

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WORLDCOM TECHNOLOGIES, INC. and	:	CIVIL ACTION
MCI TELECOMMUNICATIONS CORP.	:	
	:	
v.	:	
	:	
INTELNET INT'L, INC., ASSOCIATED	:	NO. 00-2284
BUSINESS TELEPHONE SYSTEMS	:	
CORP., DOMINIC DALIA and MICHAEL	:	
DALIA	:	

**MEMORANDUM**

Plaintiffs Worldcom Technologies Incorporated (hereinafter “Worldcom”) and MCI Telecommunications Corporation (hereinafter “MCI”) allege breach of contract (Counts I, II, V), Quantum Meruit (Count III), unjust enrichment (Count IV), Fraud (Count VI), and negligent and intentional misrepresentation (Count VII) against defendants Intelnet International Inc. (hereinafter “Intelnet”), Associated Business Telephone Systems Corporation (hereinafter “ABTS”), and Michael and Dominic Dalia (hereinafter “the Dalia’s”) in their individual capacities, arising from a contract by which the plaintiffs provided telecommunication services to the defendants.

Defendants Michael and Dominic Dalia jointly have filed a 12(b)(2) motion to dismiss, contending that this court does not have personal jurisdiction over them in their individual capacities. The Dalia’s have also filed a Joint Motion for Protective Order and Motion to Bifurcate Claims, arguing that discovery on the alter ego issue will only be necessary if plaintiffs sustain their claims against Intelnet/ABTS, the companies to which the Dalia’s are alleged to be

alter egos. Thus, they argue, discovery should be deferred pending a determination by the court as to whether corporate liability exists in the first instance. For the reasons that follow, both motions are denied.

## **I. BACKGROUND**

ABTS is a corporation organized under the laws of New Jersey, with its principal place of business located in same. Dominic Dalia is an officer, director, and the sole shareholder of ABTS. Michael is an officer and director of ABTS. Intelnet is a corporation organized under the laws of Delaware and has its principal place of business in New Jersey. Dominic Dalia is an officer, director, and shareholder of Intelnet. Michael Dalia is an officer and director of Intelnet. On January 23, 2002, this court gave leave to plaintiffs to amend their complaint, filed on May 3, 2000 against ABTS and Intelnet, to add as defendants the Dalia's in their individual capacities.<sup>1</sup>

The amended complaint alleges that on January 4, 1993, ABTS and MCI executed a written Agreement for Telecommunications Services ("MCI Agreement"). Pursuant to that Agreement, MCI provided services to both ABTS and Intelnet. In addition, on March 27, 1998, Intelnet and Worldcom entered into a service agreement ("Worldcom Agreement"). Worldcom provided services to Intelnet pursuant to that agreement. Plaintiffs allege that, despite having provided services and making repeated requests for payment, ABTS and Intelnet have failed to pay for the telecommunications services provided under those agreements. Moreover, the

---

<sup>1</sup>Plaintiffs argue that because the issue of whether the court has personal jurisdiction over the Dalia's was raised initially, and tangentially, during oral argument before Judge Bechtel in regard to the motion to amend the complaint, that the issue had already been resolved in favor of granting jurisdiction when this court granted plaintiffs' motion to amend. This is not the case.

amended complaint alleges that the Dalia's should be held liable for the breaches related to these contracts, in that this court should treat the Dalia's as the "alter egos" of ABTS and/or Intelnet.

In addition to the "alter ego" allegations, the amended complaint alleges that the Dalia's individually committed fraud and/or negligent misrepresentation by misrepresenting and/or concealing material information concerning Intelnet to MCI/Worldcom. The amended complaint alleges that in fall 1998, at a meeting in New York City, the Dalia's sought to combine the MCI Agreement and Worldcom Agreement into one agreement between Intelnet and Worldcom. At that time, it is alleged that the Dalia's did not disclose that money was allegedly owed to MCI under the MCI agreement. Further, the Dalia's allegedly advised plaintiffs repeatedly that as a result of a business deal with ITT Corporation, they expected that Intelnet would be able to deliver more than \$1 million in monthly revenues to Worldcom.

