

CAUSE NO. 417-04885-2016

CALCO LAND DEVELOPMENT, L.L.C.,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
V.	§	417th JUDICIAL DISTRICT
UNITY RESOURCES, L.L.C.,	§	
MARK THOMAS MERSMAN,	§	
MARK JOSEPH SOLOMON, JR.,	§	
TRADE RARE, L.L.C.,	§	
BYRON CURTIS COOK,	§	
JOEL HOCHBERG, and	§	
SHINER ENERGY & CONSULTING CORP.	§	
	§	
Defendants.	§	COLLIN COUNTY, TEXAS

**PLAINTIFF CALCO LAND DEVELOPMENT, L.L.C. AND
W. KENNETH PAXTON, JR.'S SECOND MOTION FOR
PROTECTIVE ORDER AND TO QUASH SUBPOENA**

Plaintiff Calco Land Development, L.L.C. (“Calco”) and non-party W. Kenneth Paxton, Jr. (“Paxton”) files this Second Motion for Protective Order and to Quash Subpoena (the “Motion”), and, in support thereof, shows the Court as follows.

I.
INTRODUCTION

1. On Friday, July 1, 2022, counsel for Defendants Trade Rare, L.L.C., Byron Curtis Cook, and Joel Hochberg served non-party Paxton with a subpoena ordering him to appear and testify by deposition in this matter on August 9, 2022

and to remain available to testify until released. (the “Subpoena”). The Subpoena was served through Paxton’s counsel, J. Mitchell Little.

2. Plaintiff, its counsel, and Paxton are unable to resolve scheduling conflicts to be available for this deposition. For these reasons, the Court should grant this Motion and quash the Subpoena.

II.
ARGUMENT & AUTHORITIES

3. A subpoena can be challenged by the person subpoenaed, by a party to the suit, or by any person affected by the subpoena. TEX. R. CIV. P. 176.6(d)-(f); 192.6. A person subpoenaed to give testimony at trial “may object or move for protective order before the court at the time and place specified for compliance.” TEX. R. CIV. P. 176.6(f). The Court may quash a subpoena to protect the person served from any undue burden or expense compliance with the subpoena might cause. TEX. R. CIV. P. 176.7.

4. Calco and Paxton object to and seek protection from the Subpoena requesting that Paxton appear to testify at trial. Compliance would place an undue burden and expense on Paxton, Plaintiff, and its counsel. TEX. R. CIV. P. 176.7. The Court, therefore, should grant this Motion and quash the Subpoena seeking Paxton’s testimony.

5. A person need not comply with the part of a subpoena from which protection is sought. TEX. R. CIV. P. 176.6(e). Thus, by virtue of this Motion,

Paxton is not required to comply with the Subpoena until the matter is determined by the Court.

III.
PRAYER

6. For these reasons, Plaintiff Calco Land Development, L.L.C. and non-party W. Kenneth Paxton, Jr. respectfully request that the Court grant this Motion, enter a protective order as requested, and award Plaintiff Calco Land Development, L.L.C. and non-party W. Kenneth Paxton, Jr. such other relief as is just and proper.

Respectfully submitted,

SCHEEF & STONE, L.L.P.

By: /s/ J. Mitchell Little
C. John Scheef III
State Bar No. 17735585
J. Mitchell Little
State Bar No. 24043788

2600 Network Blvd., Suite 400
Frisco, Texas 75034
(214) 472-2100 Telephone
(214) 472-2150 Telecopier
john.scheef@solidcounsel.com
mitch.little@solidcounsel.com

ATTORNEYS FOR PLAINTIFF
CALCO LAND DEVELOPMENT, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been forwarded to counsel in accordance with Texas Rules of Civil Procedure 21a on July 7, 2022.

By: /s/ J. Mitchell Little
J. Mitchell Little

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jeri Hamman on behalf of Mitch Little
Bar No. 24043788
jeri.hamman@solidcounsel.com
Envelope ID: 66089528
Status as of 7/7/2022 9:59 AM CST

Associated Case Party: Calco Land Development, L.L.C.

Name	BarNumber	Email	TimestampSubmitted	Status
John Scheef		john.scheef@solidcounsel.com	7/7/2022 9:44:49 AM	SENT
Kelly Crawford		kelly.crawford@solidcounsel.com	7/7/2022 9:44:49 AM	SENT
Brenda R. Steindler		brenda.steindler@solidcounsel.com	7/7/2022 9:44:49 AM	SENT

Associated Case Party: Unity Resources, L.L.C.

