

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

FILED
2015 OCT 23 PM 2:32
GLENN & MASTER
DAVIDSON CO. CHANCERY CT.
D.C. & M.

BRIAN MOORE,)
)
 Plaintiff,)
)
 VS.) NO. 15-1146-BC
)
 GLENN DUKES,)
)
 Defendant.)

ORDER PROVIDING DATES AND DISCUSSION TOPICS
FOR CASE LITIGATION PLAN CONFERENCE

The above captioned matter has been transferred to the Tennessee Business Court Pilot Project (the "Business Court"). On all future filings, please use the following caption:

BRIAN MOORE,)
)
 Plaintiff,)
)
 VS.) NO. 15-1146-BC
)
 GLENN DUKES,)
)
 Defendant.)

Now that an answer has been filed to the amended complaint and a counterclaim filed, and the issues have been joined, the Court and Counsel are able to assess, clarify and prioritize the claims and prepare a plan to efficiently try the case.

It is ORDERED that in the next week, Mrs. Smith, Docket Control Clerk, shall contact Counsel regarding their availability for a one-hour Case Litigation Plan Conference (“CLPC”). The Court’s availability are these dates and times:

December 4, 2015 at 12:30

December 14, 2015 at 1:30

December 15, 2015 at 9:00

December 16, 2015 at 9:00

Particular matters which the Court requests Counsel to be prepared to discuss at the CLPC are as follows:


1. Plaintiff’s Counsel is requested to clarify whether the claim for breach of fiduciary duty (*see e.g.* paragraphs 5, 14 and 15) of the Amended Complaint is a duty separate and apart from Midtown Investors II (“Midtown”), or whether the alleged breach of fiduciary duty is mixed in with and comes under the Midtown Operating Agreement. The Court requests this clarification for it to know whether the alleged existence of Defendant’s fiduciary duty is governed by common law or the Operating Agreement.

2. The foregoing request for clarification also applies to Plaintiff’s \$165,000 conversion claim: are these funds separate from Midtown, or is the alleged conversion mixed in with the accounts concerning Midtown financial disputes? The Court requests this clarification for it to know how much overlap there is between the Amended Complaint and Counterclaim, particularly any overlap with the Counterplaintiff’s claim for an accounting. This clarification will assist in determining whether to prioritize an accounting and the scope of the same.

3. As to the Counterclaim, Counsel for the Counterplaintiff is requested to provide at the CLPC the status of the closure of Midtown's books, and, if that has been accomplished, whether the assertion in paragraph 14 of the Counterclaim of the termination and wind-up of Midtown's affairs will be pursued as a preliminary dispositive motion or require further evaluation and development through discovery.

The foregoing information at the CLPC will enable the Court to collaborate with Counsel to set deadlines for the following:

- accounting and the scope of the same
- pre-discovery preliminary motions or with discovery narrowed to the motions
- amendment of pleadings
- deadlines for discovery
- summary judgment or, before that, another CLPC.



ELLEN HOBBS LYLE
BUSINESS COURT JUDGE

cc: Jay S. Bowen
Will Parsons
Dudley West
Charles McElroy


MAILED
10/23/15

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

BRIAN MOORE,

Plaintiff,

VS.

GLENN DUKES,

Defendant.

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NF
NO. 15-1146-BC

DAVIDSON COUNTY CHANCERY COURT
D.C. & M.

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CASE LITIGATION SCHEDULE

On December 8, 2015, a litigation plan conference was conducted in this case. There was discussion and analysis of the pleadings, theories of the case, the applicable law, discovery already exchanged and being scheduled and the extent of future discovery, the timing of mediation, and efficient development of the case. From that conference, the following litigation schedule is entered.

1. By February 12, 2016, Counsel shall file a notice if the parties have agreed to proceed with mediation at that time, or if only one side seeks mediation at that initial stage, a motion for referral to mediation shall be filed so as to be heard on or before February 12, 2016.
2. The deadline to add parties is March 11, 2016.
3. The deadline to amend the pleadings is April 29, 2016, including by that date entry of an order for leave to amend if the circumstances require leave of court.

4. All discovery, including but not limited to expert witness designations, reports and depositions, shall be completed by July 29, 2016.

5. A 4-day bench trial is scheduled to begin at 9:00 a.m., October 17, 2016.

It is so ORDERED.



ELLEN HOBBS LYLE
CHANCELLOR
TENNESSEE BUSINESS COURT
PILOT PROJECT

cc: Jay S. Bowen
Will Parsons
Dudley West
Charles McElroy



MAILED
12-4-15