

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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IN RE: :
FAITH ELYZABETH ANTONIO : Case No. 8:20-bk-07637-CPM
Debtor : Chapter 7
: :
----- :
DGP PRODUCTS, INC. : Adv. No. 8:20-ap-00537-CPM
d/b/a NUMERIC RACING :
Plaintiff :
vs. :
FAITH ELYZABETH ANTONIO :
Defendant :
----- :

U.S. Courthouse
801 North Florida Avenue
Tampa, Florida 33602
Held January 6, 2022

TRANSCRIPT OF HEARING - REVISED

*(Revised to correct typos at Pg.42, Ln.4; Pg.79, Ln.25;
Pg.89, Lns. 16&17; Pg. 118, Ln. 25)*

[Re: 8:20-ap-00537]

1-Continued Hearing on Emergency Motion for Protective Order for the November 19, 2021 Deposition of Faith Antonio, Filed by Defendant Faith Elyzabeth Antonio (Doc. #441); 2-Discovery Management Conference (Sanctions as to non-appearance at deposition); Motion For Sanctions for Plaintiff's Failure to Comply with Court's Order to Provide Discovery, Filed by Defendant Faith Elyzabeth Antonio (Doc. #278).....

[NATURE OF PROCEEDINGS CONTINUED ON NEXT PAGE]

BEFORE THE HONORABLE CATHERINE PEEK MCEWEN
UNITED STATES BANKRUPTCY JUDGE

PROCEEDINGS DIGITALLY RECORDED BY COURT PERSONNEL
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1 have page and lines.

2 THE COURT: Yes.

3 MS. CRUZ-GARCIA: Instead of starting over on day
4 two with page 1, the transcript, as I received it and filed
5 it, continued --

6 THE COURT: I see. So you're not using the
7 Court's banner. You're using --

8 MS. CRUZ-GARCIA: That's correct.

9 THE COURT: I got it, okay. Then let me go --
10 okay, I'm looking in the upper right-hand corner of the page
11 of the deposition transcript. I'm at page 193, line 25, and
12 I'm to continue over to page 194, line 4.

13 I'm trying to go back and see where the actual
14 question begins so I can find out what question it is you're
15 asking me to have her answer. (Reviewing document.)

16 Okay. The question appears to be -- and it starts
17 at page 199 -- excuse me, 191, upper right-hand corner of
18 deposition page. This is page 22 of 172 of 485-1. The
19 question is at line 23. "Is there anyone else who heard or
20 was aware of Daniel's purported agreement to pay for a tummy
21 tuck and a breast augmentation in June of" -- and then the
22 answer is, "This is really out of line."

23 The questioner finishes, "in June 2014."

24 The answer, "This has nothing to do with what's in
25 the Complaint or my answering these questions."

1 So then you argued quite a bit about it. The CSO
2 asks you all to not talk over each other.

3 And so the question is: Should she answer that
4 question, "Is there a third party who heard or was aware of
5 the agreement to pay for a tummy tuck and a breast
6 augmentation?"

7 So let me ask Mr. Solomon. Is there a dispute
8 about who paid and whether this is an obligation that is
9 coming under the Complaint?

10 MR. SOLOMON: I don't know whether there is a
11 dispute on her behalf. We say that this was an expense that
12 was paid, and I wanted to know which transactions were valid
13 and which transactions weren't. I don't have to ask just
14 about the transactions that --

15 THE COURT: The Complaint does not seek
16 reimbursement for those expenses.

17 MR. SOLOMON: I want to know what the distinction
18 is. How would she -- I don't want to argue my whole case,
19 but the long and the short of it is, how would you know
20 which transactions were permitted and which were not? She
21 gave me other answers, such as, "Well, we were boyfriend and
22 girlfriend."

23 And I asked a series of questions about the
24 various types of gifts or quasi-gifts or things that could
25 arguably be gifts so that I could draw a pattern between the

1 gifts and the transactions. If she has a --

2 THE COURT: Okay, then, Mr. Solomon, you don't
3 have anything like this in the Complaint. You're not
4 seeking reimbursement based on fraud or willfulness and
5 maliciousness for her submitting to some kind of surgery.

6 MR. SOLOMON: Well, she says all of these, every
7 -- no, it's the other way around. She says, "All of the
8 things that I got were because they were gifts to me." So I
9 want to go through which -- was there somebody there that
10 knew that these were gifts. She says that "This was
11 something that he agreed to support me and they were gifts."

12 THE COURT: Okay. Whether it's a gift or not a
13 gift, is it something you're suing over?

14 MR. SOLOMON: I don't know yet.

15 MS. ANTONIO: Your Honor, that would appear on
16 his personal bank account, nothing to do with DGP Products,
17 so --

18 THE COURT: You don't have to talk right now.

19 MS. ANTONIO: I know.

20 THE COURT: I'm not finished, ma'am.

21 MS. ANTONIO: Okay.

22 THE COURT: Is this honestly disputed about
23 whether somebody paid for her surgery and whether they did
24 so with the expectation of getting it back? If that's part
25 of the proof of claim -- and I don't know that it is. If

1 it's part of the proof of claim and that whoever it is that
2 filed the proof of claim is seeking to be reimbursed because
3 that was the agreement, I'll grant you that. But I don't --
4 is your contention that DGP paid for the surgery, Mr.
5 Solomon?