Name	BarNumber	Email	TimestampSubmitted	Status
W. Todd Albin		talbin@albinroach.com	7/7/2022 9:44:49 AM	SENT

Associated Case Party: MarkThomasMersman

Name	BarNumber	Email	TimestampSubmitted	Status
W. Todd Albin		talbin@albinroach.com	7/7/2022 9:44:49 AM	SENT

Associated Case Party: MarkJosephSolomon

Name	BarNumber	Email	TimestampSubmitted	Status
W. Todd Albin		talbin@albinroach.com	7/7/2022 9:44:49 AM	SENT

Associated Case Party: Trade Rare, L.L.C.

Name
Alex More
Terry Jacobson
Rene O.Oliveira

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jeri Hamman on behalf of Mitch Little
Bar No. 24043788
jeri.hamman@solidcounsel.com
Envelope ID: 66089528
Status as of 7/7/2022 9:59 AM CST

Associated Case Party: Trade Rare, L.L.C.

Neil R.Burger		nburger@ccsb.com	7/7/2022 9:44:49 AM	SENT
John Mongogna		jmongogna@albinroach.com	7/7/2022 9:44:49 AM	SENT
Baleigh Walker		bwalker@albinroach.com	7/7/2022 9:44:49 AM	SENT

Associated Case Party: ByronK.Cook

Name	BarNumber	Email	TimestampSubmitted	Status
Rene O.Oliveira		roliveira@rofllp.com	7/7/2022 9:44:49 AM	SENT
Terry Jacobson		tljacobson@sbcglobal.net	7/7/2022 9:44:49 AM	SENT
Alex More		amore@ccsb.com	7/7/2022 9:44:49 AM	SENT
Neil R.Burger		nburger@ccsb.com	7/7/2022 9:44:49 AM	SENT
Terry L.Jacobson		terry@terryjacobsonlaw.com	7/7/2022 9:44:49 AM	SENT
Jennifer L.Cofer		office@terryjacobsonlaw.com	7/7/2022 9:44:49 AM	SENT

Associated Case Party: Joel Hochberg

Name	BarNumber	Email	TimestampSubmitted	Status
Alex More		amore@ccsb.com	7/7/2022 9:44:49 AM	SENT
Terry Jacobson		tljacobson@sbcglobal.net	7/7/2022 9:44:49 AM	SENT
Neil R.Burger		nburger@ccsb.com	7/7/2022 9:44:49 AM	SENT
Rene O.Oliveira		roliveira@rofllp.com	7/7/2022 9:44:49 AM	SENT

Case Contacts

Name
Daniel D.Tostrud

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jeri Hamman on behalf of Mitch Little
Bar No. 24043788
jeri.hamman@solidcounsel.com
Envelope ID: 66089528
Status as of 7/7/2022 9:59 AM CST

Case Contacts

W. Todd Albin		talbin@aybrlaw.com	7/7/2022 9:44:49 AM	SENT
Jeri Hamman		jeri.hamman@solidcounsel.com	7/7/2022 9:44:49 AM	SENT
Lindsey K. Wyrick		lwyrick@cobbmartinez.com	7/7/2022 9:44:49 AM	SENT
Molly D. O'Sullivan		mosullivan@albinroach.com	7/7/2022 9:44:49 AM	SENT
Jesse R. Castillo	3986600	jcastillo@casnlaw.com	7/7/2022 9:44:49 AM	SENT
Edward C. Snyder	791699	esnyder@casnlaw.com	7/7/2022 9:44:49 AM	SENT
Mitch Little		mitch.little@solidcounsel.com	7/7/2022 9:44:49 AM	SENT
Sheri Hopkins		shopkins@padfieldstout.com	7/7/2022 9:44:49 AM	SENT
Brent Rubin		brubin@ccsb.com	7/7/2022 9:44:49 AM	SENT
Christopher S. Ayres		csayres@ayreslawoffice.com	7/7/2022 9:44:49 AM	SENT
R. Jack Ayres, Jr.		rjayres@ayreslawoffice.com	7/7/2022 9:44:49 AM	SENT
Judy Martinez		jmartinez@ccsb.com	7/7/2022 9:44:49 AM	SENT
Monica E. Gaudio		mgaudio@ccsb.com	7/7/2022 9:44:49 AM	SENT
Walker Young		walker.young@solidcounsel.com	7/7/2022 9:44:49 AM	SENT
Carolyn Taylor		ctaylor@ccsb.com	7/7/2022 9:44:49 AM	SENT

Associated Case Party: Shiner Energy & Consulting Corp.

Name	BarNumber	Email	TimestampSubmitted	Status
Debbie Whatley		dwhatley@ayreslawoffice.com	7/7/2022 9:44:49 AM	SENT
Christopher V. Arisco		carisco@padfieldstout.com	7/7/2022 9:44:49 AM	SENT
Christopher Ayres		csayres@ayreslawoffice.com	7/7/2022 9:44:49 AM	SENT