

STATE OF NORTH CAROLINA
COUNTY OF HALIFAX

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
08 CVS 922

MILTON JAMES GARRETT, in Behalf of)
Himself and the CITY OF ROANOKE)
RAPIDS and its TAXPAYERS,)
Plaintiff)

v.)

RANDLE "RANDY" H. PARTON, RICHARD)
"RICK" G. WATSON; ERNEST C.)
PEARSON; MOONLIGHT BANDIT)
PRODUCTIONS, LLC; MOONLIGHT)
BANDIT PROPERTIES, LLC; FRIENDS OF)
MOONLIGHT BANDITS, LLC; MOONLIGHT)
BANDIT CONCESSIONS, LLC;)
MOONLIGHT BANDIT MERCHANDISING,)
LLC; NORTHEASTERN NORTH)
CAROLINA REGIONAL ECONOMIC)
DEVELOPMENT COMMISSION; and)
NORTH CAROLINA'S NORTHEAST)
PARTNERSHIP,)
Defendants)

**ORDER ON MOTION TO QUASH
AND FOR PROTECTIVE ORDER**

THIS CAUSE, designated a mandatory complex business case by Order of the Chief Justice of the North Carolina Supreme Court, pursuant to N.C.G.S. §7A-45.4(b), and assigned to the undersigned Special Superior Court Judge for Complex Business Cases, by order of the Chief Special Superior Court Judge for Complex Business Cases, now comes before the court upon the motions of Defendants Randle "Randy" H. Parton; Moonlight Bandit Productions, LLC; Moonlight Bandit Properties, LLC; Friends of Moonlight Bandit, LLC; Moonlight Bandit Concessions, LLC; and Moonlight Bandit Merchandising, LLC ("Defendants"); to (a) quash Plaintiff's subpoena (the "Motion to Quash") to Cathy Scott pursuant to Rule 45 of the North Carolina Rules of Civil

Procedure (“Rule(s)” 45; and (b) for a Protective Order (the “Motion to Stay”) pursuant to Rule 26(c), staying discovery until the court rules upon Defendants’ pending Rule 12 motions to dismiss (the “Rule 12 Motions”); and

THE COURT, having considered the motions, the submissions of the parties, the efficiencies of litigation, and the ends of justice, FINDS and CONCLUDES that:

MOTION TO QUASH

1. The proposed deposition of the non-party witness Cathy Scott appears reasonably calculated to lead to the discovery of evidence that is relevant to the subject matter involved in this civil action.

2. Further, there has been no showing that the proposed witness is not subject to the jurisdiction of this court or that the taking of her testimony otherwise is improper.

3. Accordingly, the court finds no basis for quashing the subpoena for her testimony relative to the issues in this matter, and the Motion to Quash therefore is DENIED.

MOTION TO STAY

1. The court has pending before it the Rule 12 Motions by the respective Defendants.

2. There are numerous parties and attorneys involved in this action, and a number of complicated legal issues and theories have been presented for the court for determination as part of the Rule 12 Motions.

3. The Rule 12 Motions are ripe for decision and the court anticipates publishing its ruling in the near future.

4. Depending upon the court's ultimate ruling on the Rule 12 Motions, a brief stay of early discovery initiatives has the laudable potential of minimizing fees, expenses and the various costs of litigation for the parties in this matter. Such a stay is in the best interests of justice.

5. Consequently, the court concludes that good cause has been shown by movants for staying the deposition of Cathy Scott until such time as the court has ruled upon Defendants' Rule 12 Motions, and the Motion to Stay the deposition of Cathy Scott therefore is GRANTED. To the extent these issues are then relevant, the court will lift this stay order and revisit discovery scheduling after publishing its ruling on the Rule 12 Motions.

SO ORDERED, this the 15th day of December, 2008.

/s/ John R. Jolly, Jr.
John R. Jolly, Jr.
Special Superior Court Judge for
Complex Business Cases