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15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
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17 IN AND FOR THE COUNTY OF MARICOPA

18 Peter S. Davis, as Receiver of DenSco
19 Investment Corporation, an Arizona
20 corporation,

21 Plaintiff,

22 v.

23 Clark Hill PLC, a Michigan limited
24 liability company; David G. Beauchamp
25 and Jane Doe Beauchamp, husband and
26 wife,

27 Defendants.

No. CV2017-013832

**RECEIVER'S RESPONSE TO
CLARK HILL'S MOTION TO FILE
REPLY ON ITS MOTION IN LIMINE
TO PRECLUDE USE OF
DOCUMENTS IDENTIFIED IN
RULE 807(b) NOTICES**

(Assigned to the Honorable
Daniel Martin)

28 Of course, the Court has complete discretion to read the Motion in Limine and
the Response and determine for itself whether a reply would be helpful to the Court.
The Receiver suggests even a quick review of the pleadings will demonstrate that
Clark Hill filed the motion prematurely, and now just wants to file additional motions
in limine to address other evidentiary rules it should have thought of.

Clark Hill's motion to file a reply, however, contains the best reason why it
should be denied. In trying to explain the value of a reply, Clark Hill states:

For example, the Court could rule that the Journals and Letters do not
have exceptional guarantees of trustworthiness necessary for admission
under Rule of Evidence 807(b), as Defendants argue in the Motion,
while leaving for a later time whether statements *in those documents*

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could be admissible under another evidentiary rule for some limited purpose, as Plaintiff suggests.

(Motion on page 4) (emphasis added) The Receiver does not intend to move into evidence the entire Journals, only selected portions of them. A ruling on them “as a whole” is completely unnecessary. The selected portions of the Journals will be considered under Rule 807, the residual exception, only if not admitted under any other rules of evidence. Even on the selected portions, Rule 807 is not now ripe for determination. As to the letters, Clark Hill had them in its possession when Clark Hill undertook to represent DenSco after Chittick’s death. What it knew is a non-hearsay use of the document.

The Court should deny the motion for additional briefing and rule on the motion in limine without additional briefing or oral argument. Receiver withdraws its request for oral argument.

RESPECTFULLY SUBMITTED this 22nd day of July, 2019.

OSBORN MALEDON, P.A.

By /s/Colin F. Campbell
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4 this 22nd day of July, 2019, on:

4 Honorable Daniel Martin*
5 Maricopa County Superior Court
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7 Phoenix, Arizona 85003

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