UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. VISA U.S.A. INC., VISA INTERNATIONAL CORP., AND MASTERCARD INTERNATIONAL INCORPORATED, Defendants.	98 Civ. 7076 (BSJ)(KNF) ORDER

Kevin Nathaniel Fox
United States Magistrate Judge

Upon consideration of a motion to quash the deposition of Mark Tonnesen, a director of defendant Visa International Service Association ("Visa International") and a member of management of the Royal Bank of Canada, made by letter-brief submitted by Mr. Tonnesen's counsel on December 20, 1999, and upon consideration of subsequent letters supporting and opposing that motion submitted by his counsel, counsel for Visa International and counsel for plaintiff United States of America, as well as oral argument made during a telephonic conference on January 7, 2000 including counsel for the parties and Mr. Tonnesen, IT IS HEREBY ORDERED that:

1. The motion to quash is hereby DENIED and the deposition of Mr. Tonnesen shall proceed, at a mutually convenient time in Toronto, Ontario, Canada, or at another mutually agreed upon place, subject to the two conditions set out in Paragraphs 2 and 3 below.

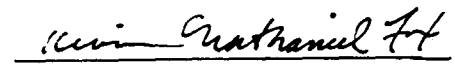
2. Plaintiff's counsel shall not ask Mr. Tonnesen to provide testimony as an expert witness.

3. Plaintiff's counsel may seek to discover from Mr. Tonnesen any non-privileged information

falling within the scope of relevance set forth in Fed. R. Civ. P. 26(a). However, plaintiff's counsel's questions shall make clear on the record whether, with respect to the event or communication as to which testimony is sought, Mr. Tonnesen was acting as a Visa International director or in some other capacity.

Dated: January 13, 2000
New York, NY

SO ORDERED:



Kevin Nathaniel Fox
United States Magistrate Judge