

HOPKINS RODEN CROCKETT
HANSEN & HOOPES, PLLC
Gregory L. Crockett, ISBN 1640
428 Park Avenue
P. O. Box 51219
Idaho Falls, Idaho 83405-1219
Telephone: 208-523-4445
Attorneys for Deponent Jeff Neiswanger

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

TELE-SERVICING INNOVATIONS, INC.,

Defendant.

BRITTANY BAKER,

Plaintiff in Intervention.

Case No. CIV-03-221-E-BLW

DEPONENT JEFF NEISWANGER'S
OBJECTION TO SUBPOENA AND MOTIONS
TO QUASH, MODIFY, AND ENTER
PROTECTIVE ORDER

COMES NOW Jeff Neiswanger, a potential deponent in this action, by and through his attorneys, and pursuant to Rule 45 of the Federal Rules of Civil Procedure, hereby objects to the Subpoena served on him on September 7, 2005, commanding him to produce a broad category of documents and give testimony on September 20, 2005. A true and correct copy of the Subpoena is attached hereto as Exhibit "A", and made a part hereof by this reference. Mr. Neiswanger further respectfully moves for an order quashing the Subpoena or in the alternative, modifying it appropriately and entering an appropriate protective order.

JEFF NEISWANGER'S OBJECTION TO SUBPOENA AND MOTIONS TO QUASH,
MODIFY, AND ENTER PROTECTIVE ORDER - 1

In support of his Objection and related Motions, Mr. Neiswanger represents and states the following:

1. Mr. Neiswanger's is an owner and principal in his own small business, Channel Blend, LLC, located in Salmon, Idaho.
2. Mr. Neiswanger was served with the Subpoena at issue on the evening of September 7, 2005. It was issued by counsel for the Plaintiff in Intervention on September 7, 2005, and commands him to produce a broad category of documents and provide testimony on September 20, 2005.
3. Mr. Neiswanger is not involved with the Defendant Teleservicing Innovations, Inc., and is not in possession or control of any documents, things or assets of that company.
4. There exists no relationship between the defendant company, Teleservicing Innovations, Inc., and Mr. Neiswanger's company, Channel Blend, LLC.
5. It is believed and therefore alleged that the Plaintiff in Intervention is currently employed by a competitor of Channel Blend, LLC and Mr. Neiswanger.
6. The Plaintiff in Intervention and her attorneys are simply engaged in a fishing expedition designed only to cause Mr. Neiswanger burden, expense, humiliation and embarrassment.
7. Mr. Neiswanger is not an owner, stockholder, officer, director or employee of the Defendant, Teleservicing Innovations, Inc.

8. Teleservicing Innovations, Inc. is believed by Mr. Neiswanger to be defunct; but any remnant of that company and its records are in the State of Colorado and those facts are well known to the Plaintiff in Intervention and her attorneys.

9. The documents sought by the Plaintiff in Intervention have absolutely no bearing or relevance to any issue or proceeding in this case.

10. The subject Subpoena does not comply with applicable law and/or the Federal Rules of Civil Procedure.

11. No appearance or mileage fee was or has been tendered.

12. Given the breadth of the documents requested, the Subpoena as issued does not provide Mr. Neiswanger with sufficient time to comply with its commands.

13. From a review of the court's file, it appears that the Subpoena was issued and served after conclusion and closure of this case and is therefore inappropriate.

14. The documents being sought include confidential information that is protected and protectable under the constitutional, statutory or common law right to privacy, contractual restrictions, and as Mr. Neiswanger's confidential business, financial, proprietary and trade secret information. In particular, such information is protected under the Idaho Trade Secrets Act, *Idaho Code §48-801, et.seq.* and Rule 45 of the Federal Rules of Civil Procedure.

15. The documents sought also include other confidential information that Mr. Neiswanger feels obligated to protect for the benefit of his customers and others who are also non-parties to this proceeding.

16. In light of the documents being sought, Mr. Neiswanger also anticipates that the testimony being sought from him will likewise include such confidential information.

17. Consequently, any compliance with the Subpoena as issued will wrongfully reveal such confidential information.

18. In the event some form of compliance is required, Mr. Neiswanger is entitled to entry of an appropriate protective order that will adequately protect against the disclosure and dissemination of such confidential information and in particular preclude such information from becoming known to his competitors and others.

19. The document requests are overbroad, vague and appear to seek information and documents not otherwise pertinent to this action.

20. The document requests are unlimited as to time.

21. The document requests are also not reasonably limited as to subject matter.

22. It also appears that many of the documents sought are also readily available to the parties from each other and/or from other more reasonably available sources.

23. Mr. Neiswanger has been and will be forced to expend considerable effort and incur substantial expense, including but not limited to reasonable attorneys fees, in order to comply with the Subpoena as issued, and complying with it imposes an undue burden on him.

24. The party seeking production has failed to take reasonable steps to avoid imposing such undue burden and expense upon Mr. Neiswanger. She has likewise failed to establish that there is a substantial need for Mr. Neiswanger's documents and testimony which cannot be otherwise met without undue hardship. Finally she has failed to assure that Mr. Neiswanger be reasonably compensated for the effort and expense that will be necessary to comply with the Subpoena as issued.

25. In the event some form of compliance is required, Mr. Neiswanger is entitled to be reasonably compensated for the necessary effort and expense involved in such compliance and hereby requests reasonable compensation for the same, including reimbursement for his reasonable attorney's fees.

