

FILED IN
4TH DISTRICT COURT
STATE OF UTAH
UTAH COUNTY

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IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

RALPH J. YARRO III, an individual,
DARCY G. MOTT, an individual, and
BRENT D. CHRISTENSEN, an individual,

Plaintiffs,

vs.

VAL NOORDA KREIDEL, an individual,
TERRY PETERSON, an individual,
WILLIAM MUSTARD, an individual, THE
NOORDA FAMILY TRUST, a Utah Trust,
RAYMOND J. NOORDA, an individual
and a trustee of the Noorda Family Trust,
LEWENA NOORDA, an individual and a
trustee of the Noorda Family Trust, and
JOHN DOES 1 THROUGH 10,

Defendants,

THE CANOPY GROUP, INC., a Utah
corporation,

Intervenor Defendant.

**REPLY MEMORANDUM IN
SUPPORT OF PLAINTIFFS'
MOTION TO SEAL AFFIDAVITS,
AND MOTION FOR PROTECTIVE
ORDER**

Civil No. 050400205

Honorable Anthony W. Schofield, Div. 8

Plaintiffs Ralph J. Yarro III, Darcy G. Mott and Brent D. Christensen (hereafter referred to collectively as “plaintiffs”) respectfully submit their Reply Memorandum In Support Of Plaintiffs’ Motion to Seal Affidavits, and Motion for Protective Order.

ARGUMENT

Defendants’ characterization of plaintiffs’ request for an order prohibiting defendants from taking “retaliatory action” against any person or entity who provides testimony (through deposition, affidavit or otherwise) related to this litigation as some type of “extraordinary protective order” is misplaced. Indeed, there is nothing “extraordinary” at all about plaintiffs’ request. Plaintiffs are simply trying to protect those persons or entities that provide testimony during this litigation from being subject to retaliation from the defendants.

It has been well documented that William Mustard is currently operating the affairs of Canopy with a heavy hand. Mr. Mustard has treated Canopy employees in an intimidating, rude and hostile manner, he has bullied employees into signing backdated documents, and has showed no sympathy regarding the tragic death of one of Canopy’s valued employees. In addition, Mr. Mustard has also threatened to withhold funding from at least one Canopy portfolio company unless the company removed Mr. Yarro and Mr. Mott from its board of directors. These documented and concrete examples of Mr. Mustard show, significantly, that plaintiffs’ request that defendants be ordered not to retaliate against those supplying testimony in this case is both reasonable and necessary. Based on the previously documented actions, if plaintiffs’ request is

not granted it is very likely that those persons or entities that supply testimony in this case will suffer retaliation in one form or another.

There is no legal authority that prevents this court from ordering the requested relief. Moreover, if the court fails to grant the relief sought, it will most likely have a chilling effect on getting to the truth of the matters at issue in this case. Plaintiffs' request is not "extraordinary," it is basic and simple. Moreover, if plaintiffs' request is granted it will secure that the truth will come out because those that may not be forthcoming because of fear of retaliation from defendants will have the security of knowing that the court will protect them.

Plaintiffs' request should be granted because it will provide security and will empower those persons to come forward with information, who might otherwise not because of the fear of retaliation by defendants.

DATED this 24th day of February, 2005.

SNOW, CHRISTENSEN & MARTINEAU

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of February, 2005, a true and correct copy of **REPLY MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO SEAL AFFIDAVITS, AND MOTION FOR PROTECTIVE ORDER** (Case No. 050400205, Fourth Judicial District Court, Utah County, State of Utah) was served on the following by U. S. mail, postage prepaid, addressed as follows:

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