

Lord of the Dumpsters: Pooh Hearing Ponders Pulp, Truth or Fiction Column

By Garry Abrams

The trees in Winnie the Pooh's forest home were all chopped down to make paper to produce documents for lawyers to argue about.

That's my conclusion after sitting through most of the five days of testimony and argument over the trash documents motion (also known as the "Pooh must die motion") filed by the Walt Disney Co. in the neverending lawsuit over royalties generated by the Pooh characters.

Tuesday was devoted to closing arguments before Los Angeles Superior Court Judge Charles W. McCoy Jr. over Disney's claim that the case filed 13 years ago by the heirs of Stephen Slesinger should be terminated. Right now.

Disney, of course, contends that investigators working for the Slesingers stole privileged documents related to the case from Disney trash, and perhaps Disney offices, in an effort to gain an unfair advantage in the case.

The Slesingers, who own North American rights to Pooh that they licensed to Disney, maintain that their Dumpster diving - which occurred eight to 10 years ago - was done out of frustration with the fact that Disney had failed to produce documents during discovery.

Moreover, the Slesingers say that their investigators never broke into Disney offices and took documents from only one set of publicly accessible Dumpsters located at a single Disney office building in Burbank.

(Without getting into the finer points of the debate, I would argue that any effort to gain an unfair advantage, or simply to supplement perceived unsatisfactory discovery, that resulted in a case dragging on for 13 years was a miserable and utter failure.)

The most interesting thing about Tuesday's court proceeding was that McCoy frequently interjected himself into the discussion, often asking pointed questions of attorneys for both sides.

McCoy appeared to be chiefly interested in the credibility of some of the Slesinger witnesses.

The judge seemed troubled by the testimony of Slesinger investigator Terry Sands, who testified that he had taken documents from Disney Dumpsters over a period of two or three years in the mid-1990s.

"Am I to believe him or not to believe him?" McCoy asked, noting that he was perplexed by contradictions in Sands' testimony about how many documents he took from Disney trash bins.

At Tuesday's hearing, McCoy asked if any of the documents found in the trash were the documents Disney had destroyed. Petrocelli indicated they might have been. Ferrer said, "The notion that we would have documents that they testified under oath were destroyed is ridiculous."

Sanctions order