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Flames of 56-Day Deposition From Hell Produce Invoice From Hell



The deposition from hell is over, but the flames will burn hot, hot, hot.

Yes, I finally can report that the horrendously contentious and long-running deposition of Dr. David T. Teshbaum that began in May 2002 — and was the subject of two previous columns — wrapped up Dec.

10 after 56 days of testimony.

I don't know for certain whether 56 days of deposition is a world record. But my unscientific survey of attorneys' hot lines in the case suggests that Teshbaum's deposition lasted 25 to 50 times longer than the typical one- or two-day deposition.

In fact, there is evidence that Teshbaum's deposition is a world-record case lasted so long that it crossed some sort of apocalyptic barrier and entered a fiery purgatorial zone where every attorney involved became, um, slightly wicked from judicial discrimination and third-degree burns.

That may explain why, even though the deposit from Hades has ended and the lawyers have returned to this dimension, the bickering and the recriminations over the deposition continue into

this wonderful New Year.

Now, the attorneys are locked in argument over whether both sides in the dispute should split the fees owed to a discovery referee who oversees the deposition of Teshbaum and other expert witnesses, some of whom also testified for 20 or more days.

Plaintiff attorneys argue that the defense should bear the entire cost of the referee because the defense asked for the referee. The defense, however, says the plaintiff's lawyers are at least partly responsible for stretching out Teshbaum's deposition to such an unhealthy length.

One attorney involved in the case worry noted that the deposition from hell has become "the bridge from hell."

The two sides also are arguing over how much time Teshbaum should be allowed to review his 15,000 pages of testimony, 50 days or 100 days.

Here's where some background is useful. Teshbaum was a chief plastic surgeon in a clinic of San Bernardino Superior Court bankruptcy cases that got by some high-temperature plaintiff attorneys: Walter Luck, Thomas Canfield and Edward Meyer against several doctors in defendants from Glendale, Downey and Culver City.

The former, who also depured in the two-hour case, himself based in the movie "The Godfather."

represent several hundred residents of the Redlands area.

The referees argue that Gibson Dunn's client, the defense giant Lockheed Martin, contributed to the deposition with challenges.

The case dates to late 1996. Over that span of time, plaintiff attorneys say they have spent \$10 million pursuing the case. Moreover, Canfield last year estimated that \$1 million of that sum could be linked in some fashion to Teshbaum's deposition.

Canfield, Luck and Meyer filed several times to cut short Teshbaum's deposition, arguing that the length of questioning amounted to harassment. But trial and appellate courts disagreed and allowed Teshbaum to give his marathon testimony.

Meanwhile, Gibson's team, led by Robert S. Warren, complained that Teshbaum generally was available for questioning only in one- and two-day sessions, a strategy and inefficient allocation of time that contributed to the length of the deposition. In a telephone interview, Warren noted that his client, Lockheed, had to pay a jawbreaker sum, \$6,000 a day, or \$300,000, to Teshbaum for his expert testimony even though Teshbaum will testify for the plaintiffs when trial begins in November.

Teshbaum's fee and the expenses incurred by the plaintiffs in relationship to Teshbaum's deposit

from may explain why the two sides are arguing over whether they should split the fees owed to referee Diane Wayne, who oversees Teshbaum's deposition and frequently interrupted to quell disputes between warring attorneys.

Plaintiff attorney Garry Priggin asserted that, since the defense asked for the referee, the defense should bear the costs. If the plaintiffs are required to help pay Wayne's fee, Priggin estimated that they would have to cough up \$300,000 to \$600,000.

In case papers, Lockheed attorneys argued that "50/50 split is the fair allocation, particularly given the difficulty Lockheed Martin has had with Plaintiff experts."

As for the argument over how long Teshbaum should have to review his testimony, Priggin said Teshbaum is entitled to 100 days because of the extraordinary length of his testimony.

Warren disagreed, saying that defense experts were allowed only 30 days to review Teshbaum's voluminous deposition.

"It was OK to require our experts to look at his questions in 30 days, while he has the opportunity to wait and savor his testimony," Warren said. "Well, we don't think that's fair."

Hell really is eternal.