

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL**

**MINUTE ORDER**

DATE: 03/02/2015

TIME: 08:50:00 AM

DEPT: C-75

JUDICIAL OFFICER PRESIDING: Richard E. L. Strauss

CLERK: Candy Cheely

REPORTER/ERM: Joanne Castro CSR# 6944

BAILIFF/COURT ATTENDANT: Paul Darvin

CASE NO: **37-2011-00100599-CU-BC-CTL** CASE INIT.DATE: 11/04/2011

CASE TITLE: **The Upper Deck Company Inc vs. J & T Hobby [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

---

**EVENT TYPE:** Civil Jury Trial

---

**APPEARANCES**

John Gaule, counsel appearing for defendant J&T Hobby.  
Brittany Hysni general counsel appearing for plaintiff Upper Deck.  
Craig Nicholas counsel appearing for plaintiff Upper Deck.  
Tracey Jones counsel appearing for plaintiff Upper Deck.

---

9:03am This being the time set for Jury Trial in the above-entitled cause, having been assigned ro this department, all parties and counsel appear as noted above and trial commences.

Court and counsel discuss jury instructions, verdict form, motion to bifurcate, and witness Dominick Magliaro.

9:19am Court is in recess.

9:29am Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

Court and counsel discuss witness Dominick Magliaro and the trial.

The Court hears argument by parties on the filed Motions in Limine.

The Court makes the following rulings on the Plaintiff's Motions In Limine:

1. Motion in limine to exclude evidence of lost revenue---GRANTED.
2. Motion in limine to exclude evidence concerning other lawsuits---GRANTED.

3. Motion in limine to exclude witnesses not produced or disclosed---with regards to plaintiff's witnesses Bush and Goldstein, the parties are agreed and stipulate to exclude---AGREED.

Plaintiff counsel Jones then proceeds to make a motion to exclude Exhibits 101 and 102---HELD IN ABEYANCE.

4. Motion in limine to exclude evidence of Edgeman and Vintage sales---GRANTED.

Plaintiff counsel Nicholas makes an oral motion to exclude evidence regarding Theresa Depietro and the parties agree to exclude that information---AGREED.

Plaintiff counsel Jones makes an oral motion to exclude spectators---DENIED. Court informs counsel that she would have to cite legal authority to exclude spectators.

Plaintiff counsel Jones makes an oral motion to strike jury---DENIED.

Plaintiff counsel Jones makes a motion for judicial notice---HELD IN ABEYANCE.

10:01am Court is in recess.

10:24am 35 prospective jurors arrive and the bailiff takes roll outside the courtroom.

10:46am Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. Prospective jurors are present.

10:50am At the direction of the Court, the clerk administers the oath for qualifications.

10:52am The Court calls the case, introduces counsel and parties, reads a brief description of the case, reads the list of proposed witnesses, and directs the seating of 35 prospective jurors. The Court explains the jury selection process, and voir dire begins.

11:56am Prospective jurors are admonished and excused for lunch and Court is in recess.

1:35pm Court is in session, reported and out of the presence of the jury, with plaintiff(s), defendant(s) and counsel present as noted above. The Court and counsel discuss:

Plaintiff counsel's request for judicial notice regarding Edge Man, Inc.---DENIED.

Plaintiff counsel's request for judicial notice regarding the TD Bank document---HELD IN ABEYANCE.  
Plaintiff counsel's request to remove Theresa Depietro from the courtroom---GRANTED.

1:46pm Jury selection resumes off the record.

1:50pm 12 individuals are sworn to serve as trial jurors.

1:52pm The Court orders the seating of 2 alternate jurors and voir dire resumes.

1:57pm 2 individuals are sworn to serve as alternate jurors.

1:58pm The remaining prospective jurors are thanked and excused and directed to return to Jury Commissioner's office.

1:59pm The Court pre-instructs the jury in the law applicable to this case.

2:23pm Craig Nicholas presents opening statement on behalf of plaintiff The Upper Deck Company, Inc.

2:36pm John Gaule presents opening statement on behalf of defendant J&T Hobby LLC.

2:43pm Court is in recess.

3:02pm Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

3:03pm Joseph Pirozzi is sworn and examined by Craig Nicholas on behalf of plaintiff, The Upper Deck Company, Inc.

The Following exhibits are identified:

75. Response to requests for admission December 19, 2012.

3. Letter UD to J&T dated March 10, 2010 regarding account balance confirmation.

62. E-mail from J&T to UD dated May 17, 2010 regarding payment (J&T Hobby000496-98).

64. J&T accounts payable open invoice report dated May 17, 2010 showing balance of \$505,350.67 (J&T Hobby 000501).

4. E-mail from J&T to Hank Forlenzo dated March 11, 2010 regarding accounts.

1. 2007 Distributor agreement and personal guaranties.

29. Letter from Hoistad to J&T dated November 5, 2009 re: confirming nos. 482253 and 492529 outstanding for UD auditors (J&T Hobby 000486-89).

72. Response to form interrogatories December 19, 2012.

4:35pm The witness is excused.

4:36pm All jurors are admonished and excused for the evening and Court is in recess.

Court is adjourned until 03/03/2015 at 08:50AM in Department 75.