

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

THOMAS ENVIRONMENTAL)
SERVICES, INC.; PINNACLE)
POLLUTION CONTROL SERVICES,)
LLC; and RIGHT INDUSTRIAL)
SERVICES, INC.,)

Plaintiffs,)

VS.)

NEO CORPORATION; and)
HARRY PUCKETT,)

Defendants.)

NF
NO. 15-1474-BC

2016 JUL -6 PM 3:58
FILED
CLEVELAND, TENNESSEE
DAVIDSON COUNTY CHANCERY CT.
D.C. & H.

**MEMORANDUM AND ORDER SETTING DEADLINE FOR REPORTS
AND RULINGS ON EFILING ISSUES AND BIFURCATING
DEFENDANTS' DEPOSITIONS, AND ADDRESSING
DEFENDANT PUCKETT'S MOTION FOR SPECIFIC AD DAMNUM**

While conducting a telephone conference on June 30, 2016 to select a trial date, the Court finds that the preparation of this case for trial has stalled on e-discovery issues. Under these circumstances and in collaboration with Counsel, the Court ORDERS the following deadlines and measures.

1. The Plaintiff is to file by July 21, 2016, a report identifying any remaining issues with e-discovery search terms, the yield and any other unresolved matters.
2. Defendant NEO Corporation will file its response to item 1 above by July 28, 2016.

3. On August 4, 2016, at noon, the Court will conduct a hearing on any remaining e-discovery issues and will set a new deadline for discovery to close.

4. By August 12, 2016, the Plaintiff will brief its justification and provide any legal authorities on its request to take the depositions of the Defendants in two parts: before the exchange of e-discovery and after. Defendants' opposition shall be filed seven days later. The Docket Clerk will notify Counsel whether the dispute will be decided on the papers or if oral argument will be conducted.

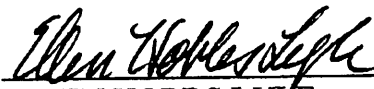
5. A 4-day bench trial is set to begin January 23, 2017, at 9:00 a.m.

The delay in discovery also has an impact on the ruling on Defendant Puckett's motion, filed May 12, 2016, to require the Plaintiff to state a specific amount sued for in the *ad damnum* clause.

In ruling on this motion, the standard the Court uses derives from *Newcomb v. Kohler Co.*, 222 S.W.3d 368 (Tenn. Ct. App. 2006). The Court's reading of *Newcomb* is that Rule 8 of the Tennessee Rules of Civil Procedure does entitle a defendant to have stated, as part of the pleadings, the dollar amount of damages the plaintiff seeks to recover to enable the defendant to prepare a defense. The result in *Newcomb*, however, of a very late-filed amendment providing such specificity, indicates that the timing of providing the information is discretionary with the Court.

In this case, it is clear from the Complaint the wrongful conduct alleged by the Plaintiff, and on that basis Defendant Puckett has notice of the claims asserted against him. There is, however, no dollar amount stated. Yet, there is good reason for this. Until the Plaintiff has more information about the extent of the use of its information and Defendant Puckett's conduct with clients, the Plaintiff does not know the extent of damage. Nevertheless, Defendant Puckett needs to be able to very soon assess his risk and exposure in the case.

Under these circumstances, the Court will set a date certain for the Plaintiff to provide a specific dollar *ad damnum*. That deadline will be set along with discovery and other pretrial deadlines at the August 4, 2016 noon hearing.



ELLEN HOBBS LYE
CHANCELLOR
TENNESSEE BUSINESS COURT
PILOT PROJECT

cc: Nader Baydoun
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Camille Chandler
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MAILED *faxed*
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