Further, the amended complaint references a November 1998 meeting that took place at Intelnet's offices in New Jersey. The meeting's participants included Dominic Dalia, but not Michael Dalia, as well as other representatives of Intelnet and MCI/Worldcom. The amended complaint alleges that during the meeting, Dominic Dalia and other Intelnet representatives presented misleading financial information regarding the financial status of Intelnet, in an effort to induce MCI/Worldcom to maintain its relationship with Intelnet. This included failing to advise MCI/Worldcom that Intelnet had allegedly at that time defaulted on a \$15 million loan from Prudential Securities. Finally, although no specific dates are provided, the amended complaint alleges that the Dalia's misrepresented that Intelnet was entitled to credits that would offset the monies due under the MCI Agreement. The amended complaint makes no reference to any meetings that took place in Pennsylvania, nor does it reference any specific telephone calls or

letters that were placed or received in Pennsylvania.

## **II. DISCUSSION**

For purposes of deciding whether to grant a motion to dismiss, the court must accept as true the plaintiff's version of the facts, and draw all inferences from the pleadings, affidavits, and exhibits in the light most favorable to the plaintiff. Guardi v. Desai, 151 F. Supp. 2d 555, 558-59 (E.D. Pa. 2001); Dimark Mktg., Inc. v. Louisiana Health Serv. & Indem. Co., 913 F. Supp. 402, 405 (E.D. Pa. 1996); Cinalli v. Kane, 191 F. Supp. 2d 601, 610 (E.D. Pa. 2002).

Pursuant to Rule 12(h)(1) of the Federal Rules of Civil procedure, the defendant bears the burden of raising the defense of lack of personal jurisdiction. D & S Screen Fund II v. Ferrari, 174 F. Supp.2d 343, 345 (E.D. Pa. 2001) (citing National Paintball Supply, Inc. v. Cossio, 996 F. Supp. 459, 460 (E.D. Pa. 1998)). Once the defense is raised, however, the burden shifts to the plaintiff to show that jurisdiction is proper. D & S Screen Fund, 174 F. Supp.2d at 345. To meet this burden and survive a motion to dismiss, the plaintiff need only establish a prima facie case of jurisdiction by providing "sufficient jurisdictional facts by affidavit, depositions or other competent evidence to establish the court's jurisdiction over the defendant." National Precast Crypt Co. v. Dy-Core of Pennsylvania, Inc., 785 F. Supp. 1186, 1189 (W.D. Pa. 1992) (quoting Bowers v. NETI Technologies, Inc., 690 F. Supp. 349, 355 (E.D. Pa. 1988)); see also Mellon Bank (East) PSFS v. Farino, 960 F.2d 1217, 1223 (3d Cir. 1992).

Rule 4(e) of the Federal Rules of Civil Procedure permits a court to exercise personal jurisdiction over a non-resident defendant to the extent that the laws of Pennsylvania permit. Pennsylvania's long-arm statute, allows for jurisdiction over non-residents "to the fullest extent

allowed under the Constitution of the United States.” 42 Pa. Cons. Stat. Ann. § 5322(b) (1981).

This court’s jurisdiction is coextensive with the due process clause of the United States

Constitution. Grand Entertainment Group, Ltd. v. Star Media Sales, 988 F.2d 476, 481 (3d Cir.

1993) (citing Time Share Vacation Club v. Atlantic Resorts, Ltd., 735 F.2d 61, 63 (3d Cir.

1984)).

