

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION—CIVIL**

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**ZENA ASSOCIATES, LLC**

*Plaintiff*

**v.**

**ANDREW C. ABRAMS, JOSEPH ABRAMS AND MARY ANN  
ABRAMS**

*Defendants*

**v.**

**CHARLES MCMURTRIE, ALBERT MICHELL AND ANDREA  
GUEVARA**

*Additional Defendants*

: August Term, 2008

:  
: Case No. 05874

:  
: Commerce Program

:  
: Control No. 10091279

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**ANDREW ABRAMS**

*Plaintiff*

**v.**

**ZENA ASSOCIATES, LLC**

*Defendants*

: September Term,  
: 2009

:  
: Case No. 01488

:  
: Commerce Program

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**Memorandum Opinion**

In March 2008, Plaintiff Zena Associates, LLC (“Zena,”) instituted the instant lawsuit against several defendants, including Defendant Joseph Abrams (“Joseph Abrams.”) Zena’s Amended Complaint in the instant action alleges that Joseph Abrams

made fraudulent misrepresentations to induce Zena to acquire the assets of Smart Hose, Inc., an entity once owned and controlled by Joseph Abrams.<sup>1</sup>

In August 2010, Joseph Abrams instituted against Zena an action in replevin in the Court of Common Pleas of Delaware County.<sup>2</sup> Through the action in replevin, Joseph Abrams seeks to repossess equipment which Zena had received from Joseph Abrams pursuant to a Lease/Purchase Agreement. Prior to the Lease/Purchase Agreement, the equipment had been part of the assets of Smart Hose, Inc., and had been “used in the business of Smart Hose, Inc. at its premises located at 2536 South 59<sup>th</sup> Street, Philadelphia, Pa.”<sup>3</sup> The Lease/Purchase Agreement identifies the equipment under the heading “Smart Hose Asset List.”<sup>4</sup> The action in replevin in Delaware County has been stayed upon a motion filed by Zena.<sup>5</sup>

Before this Court is a Motion to coordinate the action in replevin with the instant action, and to transfer the action in replevin from the Court of Common Pleas of Delaware County to the Court of Common Pleas of Philadelphia County.

#### Discussion

In actions pending in different counties which involve a common question of law or fact or which arise from the same transaction or occurrence, any party, with notice to all other parties, may file a motion requesting the court in which the complaint was first filed to order coordination of the action. \* \* \*

If the court orders that actions should be coordinated, it may

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<sup>1</sup> Amended Complaint, Case No. 0803-05874, ¶¶ 19-36.

<sup>2</sup> Joseph Abrams v. Zena Associates, LLC, Civil Action No. 10-10742, Court of Common Pleas, Delaware County.

<sup>3</sup> Exhibits A-C attached to the Motion to Coordinate Actions, Transfer and for a Stay of Related Proceedings filed by Zena.

<sup>4</sup> Exhibit B attached to the Motion to Coordinate Actions, Transfer and for a Stay of Related Proceedings filed by Zena.

<sup>5</sup> Admission of Joseph Abrams, Answer to Zena’ Motion to Coordinate Actions, Transfer and for a Stay of Related Proceedings, ¶ 30.

- (1) Stay any or all the proceedings in any action subject to the order, or
- (2) Transfer any or all further proceedings in the actions to the court of courts in which any of the actions is pending ....<sup>6</sup>

In determining whether to order coordination and which location is appropriate for the coordinated proceedings, the court shall consider, among other matters:

- (1) whether the common question of fact or law is predominating and significant to the litigation;
- (2) the convenience of the parties, witnesses and counsel;
- (3) whether coordination will result in unreasonable delay or expense to a party or otherwise prejudice a party in an action which would be subject to coordination;
- (4) the efficient utilization of judicial facilities and personnel and the just and efficient conduct for the actions;
- (5) the disadvantages of duplicative and inconsistent rulings, orders or judgments;
- (6) the likelihood of settlement of the actions without further litigation should coordination be denied.<sup>7</sup>

This Court has considered the elements listed above and orders coordination of the action in replevin with the instant action, and transfer of the action in replevin from the Court of Common Pleas of Delaware County to the Court of Common Pleas of Philadelphia County. Both actions have common questions of fact arising out of Zena's acquisition of the assets of Smart Hose, Inc. No party will be inconvenienced by coordination and transfer because the equipment which Joseph Abrams seeks to

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<sup>6</sup> Pa. R.C.P. 213.1(a), Pa. R.C.P. 213.1(d).

<sup>7</sup> Trumbauer v. Godshall, 686 A.2d 1335 (Pa. Super. 1997).

repossess was originally leased for use Philadelphia, and neither Joseph Abrams nor his counsel has an address in the county where the action in replevin has been asserted. In the answer opposing the motion to coordinate, Joseph Abrams has not clearly articulated how coordination would result in unreasonable delay or expense or prejudice at his expense. Indeed, coordination and transfer will only facilitate the efficient utilization of judicial resources and facilities, and prevent possible duplicative or inconsistent rulings, orders or judgments. Finally, coordination and transfer will not hinder any settlement negotiations because there is no evidence of any ongoing negotiation.

**By The Court,**

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**Arnold L. New, J.**