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November 9, 2015

VIA ECF

Hon. George B. Daniels
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 1310
New York, N.Y. 10007

Re: Cargian v Breitling USA, Inc.
15 CV 01084 (GBD)(HP)

Dear Judge Daniels:

Contrary to Defendant's representation, the parties were on the brink of finalizing the written agreement. Clearly, agreement on the financial terms is the key to all settlements, and that we accomplished. As described in my opening letter, we had only one open secondary issue, and I informed Mr. Singer that Plaintiff would accept one of his alternative options regarding references and discussion of the case. Once that was done, everyone supposedly was ready to sign. The fact that Defendant refuses to reveal a reason for withdrawal evidences that it was not because a meeting of the minds was not reached.

Although some of the usual differences in language arose, there was no acrimony in negotiating any of the terms. Both counsel worked hard to reach resolution, which gives me reason to believe that the Court's meeting with the parties may assist in that goal.

The record does support the claim of bad faith. Attached is the string emails between counsel regarding negotiations and the cancellation of the depositions. The prejudice is manifold. (1) As I explained innumerable times to defense counsel, the prior schedule was established to allow follow up for document production and admissions after depositions. (2) both Plaintiff and his counsel need to rearrange their schedules, including vacation plans, since depositions are now scheduled for just before and just after Thanksgiving. (3) Most significantly, the process of settlement, always encouraged by the Court, has been undermined. At

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Defendant's urging, Plaintiff significantly reduced his settlement demand. Clearly his faith in this process has been lost, making resolution at a later date difficult if not impossible.

I see no problem with your Honor holding the settlement conference, since this is a jury trial. However, Plaintiff would have no objection to submission to the Magistrate, so long as the Order includes requiring party presence.

2. Scheduling Order

The problem with the deposition schedule is it does not allow Plaintiff sufficient time for follow up. Defendant will not produce the first witness earlier than November 24. I suggested that the 2nd and 3rd witnesses be scheduled for December 2 and 3rd, both dates that I was told the witness and counsel were available. However, counsel refuses to hold more than one deposition in a week, and confirmed the 3rd deposition for the 9th. The only explanation for that is that they have a lot of "moving parts".

I am available to go forward on the 9th, but I suggested a compromise which I now ask the court to order: any documents identified for the first time at the deposition and requested by Plaintiff be produced within 15 days (not taking away opportunity to object). Plaintiff be allowed until January 5, 2016 to serve Requests for Admissions.

3. Amendment to Pleadings

Plaintiff's need to amend and the tardiness of the request is not retaliation to Defendant's bad faith negotiations. In his First Document Demand served on April 9, 2015 Plaintiff requested documents reflecting the organizational relationship between USA and SA. Defendant did not answer until June 24, 2015, at which time it objected. This issue was disputed before Magistrate Pitman on two separate occasions, and it was not until August 14th that I had any documentary evidence of the interrelationship allowing Plaintiff to make a good faith claim.

Again, the settlement discussions interceded leading Plaintiff to defer a request to Amend. My first conversation with Defendant's counsel regarding settlement was the week of Sept. 1st. Since we were moving forward, additional litigation would have been counter-productive.

In fact, Defendant's argument supports the fact that it was not until the Magistrates Order that Plaintiff had the documentary evidence to support his claim. Magistrate Pitman denied

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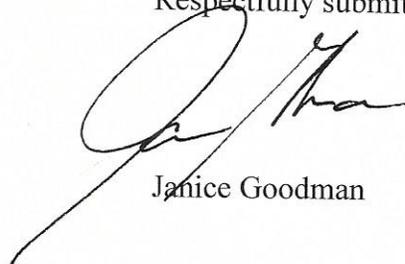
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Plaintiff's motion to compel Defendant to produce Marie Bodman,¹ who was Plaintiff's prior boss, but is now employed by Breitling SA based on Defendant's claim that it had no control. What the Magistrate did in fact order was very reduced discovery from what was originally requested, that is the names of the Board and Officers of USA. Based on that we can now demonstrate definitively that SA controls USA.

The remainder of Defendant's argument is nothing more than an attorney's unsworn statement disputing plaintiff's factual assertions. Interestingly no place do they address Ted Schneider Jrs. working relationship at USA, or the fact that Theodore Sr. sent emails regarding his opinion of Plaintiffs.

Plaintiff submits he has provided sufficient information to make a good faith claim and he should be allowed to amend his pleadings and given an opportunity to pursue the claim.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Janice Goodman', is written over the typed name.

Janice Goodman

cc: Glenn Gridlinger, Esq. (Via ECF)
Zev Singer, Esq. (Via ECF)

¹ In its 9F Statement, Defendant identified Ms. Bodman as a person who has information about this case.

From: Janice Goodman [<mailto:jg@janicegoodmanlaw.com>]
Sent: Monday, October 12, 2015 3:45 PM
To: Singer, Zev
Subject: RE: Can you talk?
Importance: High

Sorry—if you told me \$[REDACTED] is there, then of course even before I talk to Fred. But if the insurance company continues to be pig headed no way I can keep Fred's confidence in me if I agree to the adjournment before we have a number locked in. I know you are doing the best you can, but I hope you appreciate the difficult position that I am in. I have just returned to the city, so I can be reached at 212-869-1940 up to about 5:30. Lucky me I have tickets to tonights mets game.

Janice Goodman
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From: Singer, Zev [<mailto:zsinger@foxrothschild.com>]
Sent: Monday, October 12, 2015 2:56 PM
To: Janice Goodman <jg@janicegoodmanlaw.com>
Subject: RE: Can you talk?

Janice:

I am still waiting to hear back from the insurance company- and hope to today.

In the meantime, since we are very close and I am optimistic we can resolve this matter, Chuck Anderson has a client matter he would like to attend to on the west coast in lieu of flying in to New York. Can we adjourn his deposition so I can tell him he can change his flight today?

Thanks very much,

Zev Singer
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From: Janice Goodman [<mailto:jg@janicegoodmanlaw.com>]
Sent: Monday, October 12, 2015 10:54 AM
To: Singer, Zev
Subject: RE: Can you talk?

Janice Goodman

From: Janice Goodman <jg@janicegoodmanlaw.com>
Sent: Monday, October 12, 2015 4:13 PM
To: 'Singer, Zev'
Subject: RE: Can you talk?

I know we are both working hard here. Since maybe we can resolve before I leave lets defer the decision till we talk. I just can't say yes without at least telling him first, and I don't want to do that until I know where the insurance company stands.

Janice Goodman
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From: Singer, Zev [mailto:zsinger@foxrothschild.com]
Sent: Monday, October 12, 2015 3:50 PM
To: Janice Goodman <jg@janicegoodmanlaw.com>
Subject: RE: Can you talk?

I understand your position, but we are involved in good faith negotiations and it is simply a courtesy adjournment, not like you are waiving your right to anything.

If my client does not have to incur these additional fees of flying Chuck in and preparing him tomorrow, I think we can certainly use that with the insurance company as a push to get to [REDACTED]

Hopefully we have an answer before you leave today, but if not, I really think a courtesy adjournment of Chuck's deposition would be appropriate.

Go Mets!

Thanks,

Zev Singer
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