The Supreme Court has provided a two prong test to define the due process limits of exercising personal jurisdiction. Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985). First, the defendant must have made constitutionally sufficient minimum contacts with the forum state. Id. at 474. A court can satisfy this minimum contacts requirement under either one of two theories, Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408 (1984), both of which require an examination of “the relationship among the forum, the defendant and the litigation,” Shaffer v. Heitner, 433 U.S. 186, 204 (1977). “General jurisdiction is invoked when the plaintiff’s cause of action arises from the defendant’s non-forum related activities.” North Penn Gas Co. v. Corning Natural Gas Corp., 897 F.2d 687, 690, n.2 (3d Cir. 1990). To establish general jurisdiction, the plaintiff must show that the defendant has maintained continuous and systematic contacts with the forum. Helicopteros, 466 U.S. at 415; Remick v. Manfredy, 238 F.3d 248, 255 (3d Cir. 2001). In the alternative, a court may invoke specific jurisdiction when “there are no continuous and systematic contacts, but a controversy is related to or ‘arises out of’ a defendant’s contacts with the forum.” Guardi v. Desai, 151 F. Supp.2d at 558-59 (quoting Helicopteros, 466 U.S. at 414). To establish specific jurisdiction, the plaintiff must show that the defendant has minimum contacts with the forum such that he or she “should reasonably anticipate being haled into court there.” Worldwide Volkswagen Corp. v. Woodson,

444 U.S. 286, 297 (1980). In other words, there must be “some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state, thus invoking the benefits and protections of its laws.” Hanson v. Denckla, 357 U.S. 235, 253 (1958). In the instant case, the plaintiffs concede that this court cannot exercise general jurisdiction over defendants Michael and Dominic Dalia. Therefore, the issue before the court is whether minimum contacts exist such that specific jurisdiction over the Dalias may be established.

If constitutionally sufficient minimum contacts exist, the court may consider the second prong to determine whether subjecting the defendant to personal jurisdiction comports with “traditional notions of fair play and substantial justice.” Burger King, 471 U.S. at 476 (quoting International Shoe Co. v. Washington, 326 U.S. 310, 320 (1945)). The factors that courts look to in this fairness analysis include “the burden on the defendant, the forum State’s interest in adjudicating the dispute, the plaintiff’s interest in obtaining convenient and effective relief, the interstate judicial system’s interest in obtaining the most effective resolution of controversies, and the shared interest of the several States in furthering fundamental substantive social policies.” Worldwide Volkswagen, 444 U.S. at 292. In analyzing this second prong, the defendant bears the burden of presenting a compelling case that would make exercising jurisdiction over him or her unfair or burdensome. Guardi v. Desai, 151 F. Supp.2d at 561.

#### A. The Dalias’ Corporate Contacts with Pennsylvania

Individuals performing acts while in their corporate capacity are not subject to the personal jurisdiction of the courts in that state where the acts took place. Elbeco Inc. v. Estrella de Plato, Corp., 989 F. Supp. 669, 676 (E.D. Pa. 1997) (citations omitted). While the third circuit

has not decided this issue, this district has recognized an exception to this general rule so that personal liability may attach for torts that are committed in the corporate capacity. D & S Screen Fund, 174 F. Supp.2d at 347; United Products Corp., v. Admiral Tool & Mfg. Co., 122 F. Supp.2d 560, 562 (E.D. Pa. 2000); Huth v. Hillsboro Ins. Management, Inc., 72 F. Supp.2d 506, 511 (E.D. Pa. 1999) (citations omitted). Courts that recognize this exception apply a case-by-case approach by applying three factors to determine if the officer's corporate contacts should be considered: (1) the officer's role in the corporate structure; (2) the quality of the officer's contacts; and (3) the nature and extent of the officer's role in the alleged tortious conduct. D & S Screen Fund, 174 F. Supp.2d at 347; United Products Corp., 122 F. Supp.2d at 562.

#### 1. The Dalia's Role in the Corporate Structure

In the instant case, it is undisputed that the Dalia's played a major role in the corporate structure of ABTS and Intelnet. Dominic Dalia was the president and CEO of both companies and oversaw all of the operations of the corporations. Further, Michael Dalia was an officer and the executive vice president of ABTS and an officer, director, and executive vice president of Intelnet.

