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Order on Motion to Clarify (IH RIVERDALE, LLC)

Elizabeth E. Long
Superior Court of Fulton County

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

IH RIVERDALE, LLC and GEOFFREY NOLAN,	)	
Plaintiffs,	)	Civil Action No.: 2003CV73603
v.	)	
MCCHESNEY CAPITAL PARTNERS, LLC, RIVERDALE CAPITAL INVESTMENTS, LLC, GEORGE MCCHESNEY, NICHOLAS WALLDORFF, MEADOW SPRINGS, LLC, G&I DEVELOPMENT CO., LLC, MCCHESNEY INVESTMENT ADVISORS, LLC, and HOMESTEAD CONSTRUCTION,	)	
Defendants.	)	

FILED IN OFFICE
MAY 13 2008
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

ORDER ON MOTION TO CLARIFY

On April 22, 2008, the parties in this action appeared before the Court to present oral argument on Plaintiffs' Motion to Clarify an October, 2007 discovery order issued by this Court (the "Discovery Order"). After reviewing the arguments presented by counsel, the briefs on the motion, and the records of the case, the Court finds as follows:

In the Discovery Order, this Court ruled that depositions "shall not be duplicative of previous depositions, but shall extend to [all related] actions..." This language has been interpreted as the "old ground versus new ground" distinction. This language and the parties' divergent interpretation of it has resulted in continuous discovery disputes because of the overlapping temporal and factual considerations in this action and two other related actions before this Court.

Defendants argue that the new versus old ground distinction is temporal and should bar Plaintiffs' inquiry into events that occurred before previous depositions were taken. Plaintiffs, on the other hand, argue that the new versus old ground is not a strict temporal distinction, but is

dependent upon the facts of each case as learned through discovery. The Court hereby finds that the old versus new ground is not a strict temporal distinction, but is dependent upon the facts of each case and the sequence in which they were discovered. In order to facilitate a workable determination of old versus new ground, within ten (10) days of the date of this Order, the parties are hereby **ORDERED** to submit to the Court in writing a list of the remaining depositions needed to be taken in this case and in the two related cases (civil action numbers 2004CV83192 and 2006cv122675), a detailed outline of the issues to be addressed in each deposition, and what previous depositions, if any, are relevant to this scope of proposed depositions. Thereafter, the Court shall review the deposition transcripts of previous depositions and consider appointing a special master to oversee the remaining depositions.

SO ORDERED this 13th day of May, 2008.

ELIZABETH E. LONG, JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit

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