

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

C. TODD HUGHES, Individually and)
derivatively on behalf of)
ENVIRONMENTAL MANAGEMENT)
AND ENGINEERING, INC., and FIVE)
ZERO HOLDINGS, LLC,)
)
Plaintiffs,)
)
VS.) NO. 17-561-BC
)
QUINTIN G. MACDONALD,)
)
Defendant.)

RULE 16 ORDER AND ORDER DENYING
DEFENDANT’S MOTION FOR RELIEF FROM DISCOVERY SANCTIONS

On February 21, 2018, a telephone hearing was conducted to select deadlines and a trial date for the disposition of this case. Also oral argument was conducted on the Defendant’s motion for relief from discovery sanctions.

With respect to preparation of the case for trial, after conferring with Counsel the following deadlines are ORDERED.

1. April 6, 2018 is the deadline for the Defendant to respond to the discovery ordered in response to the Plaintiff’s second motion to compel.
2. An interim telephone conference shall be conducted on May 17, 2018, at noon, to discuss whether the Plaintiff will have any amendments to the pleadings. A call in number to the parties shall be provided closer to the date of the telephone conference.

3. June 8, 2018 is the deadline for the Plaintiff to designate any expert witnesses.

4. July 6, 2018 is the deadline for the Defendant to designate any expert witnesses.

5. August 3, 2018 is the deadline for all discovery to be completed included rulings on motions related to discovery.

6. A pretrial conference is scheduled for September 13, 2018, at 9:00 a.m.

Prior to the pretrial conference, by September 5, 2018, Counsel shall file the following:

- (1) A list of pattern instructions counsel anticipates requesting the Court to provide to the jury at the conclusion of the proof;
- (2) Proposed jury instructions which vary from the pattern instructions along with citations to statutory or case authority;
- (3) A proposed verdict form;
- (4) All motions in limine; and
- (5) Designations of deposition excerpts to be offered as testimony.

Responses to motions in limine and counter-designations of deposition excerpts shall be filed by September 10, 2018.

The Court imposes these requirements to assure that the case is organized and ready to try to a jury, and to thereby avoid wasting the jurors' time and poor public perception of the legal system.

7. A 12 person jury trial is set for October 1, 2018, at 9:00 a.m., and a week is reserved.

With respect to the Defendant's motion for relief from discovery sanctions, the Court denies the motion and shall not set aside the January 31, 2018 Order granting the Plaintiff's second motion to compel. Accordingly, attorneys' fees are awarded in connection with the Plaintiff having to file the motion to obtain the discovery. After reviewing the Plaintiff's affidavit for recovery of fees, the Court awards as sanctions attorneys' fees incurred through December 8, 2017 in the amount of \$3,432.00. It is ORDERED that these are required to be paid by the Defendant by March 23, 2018. The fees listed after December 8, 2017 shall not be awarded because after that date Defendant's Counsel underwent shoulder surgery which provides some basis for the inability to comply with the January 31, 2018 Order. Nevertheless, the attorneys' fees incurred by the Plaintiff prior to December 8, 2017, are appropriate because the vast majority of the issues on the Plaintiff's second motion to compel were present much earlier than the shoulder surgery of Defendant's Counsel, demonstrating that the Defendant is recalcitrant and not engaged in assisting Counsel in providing the discovery required.

/s/ Ellen Hobbs Lyle
ELLEN HOBBS LYLE
CHANCELLOR
BUSINESS COURT DOCKET
PILOT PROJECT

cc by U.S. Mail, email, or efileing as applicable to:

W. Scott Sims

Michael O'Neill

D. Gil Schuette

J. Timothy Crenshaw

John I. Harris III