchase order issued by "Molyneux" requesting a limited scope of Fancelli work on, or about June 15, 2006.

No other witness identified by Fancelli is attributed with same extensive knowledge of the Library Cabinetry or of the relevant claims and defenses.

2. The parties have agreed to mediate the above-captioned action on July 13, 2012.

The parties have also agreed upon Attorney Britain H. Bryant as the mediator.

3. While the parties and the American Mediation Institute were trying to obtain a date on which all parties and the mediator were available, Defendant Fancelli Paneling, Inc.'s counsel sent the following email:

[REDACTED] <[REDACTED]> Wed, May 30, 2012 at 4:15 PM
To: [REDACTED]
Cc: [REDACTED], [REDACTED], [REDACTED]

It was my understanding that Jeff's Client has not confirmed. **My Client requires confirmation that Mr. Epstein will personally attend.** My Client further needs to clarify whether the mediator and parties will be able to view the work in place at the time of mediation and whether we will have the use of all settlement agreements between Messrs. Epstein and Molyneux in advance of mediation. these materials are needed for the ex parte submission to the mediator and for a meaningful mediation. I have and continue to request dates from client and counsel in France and NY, but a resolution of these questions would facilitate it. Thank you. (emphasis supplied)

4. By email dated May 30, 2012, the undersigned counsel replied:

My clients, or their representative with full settlement authority and I are all available on the 15th of June.

5. Due to scheduling issues, the parties could not proceed with mediation on June 15, 2012. During the course of rescheduling the mediation, legal counsel for the Defendant Fancelli Paneling sent the following email to the American Mediation Institute and other parties:

On Jun 1, 2012, at 2:56 PM, Michele Baker <[REDACTED]> wrote:

Nancy,

The representative who will be appearing for Fancelli Panelling is also a trial lawyer and will be in trial that week. I am attempting to secure additional dates. So far, July 12 or 13 would be his availability.

Would this be feasible for all parties and the mediator??

Michèle Baker, Esq.
Moore Dodson & Russell P.C.
5035 Norre Gade, Suite One
St Thomas, VI 00802
Tel: [REDACTED]
Fax: [REDACTED]

6. July 12 and July 13 were dated that the undersigned counsel was scheduled to be off island for vacation, and had so notified the Court at the May 30, 2012 status conference. However, in light of the June 1, 2012 email from Fancelli's counsel, the undersigned counsel cancelled her travel plans and notified all parties in a June 5 email that she and her clients were available on several dates in June and July including July 12 and 13th.

5. There is no indication that the "trial lawyer" has any familiarity with the work performed by Mr. Jean Pierre Fancelli and his employees or craftsmen. Sending a trial lawyer to mediate a dispute over the quality of the fabrication of the interior of a library calls into question whether the Defendant Fancelli Paneling, Inc. intends to mediate in good faith.

6. By the foregoing June 1, 2012 email from Attorney Michele Baker, the Plaintiffs learned that although Fancelli Paneling, Inc., required that the Plaintiff personally attend the mediation, the principals of Fancelli Paneling were exempt.

7. The fact that Fancelli Paneling, Inc. elected to send a "trial lawyer" to the mediation shows the imposition of a double standard: the Defendant can take the position that the its participation in Court ordered mediation is dependent it is requirement that the Plaintiff Jeffrey Epstein must "attend personally" but Mr. Jean Pierre Fancelli is not required to do so.

8. The participation of Mr. Jean Pierre Fancelli in the mediation process is critical to resolving this matter.

Based upon this Court's inherent authority and the requirements of Super. Ct. 40(e)(2), the Plaintiffs move this court for entry of an order directing that the Mr. Jean Pierre Fancelli personally attend the mediation in this matter scheduled for July 13, 2012.

Respectfully submitted,

Dated:

Denise Francois
HODGE & FRANCOIS
1340 Taarneberg
St. Thomas, VI 00802
Telephon [REDACTED]
Telefax: ([REDACTED]
[REDACTED]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I cause and true and correct copy of the foregoing **Plaintiffs' Emergency Motion to Compel Attendance of Jean Pierre Fancell at Mediation** to be served via first class U. S. Mail, postage pre-paid upon Treston E. Moore, Esquire, MOORE DODSON & RUSSELL, P. O. Box 310, St. Thomas, VI 00804 and by email to [REDACTED], and upon A. Jeffrey Weiss, Esq., A. J. Weiss & Associates, 6934 Vessup Lane, St. Thomas, VI 00802-1001 and by email to: [REDACTED] on this ____ day of _____, 2012.