#### 2. The Dalia's Corporate Contacts in Pennsylvania

Further, plaintiffs have submitted considerable evidence outlining the Dalia's corporate contacts with Pennsylvania. The ABTS/Intelnet account with MCI was overseen by MCI'S Philadelphia branch, located in Bala Cynwyd, Pennsylvania. Michael and Dominic Dalia had regular contact with this office, which serviced the ABTS/Intelnet account for MCI and billed and collected for MCI's charges to ABTS/Intelnet. Further, the Dalia's directed on behalf of ABTS/Intelnet a nationwide sales campaign which resulted in ABTS and Intelnet providing

telephone service to Pennsylvania residents. Pennsylvania residents paid Intelnet for their telephone service, and Dominic and Michael Dalia thereby derived revenue from business conducted in Pennsylvania.<sup>2</sup>

---

<sup>2</sup> In support of these allegations, plaintiffs have submitted the following pieces of evidence:

1. A letter from Michael Dalia dated March 11, 1997, sent to Doug Ingerson, in Philadelphia, acknowledging that the corporate defendant's account with MCI was handled through MCI's Philadelphia branch located in Bala Cynwyd, Pennsylvania. (Letter, Pl. App. Doc. #71, Ex. 18.)
2. A July 31, 1996 letter from Susan Barry, MCI's strategic account manager of the Philadelphia branch, to Michael Dalia, describing the effective contract rates between Intelnet and MCI. (Letter, Pl. App., Doc #71, Ex. 9). Although the letter was written by Barry in Philadelphia to Michael Dalia in New Jersey, it is still a significant Pennsylvania contact when viewed in light of Susan Barry's testimony that Michael Dalia asked her to write the letter on MCI letterhead for his account records. (Deposition of Susan Barry, Pl. App. Doc. #71, Ex. 6, at 122).
3. A letter dated November 7, 1997, from Catherine Holland, MCI's Senior Strategic Accounts Manager, to Michael Dalia. (Letter, App.2, Ex. 16). Here again, Michael Dalia requested this letter on MCI stationary via fax to Philadelphia two days earlier. (Fax, Pl. App. Doc. #71, Ex. 16). Further, Michael Dalia sent a reply letter to the Philadelphia branch in which he confirmed that Intelnet understood that it would not receive any additional discounts from MCI until they entered into a definite agreement to increase Intelnet's minimum volume requirement. (Letters, Pl. App. Doc. #71, Ex. 16).
4. Various letters dated between March, 17 1997 and December 1998, from Michael Dalia to MCI's Philadelphia branch discussing billing and credit matters. (Letters, Pl. App. Doc. #71, Ex. 18). These letters relate to the subject matter of the lawsuit as one of the plaintiff's claims is to collect unpaid bills owed by Intelnet. (Amended Complaint, ¶ 27).
5. Evidence that each month after receiving their monthly bill, ABTS and Intelnet would send credit memos to Lori Jones at MCI's Philadelphia branch office in which they detailed the credits that they claimed that they were owed on their monthly bill. (Credit memos, Pl. App. Doc. #71, Ex. 19; Deposition of Michael Dalia, Pl. App. Doc. #71, Ex. 3, at 830-35) (hereinafter "Dep. of M. Dalia"). Although the letters were written by Lea Sellito, each letter was copied to Michael Dalia. (Credit memos, Pl. App. Doc. #71, Ex. 19). These memos also relate to the subject matter of the lawsuit in that the defendant's counterclaim alleges that the plaintiffs owe the defendants these claimed credits. (Defendant's ninth, eleventh, and fourteenth affirmative defense).
6. Intelnet applied to the Pennsylvania Public Utilities Commission "seeking authority to operate as a reseller of intrastate telecommunications services . . . within the entire Commonwealth of Pennsylvania." (Application, Pl. App. Doc. #71, Ex. 20). Michael Dalia had a significant role in this application as it stated that all correspondence and



