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File No. 45,658

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7 AND BRUCE WAGONER

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 In re:)	CASE NO. 98-51326 ASW-7
12 KEITH HENSON,)	
13 Debtor.)	
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15 HILARY DEZOTELL, an individual:)	ADV. NO. 035136
16 KEN HODEN, an individual: and)	
17 BRUCE WAGONER, an individual,	)	(1) MOTION FOR PROTECTIVE ORDER TO
Plaintiffs,	)	PRECLUDE SERVICE OF
18 vs.	)	INTERROGATORIES UPON NONPARTIES
19 H. KEITH HENSON, an individual,	)	AND PRECLUDING INQUIRING INTO
Debtor.	)	CERTAIN MATTERS PURSUANT TO
20 Defendant.	)	F.R.C.P. 26(c), APPLICABLE HEREIN
	)	UNDER Bkrty.C. § 7026(c) AND (2)
	)	DEBTOR'S EX PARTE MOTION TO JOIN
	)	CERTAIN PARTIES FOR INTERROGATORY
	)	SERVICE RE EXTRINSIC FRAUD

21 Date: September 6, 2005
22 Time: 11:30 a.m.
23 Courtroom: 3099
Judge: Arthur A. Weissbrodt

24 Plaintiffs HILARY DEZOTELL, an individual, KEN HODEN, an individual. and BRUCE
25 WAGONER, an individual, will and do hereby move this court for the following relief:

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28 (1) MOTION FOR PROTECTIVE ORDER TO PRECLUDE SERVICE OF INTERROGATORIES UPON
NONPARTIES AND PRECLUDING INQUIRING INTO CERTAIN MATTERS PURSUANT TO F.R.C.P. 26(c),
APPLICABLE HEREIN UNDER Bkrty.C. § 7026(c) AND (2) DEBTOR'S EX PARTE MOTION TO JOIN
CERTAIN PARTIES FOR INTERROGATORY SERVICE RE EXTRINSIC FRAUD
CASE NO. 98-51326 ASW-7/ADV. NO. 035136

1 1. For an order prohibiting Defendant from the service of Interrogatories, or any other
2 **discovery device**, served upon nonparties, including but not limited to, judges, clerks, witnesses,
3 district attorneys, attorneys, jurors, or for that matter, any other person or party peripherally
4 associated with the underlying civil case.

5 2. For an order prohibiting Defendant from inquiring into certain matters which are not
6 relevant to the subject matter of the action, subject to attorney-client privilege, matters which are
7 not reasonably calculated to lead to the discovery of admissible evidence, and matters which
8 themselves are outside the scope of any discovery, at all, **whether raised by Interrogatories, or**
9 **otherwise.**

10 3. For an order prohibiting Defendant from inquiring into certain matters constituting the
11 conduct, filings, legal process, jury selection, trial process and proceedings, occurring during or
12 around the prior state criminal and civil process, which led to both the criminal and civil
13 judgments which if they were even well taken, which they are not, **could at best constitute**
14 **claims of "intrinsic fraud."**

15 4. For an order prohibiting and precluding such discovery, an order quashing the service
16 of such discovery, and for an order allowing monetary sanctions in the amount of \$6,375.

17 This motion is made upon the grounds that Defendant has served multiple sets of
18 interrogatories upon third parties, that the subject matter of the discovery inquires into matters
19 which are not relevant, not reasonably calculated to lead to the discovery of admissible evidence,
20 deals with matters which are subject to attorney-client privilege, and moreover, deals with matters
21 which seek to attack the validity of the underlying Judgments in the criminal and civil
22 proceedings, and which were raised or could have been raised in the criminal and/or civil justice
23 system. The basis of this motion is also that Defendant seeks to inquire into matters which are
24 "intrinsic" to the underlying criminal and civil process, such as and including, jury selection,
25 choice of the trial judge, conduct at the trial itself, actual participation by the parties at the trial,
26 and like matters. These issues were raised in the state courts and were rejected and HENSON was

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1 barred by the state appellate court from raising them on appeal because he is a fugitive.

2 This motion is based upon this Motion, the Notice of Hearing, the Memorandum of Points
3 and Authorities, the Declaration of David J. Cook, Esq., the Declaration of Bruce Wagoner. upon
4 all pleadings, papers and other matters on file herein, and upon all oral evidence and argument
5 which may be presented at the hearing hereof.

6 DATED: August 31, 2005

COOK, PERKISS & LEW, P.L.C.

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8 By: /s/ David J. Cook
9 DAVID J. COOK, ESQ. (SB# 060859)
10 Attorneys for Creditors HILARY DEZOTELL,
11 KEN HODEN, AND BRUCE WAGONER

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