

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

UNIVERSAL STRATEGY GROUP,)
INC.,)
)
Plaintiff,)
)
VS.)
)
BRIAN DAVID HALSTEAD,)
)
Defendant.)

N/C
NO. 16-15-BC

FILED
2017 JAN 10 PM 12:35
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
[Signature]
D.C. & M.

RULE 16 CASE LITIGATION PLAN MEMORANDUM AND ORDER

On January 4, 2017, a hearing was conducted on Defendant's Motion to Compel and under Tennessee Civil Procedure Rule 16 to plan the litigation of this case.

Informing the rulings below are that prior to the January 4, 2017 hearing, the scope of this litigation has expanded to cover not only the present dispute in the pleadings of ownership of certain Electronic Devices and Defendant's counterclaim for recovery on a promissory note. The expanded litigation includes consolidated claims from a case filed in Williamson County by each party against the other of breach of fiduciary duties, and a proposed Amended Counterclaim by Brian Halstead which adds Timothy Slempe as a party, makes derivative claims on behalf of USGI, seeks dissolution of USGI, and asserts tortious interference with Mr. Halstead's employment.

After conducting the hearing on January 4, 2017, the following is ORDERED.

1. The Defendant is granted leave to file its Amended Counterclaim and to add parties upon the filing of the Order of the Honorable Judge Deanna Johnson transferring the Williamson County case to Davidson County. The Defendant shall include a copy of this Order with service of the Amended Counterclaim on new parties.

2. Because discovery on electronically stored information ("ESI") will subsume the procedure provided on page 6 of the September 26, 2016 Order, those two paragraphs of the September 26, 2016 Order are vacated. The part of the September 26, 2016 Memorandum and Order on page 6 being vacated is as follows:

It is further ORDERED that Defendant's personal content, located on the Electronic Devices in the custody of Logic Force, shall be reviewed by Plaintiff's litigation counsel only. Neither the Plaintiff, any of its representatives, nor its Corporation Counsel may review the Defendant's personal content on the Electronic Devices in the custody of Logic Force. This shall remain in force until further order.

The process for the Defendant to identify personal content and Plaintiff's Counsel, only, to view that shall be completed by October 28, 2016. Any disputes over ownership of the content on the Electronic Devices shall be listed by Plaintiff's Counsel and filed under seal with the Court for an *in camera* review. Oral argument on any disputes over ownership of the content shall be conducted on November 17, 2016, at 9:00 a.m. along with setting discovery and potentially other deadlines. The Court will initiate the call.

This ruling renders the Defendant's motion to compel, set for Friday, January 6, 2017, moot, and that motion is removed from the docket.

3. By January 4, 2017, Counsel for Defendant shall file a notice with the Court identifying the content, it contends is covered by the attorney-client privilege, with respect to the Electronic Devices turned over to the Plaintiff on September 26, 2016. As to this

content, by January 20, 2017, Defendant's Counsel shall prepare and serve on Plaintiff's Counsel a privilege log. If the Plaintiff disputes any of those claims of privilege, it shall file and set on the regular motion docket a motion to compel production.

4. Except for the attorney/client privilege information referred to in paragraph 3, which is being handled separately because it is in possession of the Plaintiff, by January 27, 2017, Counsel shall have filed an agreed protective order with the Court to cover discovery in this case.

5. Before engaging in discovery on ESI, the parties shall exchange contention interrogatories and accompanying requests for production to evaluate whether mediation prior to the expense and time of ESI would be meaningful.

By February 28, 2017, the parties shall have exchanged and responded to contention interrogatories and any accompanying requests for production. Any supplemental contention interrogatories served by the Defendant with respect to its Amended Counterclaim and adding parties are limited to no more than 20 interrogatories which may be accompanied by corresponding requests for production. Also, by January 31, 2017, the Plaintiff shall respond to the initial contention interrogatories which have already been served by the Defendant.


6. On March 1, 2017, the Court shall conduct at noon a telephone conference. By this point, the parties shall have exchanged and received answers to their contention interrogatories and will be in a better position to determine whether early mediation, prior to the expense of ESI, would be meaningful. As required above, a copy of this Order shall

be served on the added parties to notify them of the telephone hearing they are to participate in on March 1, 2017.

7. It is further ORDERED that deadlines for the preparation of this case for trial are that all discovery shall close on September 15, 2017; summary judgment may be filed at any time so as to be heard no later than November 17, 2017; and the case shall be set for trial in January 2018 once jury dates have been designated in Davidson County for trials.

8. Lastly, the protocol that the Court is considering, which was furnished by Defendant's Counsel and based upon a New York protocol, for ESI would include the following four steps.

- (a) Identification of custodians and electronic devices relevant to the case
- (b) Exchange of search terms; run on 10% of the total population; and identification by each side on the format for native production
- (c) Depending upon the yield produced by the search terms, a sample may be taken of the ESI; and the next step is for the parties to review the document yield for privileged information, make privilege logs; and if responsive, produce the information, and if not responsive, do not produce it
- (d) All responses shall be in native format



ELLEN HOBBS LYLE
CHANCELLOR
TENNESSEE BUSINESS COURT
PILOT PROJECT

cc: Bryan K. Williams
J. Alex Little
W. Justin Adams



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faxed