In Elbeco, the individual defendants made an ongoing series of telephone and mail misrepresentations to a Pennsylvania shirt manufacturing corporation over the course of one year, as well as two personal visits to Pennsylvania. 989 F. Supp. at 677. From that, the court concluded that there were “sufficient minimum contacts for [the] Court to exercise specific jurisdiction over the individual defendants.” Id. In Beistle, the individual defendant called Pennsylvania several times and made several business ventures to Pennsylvania to promote his products. 914 F. Supp. at 96. Further, the defendant distributed his corporation’s catalogue in

- 
- communications pertaining to the application should be directed to him (Id. at 2).
7. Intelnet’s service of providing long distance services to Costco Wholesale members throughout the country. (Plaintiffs’ memorandum in opposition to defendant’s motion, at 16) (hereinafter “Plaintiffs’ Opp.”). Many of the Costco members who were provided these long distance services had Pennsylvania phone numbers and area codes such as 215, 610, 412, 717, and 784. (List of Costco members and phone numbers, Pl. App. Doc. #71, Ex. 21). The Dalia’s oversaw this service as they oversaw all of the day to day operations of Intelnet. (Deposition of Dominic Dalia, Pl. App. Doc. #71, Ex. 2, at 16) (hereinafter “Dep. of D. Dalia”); (Dep. of M. Dalia, Pl. App. Doc. #71, Ex. 3, at 8; Dep. of V. Oberholtzer, Pl. App. Doc. #71, Ex. 4, at 50).
  8. Several trips Dominic Dalia made to Philadelphia to meet with Frank Hadley and Terry Connel, members of Philadelphia’s “MCI team.” (Dep. of D. Dalia, Pl. App. Doc. #71, Ex. 2, at 51, 52).
  9. Numerous checks sent and signed by Dominic Dalia in 1996, 1997, and 1998, before payments were defaulted, to MCI’s Philadelphia office to pay ABTS and Intelnet’s bills. (Signed checks, Pl. App. Doc. #71, Ex. 13).
  10. A letter dated November, 30 1998, from Dominic Dalia to Robert Vetera, Director of Corporate Credit at MCI Worldcom, in which he referenced his business relationship with ITT as well as his hopes of setting up a separate business plan with ABTS. Although the letter was addressed to Vetera in Oklahoma, copies were sent to MCI employees such as Robert Simons and Thomas Sweeney at MCI’s Philadelphia branch. (Letter, Pl. App. Doc. #71, Ex. 14). This letter also relates to the subject matter of the lawsuit in that the plaintiff’s have alleged that the Dalia’s fraudulently concealed financial information relating to Intelnet’s business relationship with ITT. (Amended complaint ¶ 11).

Pennsylvania. Id. Based on this information, the court found that the defendant’s “contacts with Pennsylvania are more than sufficient to permit this court to exercise jurisdiction over him personally.” Id. at 97. But see Graco Children’s Products, Inc. v. Draco Corporation, Inc., 1995 WL 299023, \*3 (E.D. Pa 1995) (finding insufficient contacts where there was no evidence that the defendant entered Pennsylvania during the relevant time period). Plaintiffs have presented considerable evidence outlining the Dalia’s corporate contacts with Pennsylvania consisting of various letters and memos addressed to Pennsylvania, business ventures to Pennsylvania, and services provided to Pennsylvania residents. Therefore, viewing the facts in the light most favorable to the plaintiffs, the court finds that sufficient facts exist to establish that the Dalias had extensive corporate contacts with Pennsylvania.

