

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 OBSIDIAN FINANCE GROUP, LLC, )  
4 and KEVIN D. PADRICK, )  
5 Plaintiffs, ) No. 3:11-cv-57-HZ  
6 vs. ) August 30, 2011  
7 CRYSTAL COX, ) Portland, Oregon  
8 Defendant. )  
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15 **TELEPHONIC HEARING**

16 TRANSCRIPT OF PROCEEDINGS

17 BEFORE THE HONORABLE MARCO A. HERNANDEZ

18 UNITED STATES DISTRICT COURT JUDGE  
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APPEARANCES

FOR THE PLAINTIFFS: David S. Aman  
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Tonkon Torp, LLP  
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Portland, OR 97204

FOR THE DEFENDANT: Crystal Cox  
Pro se  
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COURT REPORTER: Nancy M. Walker, CSR, RMR, CRR  
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Portland, OR 97204  
(503) 326-8186

1 P R O C E E D I N G S

2 THE CLERK: Hello. Hi. We're here on the case  
3 of Obsidian Finance Group, LLC, et al. versus Cox, Civil  
4 Case No. 11-57-HZ, Judge Hernandez presiding.

5 We do have a court reporter, so gentlemen for the  
6 plaintiff, if you could identify yourselves before you  
7 speak, it would be appreciated.

8 Now, if everyone could state their appearances  
9 for the record, starting with the plaintiff.

10 MR. AMAN: David Aman here for the plaintiff.

11 MR. WILKER: Steven Wilker here for the  
12 plaintiff.

13 THE COURT: Ms. Cox, why don't you introduce  
14 yourself.

15 MS. COX: Crystal Cox here for myself, pro se  
16 defendant.

17 THE COURT: Thank you.

18 So I needed to get some calendaring issues taken  
19 care of, and there are two of them that I want to talk to  
20 all of you about. One of them has to do with a trial  
21 date, and we'll talk about that in a moment. And the  
22 other one has to do with motions regarding Ms. Cox's  
23 counterclaims.

24 And I think, Mr. Aman and Mr. Wilker, we had  
25 talked in one of the opinions that I had issued regarding

1 getting your motions on those claims filed so that we can  
2 get a decision on those.

3 Can you get those motions filed in the next 10  
4 days, Mr. Aman?

5 MR. AMAN: Yes, we can, Your Honor. This is  
6 David Aman.

7 THE COURT: Okay. So if we get those filed  
8 within the next 10 days, Ms. Cox, I'll give you an  
9 additional 10 days to respond to their motions. Then  
10 we'll go from there on those motions. I think that  
11 should have all of the pleadings in order for trial,  
12 which is the second thing to set up, and we'll do that  
13 right now.

14 The trial for this matter, I'm looking at  
15 January. Are you going to be able to -- ready to try  
16 this case in January, gentlemen?

17 MR. AMAN: Your Honor, because of scheduling  
18 issues at our end, we would like to look at March, if we  
19 can.

20 THE COURT: Do you really need to go out that  
21 far?

22 MR. AMAN: Your Honor, we do, just because of  
23 some scheduling issues at our end for our witnesses.

24 THE COURT: Hang on just a second. Can we do it  
25 sooner than January?

1 MR. AMAN: I'm looking at my calendar, Your  
2 Honor.

3 THE COURT: Okay.

4 MR. AMAN: I believe we can, Your Honor.

5 THE COURT: What does it look like for me? How  
6 about the first part of December?

7 THE CLERK: We have a trial that week, two  
8 trials.

9 THE COURT: I want to get a date fairly certain  
10 that we can get this thing out.

11 THE CLERK: November 22nd.

12 THE COURT: November 22nd, will that work for you  
13 all?

14 MR. AMAN: We're looking right now, Your Honor.

15 THE COURT: Are you guys going to be a jury  
16 trial?

17 MR. AMAN: A jury trial, Your Honor, yes.

18 THE COURT: Okay. Can we start on Monday? How  
19 about on Monday, the 21st?

20 MR. AMAN: Your Honor, I have a trial the  
21 following week that may go into that week.

22 THE COURT: I'm sorry. You have one that starts  
23 the following week that may go into --

24 MR. AMAN: No, I'm sorry. I have one that starts  
25 the week before, that may run into that week.

1 THE COURT: Okay. The 29th of November?

2 MR. AMAN: No, I think that's available, Your  
3 Honor.

4 THE COURT: Ms. Cox, is the 29th of November  
5 available for you?

6 MS. COX: Yes.

7 THE COURT: Okay. So this will be scheduled for  
8 the 29th of November at 9:00 in the morning in my  
9 courtroom.

10 How many witnesses do you anticipate calling on  
11 behalf of the plaintiff, Mr. Aman?

12 MR. AMAN: Probably four.

13 THE COURT: And, Ms. Cox, besides yourself, do  
14 you have any additional witnesses that you anticipate  
15 calling?

16 MS. COX: I am not certain at this time.

17 THE COURT: Okay.

18 MS. COX: But I have several.

19 THE COURT: Okay. It sounds like we may be able  
20 to complete this trial in just a couple of days.

21 Mr. Aman, would you agree with that?

22 MR. AMAN: I was expecting three days, Your  
23 Honor, two to three.

24 THE COURT: All right. Then other than that, go  
25 ahead and get your motions to me. And then I will see

1     you, then, in November.

