

Judge Doubts Pooh Evidence

By Meg James, Times Staff Writer

Walt Disney Co. on Tuesday tried to shoot holes in the "lone dumpster defense" in the long-running Winnie the Pooh royalties lawsuit, but the judge overseeing the case said the Burbank entertainment giant lacked solid evidence that "garbage documents" came from more than one location.

Los Angeles County Superior Court Judge Charles W. McCoy told Disney that the firm lacked "physical proof" that the documents — internal memos, revenue reports and contract summaries — came from locations other than the dumpsters identified by a man who was hired to dig through Disney's trash.

Much is at stake in the 13-year-old breach-of-contract lawsuit; Disney has said losing it could cost the company "several hundred million dollars."

Disney's lead attorney, Daniel Petrocelli, argued that the judge should dismiss the lawsuit. Petrocelli said it was preposterous that important papers would have found their way into the garbage behind a satellite office building a few blocks from Disney's headquarters.

"Their whole story does not hold together," Petrocelli said.

The judge did not indicate when he might rule on Disney's request to terminate the lawsuit. If the judge rules that the case can proceed, a trial could begin in January 2005.

However, the judge spent much of the afternoon questioning lawyers representing the plaintiffs, Patricia Slesinger and her 82-year-old mother, Shirley Slesinger Lasswell. The judge appeared particularly concerned about alleged alterations to some of the documents.

Disney's legal team maintains that someone from the Slesinger camp altered or cc that were marked "confidential" and "privileged" as a coverup because they were

and other products. They also accuse Disney of not paying royalties on merchand several characters, including Pooh.

They inherited the Pooh merchandising rights from Stephen Slesinger, a New York agent who acquired them in 1930 from A.A. Milne, the British author who created the bear. Slesinger died in 1953, and his widow, Lasswell, transferred the rights to Disney.

The Slesingers and their attorneys contend the documents prove that Disney failed to pay members all of the royalties they were due.

Disney's strategy during the hearing was to raise questions about the credibility of the participants, including Slesinger and her husband, David Bentson.

The hearing's most dramatic moment came last week during Bentson's testimony. He played a tape of a message on the answering machine of a former high-ranking Disney executive about 18 months ago. The caller, which Petrocelli suggested was Bentson, tried to persuade the former executive to help the Slesingers' efforts, saying the person could "make a lot of money."

Bentson denied that he made the call, and the judge refused to admit the tape into evidence.

After the hearing concluded Tuesday, Patricia Slesinger said she had had enough of legal tactics. Standing outside McCoy's courtroom, a visibly angry Slesinger said her mother would channel their legal efforts to terminating the open-ended rights they have with Disney. If successful, she said, the family could then turn to another entertainment company such as **Pixar Animation Studios**.

"We're going to just terminate our contract and get our rights back," Slesinger said. "Disney doesn't need Disney as much as Disney needs Pooh."

While that witness, Richard Holman Sr., later said he lied about going to multiple locations, the judge said there appeared to be some "kernel of truth" in the contradictory statements.

Petrocelli said the burden was on the Slesingers to explain how they got the documents rather than being Disney's responsibility to prove how they were taken.

Disney further claims fraud because the Slesingers were allegedly secretly stealing Disney's documents at the same time that they convinced another judge to impose damaging sanctions against Disney for discarding some of its Pooh-related files.

As McCoy understood it, Disney was arguing that it could not get a fair trial because the plaintiffs have sensitive documents like summaries of Disney's case strategy and contract terms.

Attorneys for plaintiff Pati Slesinger and her mother, Shirley Slesinger Lasswell, said some of the documents may have been handed over early in the case's 13-year history when date stamps and other formalities were not used. They also suggested that the repeated discovery of Disney's documents in their files, beginning in 1997 with a contract summary and ending in June 2002, was an unfortunate byproduct of the case being moved among the 10 separate law firms that have worked for the Slesingers since 1991.

McCoy questioned why the major law firm retained by the Slesingers during the trash taking of the mid-1990s would sort through the bags, preserving some records, destroying others and yet not keeping any record of this activity.

McCoy further focused on the 1997 Disney contract summary, one of the allegedly altered documents. When Disney got it back from the plaintiffs, the copy that Pati Slesinger had appeared to be different from the version in her attorney's files.

"The facts came out quite clearly," Petrocelli said after the hearing. "What has happened over the year is now in the judge's hands, and he'll decide."

Outside of court, Slesinger said the sanctions hearing was "vulgar" in nature.

"Winnie the Pooh does not need Disney," Slesinger said. "Enough is enough. It's time we went our separate ways."