### 3. The Dalias’ Role in the Alleged Tortious Conduct

Plaintiffs have alleged that both Michael and Dominic Dalia induced the plaintiffs to continue to provide telecommunications services to Intelnet and ABTS by intentionally misrepresenting their financial status and fraudulently concealing material information relating to Intelnet’s business relationship with the ITT Corporation. (Amended Complaint at ¶¶ 59-99). By their own admissions, Michael and Dominic Dalia oversaw the day-to-day operations of their company. (Dep. of D. Dalia, Pl. App. Doc. #71, Ex. 2, at 16; Dep. of M. Dalia, Pl. App. Doc. #71, Ex. 3, at 8). Furthermore, Vernon Oberholtzer, Intelnet’s CFO, testified that Dominic was a “strong CEO and has his hand in almost everything and pretty much controls everything,” and Michael “ran the operations side of the business, which was almost everything concerning the business on a day-to-day basis.” (Dep. of V. Oberholtzer, Pl. App. Doc. #71, Ex. 4, at 47, 48). It follows that, given the Dalia’s positions, they would have played a major role in any tortious

activity that was committed by ABTS or Intelnet. Accord Beistle, 914 F. Supp. at 96-97 (“The complaint alleges that Downey personally, and in his individual capacity, engaged in the unlawful copying of Beistle protected materials. Under these circumstances, Downey should not be able to use a corporate shield to protect himself from suit in this forum, and we will consider his business contacts in connection with our analysis.”). Thus, this court must consider the Dalia’s corporate contacts with Pennsylvania

The Dalia’s corporate contacts with Pennsylvania must be considered in determining whether to exercise personal jurisdiction over them. In their briefs and exhibits, the plaintiffs have presented considerable evidence that the Dalia’s played a major role in the corporate structure of ABTS and Intelnet, had extensive contacts with Pennsylvania, and played a large role in the alleged tortious conduct.<sup>3</sup>

#### B. Fair Play and Substantial Justice

Exercising personal jurisdiction over the Dalia’s comports with “traditional notions of fair play and substantial justice.” Burger King, 471 U.S. at 476 (quoting International Shoe Co. v. Washington, 326 U.S. 310, 320 (1945)). The Dalia’s argue that it will be unfair to require them to litigate this case along with the parallel litigation that is currently ongoing in New Jersey state court . The court disagrees. All parties in both cases have agreed that the depositions

---

<sup>3</sup>Plaintiffs assert two additional arguments in support of establishing personal jurisdiction over the Dalia’s: first, that the Dalia’s are the alter egos of ABTS and Intelnet, and second, that the Dalia’s are subject to personal jurisdiction under 42 Pa.C.S.A. § 5322(a)(4) for committing a tort outside the Commonwealth which caused harm in the Commonwealth. Because this court has found that the Dalia’s corporate contacts with Pennsylvania suffice to establish personal jurisdiction, these additional arguments will not be addressed.

being conducted can be used in either this case or the New Jersey case, thus joining the Dalia's here will not cause them to undergo any additional deposition expense. Further, the New Jersey court has permitted WorldCom to amend its claim to add the same claims against the Dalia's as WorldCom alleges here. The Dalia's are represented in that case by Carl Poplar, Esq., who also represents them here. Thus the Dalia's will have the expense of personal counsel whether or not they are joined here. Thus, the exercise of personal jurisdiction over the Dalia's comports with fair play and substantial justice.

### C. Dalia's Joint Motion for Protective Order and Motion to Bifurcate Claims

The Dalia's argue, in a separate motion, that plaintiffs seek discovery which is overly burdensome as it pertains to the alter ego allegations of the amended complaint.

Under Fed. R. Civ. P. 26(c), this court has the power to enter a protective order on a showing of "good cause" in order to protect a party from annoyance, embarrassment, oppression or undue burden or expense. "Motions to stay discovery are not favored because when discovery is delayed or prolonged it can create case management problems which impede the court's responsibility to expedite discovery and cause unnecessary litigation expenses and problems." Coca-Cola Bottling Co. of Lehigh Valley v. Grol, 1993 U.S. Dist. LEXIS 3734, at \*6, \*7 (E.D. Pa. 1993). "Good cause" requires a showing of a "particular need for protection." Pearson v. Miller, 211 F.3d 57, 72 (3d Cir. 2000). Defendants must "demonstrate that disclosure will cause a defined and serious injury" by pointing to "substantiated specific examples." Doe v. Provident Mutual Life and Accident Ins. Co., 176 F.R.D. 464, 469 (E.D. Pa. 1997).