Accordingly, Mr. Neiswanger desires and respectfully requests all appropriate relief from the commands of the Subpoena, in accordance with Rule 45 of the Federal Rules of Civil Procedure, including:

1. That the subject Subpoena be quashed to the extent it does not comply with the requirements of Rule 45 of the Federal Rules of Civil Procedure.
2. That the subject Subpoena be quashed to the extent it is vague, overbroad and unduly burdensome.
3. That the subject Subpoena be quashed to the extent it seeks disclosure of information that is protected under the constitutional, statutory or common law right to privacy, contractual restrictions or as confidential business, financial, proprietary and trade secret information and/or otherwise protected and protectable under the Idaho Trade Secrets Act, *Idaho Code §48-801 et.seq.* and other applicable law.
4. That the subject Subpoena be quashed to the extent it seeks information and/or documents that Mr. Neiswanger is obliged to maintain as confidential for the benefit of his customers and others.
5. That the subject Subpoena be quashed to the extent it has and will continue to subject Mr. Neiswanger to undue and substantial effort, expense and cost.

6. In the event some form of compliance is required, that the scope of the documents to be produced be appropriately narrowed with respect to pertinence, time and subject matter, and limited to those not already in the possession of or otherwise reasonably available to the Plaintiff in Intervention.

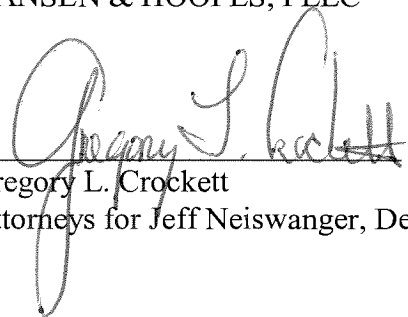
7. In the event some form of compliance is required, that an appropriate protective order be entered in Mr. Neiswanger's favor that will adequately protect against the disclosure and dissemination of confidential information and in particular preclude such information from becoming known to his competitors.

8. In the event some form of compliance is required, that Mr. Neiswanger be reasonably compensated for his effort and expense associated with compliance, including his reasonable attorney's fees.

9. That Mr. Neiswanger be afforded such other and further relief as may be just and equitable under the circumstances.

DATED this 14th day of September, 2005.

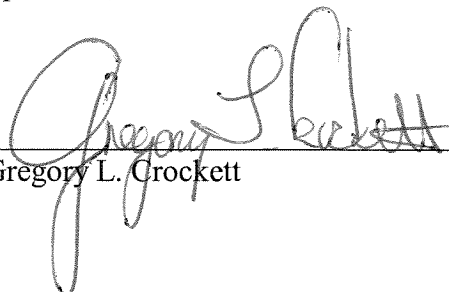
HOPKINS RODEN CROCKETT
HANSEN & HOOPEES, PLLC

By 
Gregory L. Crockett
Attorneys for Jeff Neiswanger, Deponent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

DATED this 14th day of September, 2005.



Gregory L. Crockett

T. Jason Wood, Esq.
THOMSEN STEPHENS LAW OFFICES
2635 Channing Way
Idaho Falls, ID 83404

T. Jason Wood, Esq., ISB #5016
THOMSEN STEPHENS LAW OFFICES
2635 Channing Way
Idaho Falls, ID 83404
Telephone (208) 522-1230
Fax (208) 522-1277

Attorneys for Plaintiff in Intervention, Brittany Baker

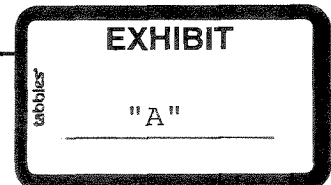
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

EQUAL EMPLOYMENT OPPORTUNITY)	Case No. CIV-03-221-E-BL.
COMMISSION,)	
Plaintiff,)	
vs.)	
TELE-SERVICING INNOVATIONS,)	SUBPOENA TO APPEAR AT
INC.,)	DEPOSITION DUCES TECUM
_____)	(RULE 69 FRCP)
BRITTANY BAKER,)	
Plaintiff in Intervention,)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

JEFFREY NEISWANGER

YOU ARE HEREBY COMMANDED to appear at Thomsen Stephens Law Offices, PLLC, on 2635 Channing Way, Idaho Falls, Idaho, on the 20 day of September, 2005, at 1:00 o'clock p.m. as a witness in the above entitled action for the purpose of your deposition being taken at the request



of Plaintiff Brittany Baker regarding business, legal, personal and financial information, documentation and records pertaining to Defendant Teleservicing Innovations, Inc. and the formation and operation of Channel Blend, LLC.

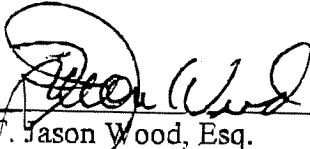
YOU ARE FURTHER COMMANDED to bring with you the following items and documents:

Any and all documentation pertaining to the liquidation and/or sale of assets of Teleservicing Innovations, Inc., and the organization, funding and formation of Channel Blend, LLC, including but not limited to all legal, personal, business and financial records relevant to any transaction, asset, liability, legal matter including but not limited to any buy/sell agreement, documentation of the sale or purchase of assets, written communication, business plan, legal documents, and other records or documents relevant to these events.

YOU ARE FURTHER NOTIFIED that if you fail to appear at the place and time specified above, you may be held in contempt of court, and the aggrieved party may recover from you the sum of \$100.00 and all damages which he may sustain by your failure to attend as a witness.

DATED this 7th day of September, 2005.

BY ORDER OF THE COURT.



T. Jason Wood, Esq.
Licensed Attorney for The State of Idaho

Tjw:cs
4006V023 subpoena Neiswanger