6 MR. SOLOMON: I don't know who she claims paid for
7 the surgery or how it came about.

8 THE COURT: No, no. We have to make sure it's
9 relevant to what we're doing in bankruptcy. If someone paid
10 for surgery with the expectation of being reimbursed, that
11 someone needed to file a proof of claim to ask for
12 distribution from the Trustee. And then we set up the
13 claims objection process.

14 I am unaware that the surgery bills were part of
15 the company proof of claim and there's nothing in the
16 Complaint that suggests that she stole money to get
17 surgeries, and therefore that falls under 523(a)(2)(4) or
18 (6).

19 MR. SOLOMON: I understand what the Court is
20 saying. I don't think the Court is -- that I'm articulating
21 clearly what my concern is.

22 Since I don't believe anything it is that she said
23 or how she characterized any of this, I get to look into, I
24 think, all of the various manners in which she received
25 things of value and whether or not there is some consistency

1 and whether you're going to believe it or not, because
2 there's two stories here.

3 "I didn't know she was ripping me off" and the
4 other is, "Sure you did. We were boyfriend and girlfriend."
5 Those are the two sides of the story and I want to know when
6 did he tell you and what did he tell you, and is there
7 anybody else who's going to be able to corroborate the
8 story?

9 She says at one point, which frankly truncated a
10 whole lot of questions that nobody ever heard her say any
11 -- heard him say anything and neither can she report
12 anything in terms of what he said that she could take or --
13 and she never told him anything about it.

14 So all of that creates a pattern as to whether --
15 not for that particular transaction, but the characteristics
16 of that transaction as it relates to the other transactions
17 to her believability of her story.

18 How did it happen? When this happened, was that
19 something that you celebrated? Is that something, because
20 you were having breast augmentation, that was something that
21 you went out and had a party about? Is that something that
22 everybody would know about? Why is it any different for
23 this or that? I want to know what happened because I don't
24 believe --

25 THE COURT: Mr. Solomon, day-to-day transactions

1 are one thing. Buying a car or a boat or new body parts is
2 something else. Is it seriously contended that people
3 didn't know she was going to go have surgery and was pulling
4 out money from somebody unwittingly to pay for the surgery?
5 Is that what's at bottom here? Because if that's what's at
6 bottom, that's not in the Complaint.

7 This is a big ticket item. Is it a surprise?

8 MR. SOLOMON: I don't know. I'm asking what
9 she thinks it is so that she can tell me how it was
10 characterized.

11 THE COURT: Okay, then you file --

12 MR. SOLOMON: That's what discovery was for.

13 THE COURT: Then you may file a more definite
14 statement, a supplemental more definite statement that you
15 believe that she is guilty under 523(a)(2)(4) or (6),
16 whatever the ones are. I'm not opening it up. If you
17 didn't say (a)(2), then that's off the boards.

18 (a)(4), if you, as an officer of the Court, will
19 sign that she embezzled the money to get the surgery, I'll
20 let you ask her the questions.

21 MR. SOLOMON: That's not the purpose of the
22 discovery.

23 THE COURT: It's --

24 MR. SOLOMON: That would be the purpose of a
25 claim --

1 THE COURT: Don't argue with me. It's got to be
2 proportional to what you have pleaded. This is an out-of-
3 the-ordinary transaction. I want somebody with candor to
4 the Court, to put their name in writing and say, "I didn't
5 know she was having this surgery on me. I didn't know she
6 pulled the money out of company accounts to pay the doctor."

7 MR. SOLOMON: That's not our claim.

8 THE COURT: I didn't know --

9 MR. SOLOMON: That's not our claim.

10 THE COURT: That's what you've pleaded.

11 MR. SOLOMON: That -- with respect to that --
12 yes, but not with respect to that transaction. I want to
13 know whether that trans -- what was different about that
14 transaction. You've identified some things that you think
15 are different about that transaction, the size of it --

16 THE COURT: Mr. Solomon, it's not relevant to your
17 Complaint. It might be relevant to a proof of claim that
18 has not been filed, and now cannot be timely filed if Mr.
19 Geberth himself paid his personal funds for that. I do not
20 see the relevance.

21 MR. SOLOMON: Yes, ma'am.

22 THE COURT: Now, on your part, why couldn't you
23 just answer? Did anyone else hear you all discuss that?

24 MS. ANTONIO: It was just to the point where a
25 transaction in 2014 --

CERTIFICATE

This certifies that the foregoing constitutes the official verbatim transcript produced to the best degree possible, on an expedited basis, from the FTR digital recording, and/or MP3 backup, and/or telephonic audio recording, as recorded, logged, maintained, and provided by court staff.

I further certify that I am neither counsel for, nor related to, nor an employee of any of the parties to the action in which this hearing was taken and, further, that I have no personal interest in the outcome of the action.



Cheryl Culver
Certified Court Reporter

February 10, 2022

Date

For Johnson Transcription Service
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Middle District of Florida