Defendants argue that they should not be required to answer the pending alter ego

discovery because it is overly burdensome and will cause unnecessary delay. Defendants give no specifics in support of this argument other than to list examples of the discovery requests that they claim to be unreasonable. The court finds that, on their face, these discovery requests are not overly burdensome or likely to cause unnecessary delay.

Defendants further assert that a protective order is necessary because the alter ego discovery will only become relevant if plaintiffs prevail on the merits of the claim against Intelnet and ABTS. This is also the Dalia's principal argument in support of its motion to bifurcate the alter ego claims.

The court disagrees. Delaying discovery on the alter ego issues will only further compound the delays and expense already incurred in this case, filed over two years ago. The Dalia's proposed scheme will result in two stages of discovery and two trials, which is both inefficient and unnecessary. Further, as already discussed, the Dalia's are incurring the same expense associated with alter ego discovery and litigation in the New Jersey case. Finally, further delay creates the risk of prejudice to plaintiffs in the form of lost evidence, fading memories, and potentially dissipating assets to pay any judgment that plaintiffs might secure.

The Dalia's also seek to bifurcate the alter ego issues from the case under Fed. R. Civ. P. 42(b).<sup>4</sup> "Courts order separate trials [under Rule 42(b)] only when 'clearly necessary.' This is

---

<sup>4</sup>Rule 42(b) provides:

Separate Trials. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States.

because ‘a single trial will generally lessen the delay, expense and inconvenience to the parties and the courts.’ The movant has the burden to show prejudice.” Corrigan v. Methodist Hospital, 160 F.R.D. 55, 56-57 (E.D. Pa. 1995) (citations omitted). “The mere possibility of some prejudice does not justify separate trials where such prejudice is not substantial and there are strong countervailing considerations of economy.” Id. at 57 (citing Tri-R Systems v. Friedman & Son, 94 F.R.D. 726-27 (D. Colo. 1982)).

As discussed supra, the Dalia’s argument that depositions and litigation on the alter ego claims may not be necessary if ABTS and Intelnet prevail on the merits does not outweigh the harm that plaintiffs would suffer if bifurcation were granted and plaintiffs prevailed against Intelnet and ABTS.

The Dalia’s further argue that they will be prejudiced in front of a jury if the alter ego claims are not bifurcated, or that at the least, a jury would be confused if the alter ego claims were asserted in conjunction with the claims against ABTS and Intelnet. The court disagrees.

### **III. CONCLUSION**

For the foregoing reasons, Michael and Dominic Dalia’s joint 12(b)(2) motion to dismiss, and joint motion for a protective order and to bifurcate claims are denied.

An appropriate order follows.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WORLDCOM TECHNOLOGIES, INC. and	:	CIVIL ACTION
MCI TELECOMMUNICATIONS CORP.	:	
	:	
v.	:	
	:	
INTELNET INT'L, INC., ASSOCIATED	:	NO. 00-2284
BUSINESS TELEPHONE SYSTEMS	:	
CORP., DOMINIC DALIA and MICHAEL	:	
DALIA	:	

**ORDER**

AND NOW, this \_\_\_\_ day of August 2002, upon consideration of Defendants Michael Dalia and Dominic Dalia's Joint Motion to Dismiss, pursuant to F.R.C.P. 12(b)(2), and the arguments of the parties, it is hereby ORDERED that the Motion is DENIED.

Upon consideration of Defendants Michael Dalia and Dominic Dalia's Joint Motion for Protective Order and Motion to Bifurcate Claims, and the arguments of the parties, it is further ORDERED that the Motion is Denied.

BY THE COURT:

\_\_\_\_\_  
JAMES T. GILES, C.J.

Copies by FAX on \_\_\_\_\_  
to: