

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

REVOLUTIONS MEDICAL CORP.
and RONDALD L. WHEET,

Defendants.

Civil Action No. 1:12-cv-03298-TCB

**MOTION FOR SUMMARY JUDGMENT OF
DEFENDANT REVOLUTIONS MEDICAL CORP.**

Defendant Revolutions Medical Corp. (“RMC”) moves this Court pursuant to Rule 56 of the Federal Rules of Civil Procedure to grant it summary judgment in the above-styled action with respect to all claims brought against it by Plaintiff Securities and Exchange Commission (“the SEC”) because there is no genuine issue as to any material fact and RMC is entitled to the judgment requested as a matter of law.

This motion is based upon the pleadings in this case, the brief submitted by RMC, which incorporates in part the brief being filed by Defendant Rondald L. Wheet (“Wheet”) in support of his separate Motion for summary Judgment, the Joint Statement Of Material Facts As To Which There Is No Genuine Issue To Be Tried filed by RMC

and Wheet and all discovery in this case, including depositions, exhibits and answers to interrogatories. RMC specifically relies on the following:

(1) The depositions of the following taken in this case:

- (a) Michael Driscoll taken April 28, 2014;
- (b) Andrew Goddard taken June 10, 2014;
- (c) Thomas O'Brien taken May 22, 2014;
- (d) Alfred Sollami taken June 2, 2014;
- (e) Richard Theriault taken June 5, 2014;
- (f) Rondald Wheet taken April 22 and 23, 2014;
- (g) Stephen Wheet taken May 2, 2014;

(2) The depositions of the following taken by the SEC in its pre-filing investigation styled *In the Matter of Revolutions Medical Corp.*, SEC File No. A-03288:¹

- (a) Ernest Compton taken on May 25, 2011;
- (b) Byron Scott Key taken on September 7, 2011;
- (c) Thomas O'Brien taken on November 11, 2011;
- (d) David Rothkopf taken on December 14, 2011;
- (e) Alfred Sollami taken on October 6, 2011;

¹ These depositions are admissible pursuant to Fed.R.Civ.P. 32 because the SEC was represented at the depositions and clearly had an opportunity to question the witnesses or, alternatively, as affidavits of the witnesses. *See e.g. Hoover v. Switlik Parachute Co.*, 663 F.2d 964, 966 (9th Cir.1981); *Boman & Kemp Rebar, Inc. v. J.D. Steel Co, Inc.*, 2006 WL 2623898, *2 (D. Utah 2006); *Matter of Melton*, 39 B.R. 762, (Bankr. N.D.Ga. 1984).

(f) Richard Theriault taken on August 24, 2011 and November 3, 2011;

(g) Rondald Wheet taken on August 17, 2011 and February 22, 2012;

(3) The deposition of Richard Theriault taken in the bankruptcy matter styled *In the Matter of Richard H. Theriault, et al.*, U.S. Bankruptcy Court, E.D. Mass.;²

(4) The deposition of Richard Theriault taken in *MIG v. Revolutions Medical Corp.*, American Arbitration Association Case No. 31 122Y 0025311;³

(5) The declaration of Thomas Ronk being filed herewith;

(6) Defendants' Joint Appendix in Support of Motions for Summary Judgment being filed herewith; and,

(7) Defendants Deposition Exhibits 1 through 139 being filed herewith.

Wherefore, RMC prays that its motion be granted and that it be granted summary judgment with respect to all claims brought against it by the SEC.

Dated this 15th day of August, 2014.

By: /s/ Frank A. Lightmas, Jr.
Frank A. Lightmas, Jr.
Georgia Bar No. 452325

² These depositions are admissible as affidavits of the witnesses. See note 1 above.

³ See note 2 above.

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CERTIFICATE OF COMPLIANCE OF N.D. GA.L.R. 5.1

Pursuant to Local Rule 7.1, D, I certify that this brief in support complies with the font and point selections set forth in Local Rule 5.1. This motion has been prepared using Times New Roman font (14 point).

This 15th day of August, 2015.

/s/ Frank A. Lightmas, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2014, I served a copy of the foregoing by filing it with the Court's CM/ECF system, which provided copies electronically to all counsel of record.

/s/ Frank A. Lightmas, Jr.

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