2             MR. AMAN: Thank you very much, Your Honor.

3             MS. COX: Can I ask a question?

4             THE COURT: Certainly.

5             MS. COX: Am I allowed to ask for discovery from  
6     the plaintiff or anything during this time or how does  
7     that work?

8             THE COURT: Yeah, I don't -- I think all of the  
9     discovery dates are way past. If there is specific  
10    discovery that you want from them, go ahead and make a  
11    request.

12            MS. COX: What material facts do I have to prove  
13    at the trial? I need to prove tax fraud against them,  
14    right? So I would need discovery.

15            THE COURT: Now we're in a place where I can't  
16    really advise you because I'm a judge and I'm supposed to  
17    remain impartial. You may want to consult with a lawyer;  
18    that's about the best advice I can give you. But as  
19    regards what you're going to have to prove and those  
20    kinds of things, I can't advise you about that. That's  
21    for a lawyer to do.

22            MS. COX: Okay. But I am allowed to ask them for  
23    discovery of whatever I want.

24            THE COURT: You can ask them for whatever you  
25    want.

1 MS. COX: Okay. Thank you.

2 THE COURT: You're welcome.

3 Then that's it from the Court. Mr. Aman, do you  
4 have anything else from your perspective?

5 MR. AMAN: Your Honor, the one thing I do want to  
6 note on the discovery issues, Your Honor, we initially  
7 asked the Court, early on, to set a Rule 16 conference,  
8 which I understood was being pushed back, to set  
9 scheduling, including discovery deadlines. And the  
10 Court -- we got a note back from the Court that said  
11 those issues would be deferred until after the summary  
12 judgment ruling.

13 THE COURT: Hang on just a second. Let me look.

14 THE CLERK: I don't show a Rule 16 and I don't  
15 show a request.

16 MR. AMAN: I sent an e-mail -- let me look at the  
17 e-mails here real quick, Your Honor.

18 THE CLERK: In any event, the answer to the  
19 counterclaims was filed May 26th, and then that was  
20 during the summary judgment briefing. And an opinion and  
21 order was issued July 7th.

22 MR. AMAN: The e-mail I've got is from May 23rd  
23 of 2011, where we had earlier made a request for a  
24 Rule 16 conference, on April 27th. And the report back I  
25 got was that since there was a pending motion for summary



1 judgment, I would suggest we wait for a ruling and then  
2 set a Rule 16 conference, with the expectation from our  
3 end that we would talk about -- to the extent we wanted  
4 to do additional discovery or discovery, we would talk  
5 about all those issues at the time.

6 THE COURT: Are you anticipating needing  
7 discovery from Ms. Cox?

8 MR. AMAN: Very limited, yes.

9 THE COURT: Do you want me to go ahead and set a  
10 deadline now for the close of your discovery?

11 MR. AMAN: Yes.

12 THE COURT: What do you want?

13 MR. AMAN: I think if we had 45 days, that would  
14 be sufficient.

15 THE COURT: Where is that going to take us to?  
16 I don't have my calendar.

17 THE CLERK: Middle of October.

18 THE COURT: Ms. Cox, does that sound okay to you?

19 MS. COX: I would like more time, if possible,  
20 even 60 days. I mean, I have to get things back from the  
21 IRS, so 60 days would work for me, whatever you prefer.

22 THE COURT: Let's do 45 days. I think that that  
23 kind of gives both sides enough time to get whatever  
24 documents you need from each other. Documents from the  
25 IRS are not something that are in the possession and

1 control of Mr. Aman and Mr. Wilker.

2 MS. COX: I understand that.

3 THE COURT: So I'll give you 45 days to get your  
4 discovery completed. And that deadline will then be  
5 October the 15th of this year.

6 Mr. Aman and Mr. Wilker, do you have anything  
7 else we need?

8 MR. AMAN: This is Mr. Aman. We do not. Thank  
9 you.

10 MS. COX: If David Aman does not -- if they don't  
11 give me discovery by that date, then that's just  
12 something I have to deal with or --

13 THE COURT: Right. You might want to take a  
14 look -- and the rules are online. You can take a look at  
15 the rules online about what it is you need to do in order  
16 to do your discovery requests and what remedies may be  
17 available to you.

18 MS. COX: So discovery requests, we can't extend  
19 that date. They could just ignore it until that date.

20 THE COURT: Again, you're in that place where I  
21 can't advise you.

22 MS. COX: Well, I have to prove tax fraud. If  
23 they refuse to bring the documents in, then I'm just  
24 done.

25 So anyway, thank you for your time.

1 THE COURT: All right. Thank you very much.  
2 We'll see you in November.

3 MR. AMAN: Thank you, Your Honor.  
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6 (Proceedings concluded.)  
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/s/ Nancy M. Walker

NANCY M. WALKER, CSR, RMR, CRR  
Official Court Reporter  
Oregon CSR No. 90-0091

DATE \_\_\_\_\_