

Maid of the Mist NY contract challenged

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Bill Windsor is a self-proclaimed "serial entrepreneur." The 61-year-old businessman from Atlanta, Ga., has started more than 50 businesses in his lifetime, and if he has his way, he will soon add a tour-boat operation to that list.

Windsor filed a lawsuit Nov. 19 in Albany seeking \$58 million in damages, claiming that his company was unfairly shut out from bidding on the contract under which Maid of the Mist operates its stateside tours of Niagara Falls.

A 2002 agreement gave privately owned Maid of the Mist Corp. exclusive rights to provide boat service on the New York side of the falls over a term of 40 years.

The suit seeks to have that contract voided and the bidding process reopened. Windsor claims that New York state is required by law to offer the contract for competitive bids, something it failed to do when signing off on the 40-year lease. After five years of legal wrangling with Maid of the Mist Corp., he says, he is prepared to fight to see the company stripped of what he calls its "40-year monopoly" on the Niagara Gorge waters.

"How does someone get a billion-dollar deal with no competitive bidding, no competition and an exclusive monopoly at one of the wonders of the world?" Windsor asked.

The battle between Windsor and Maid has its origins in an earlier dispute. Windsor's son operates an Atlanta-based business, Alcatraz Media, that sells tickets to tourist attractions and tour packages worldwide. In 2005, Windsor says, Alcatraz had a verbal contract with Maid allowing the company to sell tickets to Maid of the Mist tours through its Web sites. Midway through the 2005 tourism season, Windsor claims, Maid voided that verbal contract by refusing to allow his company to sell the tickets.

Marc Brown, an attorney at Phillips Lytle LLP who represents Maid of the Mist, says no such agreement ever existed. This point of dispute touched off a string of claims that Windsor says has cost him more than \$1 million in legal expenses.

Brown has a different take on the history between the two companies.

"Essentially, in 2005, when we asked him to stop selling these vouchers that he had no right to sell, he continued to sell the

vouchers and Maid of the Mist had to bring an action to stop him," Brown said.

A Georgia state court issued a preliminary injunction prohibiting Alcatraz from selling Maid tickets, he said, and in a summary judgment ordered Windsor to pay his client more than \$400,000 in attorneys' fees.

Windsor - who is now serving as his own attorney - says it "galled" him to pay those fees but, at the time, he felt settling that portion of the dispute was in the best interest of his company.

Since then, he has focused his efforts on challenging the contracts Maid of the Mist holds on both sides of the border. In October, the Province of Ontario ruled that the Niagara Parks Commission had to reopen the bidding process for the Canadian rights to the land Maid uses. Windsor promptly submitted a bid on behalf of Alcatraz Media that he says projects to increase the commissions the Canadian government would earn from the boat rides by more than \$37 million.

While he awaits the Parks Commission's decision, Windsor says he believes his New York lawsuit will prevail, and he is making plans to be the next operator of tour boats at Niagara Falls.

Brown points to a string of rulings against Windsor in Georgia courts, as well as the U.S. Court of Appeals for the 11th Circuit, and says he is confident in the strength of his client's position.

"From the standpoint of the current lawsuit (over the boating contract), I can't really comment because it is pending litigation," Brown said. "I will say we feel strongly about the defenses we have to his action that we will assert in the case."

Brown also provided a statement from Maid of the Mist Corp. that read, in part: "As it has done numerous times over the past four years, Maid intends to defend itself against Mr. Windsor's unfounded and frivolous motions and claims."

The case is scheduled to begin in state Supreme Court in Albany Jan. 8.