

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

BURTON W. WIAND, as Receiver for
OASIS INTERNATIONAL GROUP, LTD.;
OASIS MANAGEMENT, LLC; AND
SATELLITE HOLDINGS COMPANY,

Plaintiff,

Case No. 8:20-cv-863-T-60SPF

v.

RAYMOND P. MONTIE, III,

Defendant.

_____ /

CASE MANAGEMENT REPORT

The parties have agreed on the following dates and discovery plan pursuant to Federal Rule of Civil Procedure 26(f) and Middle District of Florida Local Rule 3.05(c):

| DEADLINE OR EVENT | AGREED DATE |
|---|--|
| Mandatory Initial Disclosures (pursuant to Fed. R. Civ. P. 26(a)(1)) [Court recommends 30 days after CMR meeting] | October 22, 2020 |
| Certificate of Interested Persons and Corporate Disclosure Statement [Each party who has not previously filed must file immediately] | Receiver filed on July 16, 2020. Mr. Montie filed on September 22, 2020. |
| Motions to Add Parties or to Amend Pleadings [Court recommends 1 - 2 months after CMR meeting] | December 1, 2020 |
| Disclosure of Expert Reports Plaintiff: Defendant: [Court recommends 1 - 2 months before discovery deadline to allow expert depositions] | March 1, 2021 March 11, 2021 |

| DEADLINE OR EVENT | AGREED DATE |
|---|-------------------------------|
| Discovery Deadline [Court recommends 6 months before trial to allow time for dispositive motions to be filed and decided; all discovery must be commenced in time to be completed before this date] | July 30, 2021 |
| Dispositive Motions, <i>Daubert</i>, and <i>Markman</i> Motions [Court requires 5 months or more before trial term begins] | August 2, 2021 |
| Meeting <i>In Person</i> to Prepare Joint Final Pretrial Statement [10 days before Joint Final Pretrial Statement] | December 10, 2021 |
| Joint Final Pretrial Statement (<i>Including</i> a Single Set of Jointly-Proposed Jury Instructions and Verdict Form (with diskette), Voir Dire Questions, Witness Lists, Exhibit Lists with Objections on Approved Form) [Court recommends 6 weeks before Trial] | December 21, 2021 |
| All Other Motions Including Motions <i>In Limine</i> [Court recommends 1 weeks before Final Pre-trial Conference] | December 21, 2021 |
| Final Pretrial Conference [As needed, the Court will set a date that is approximately 4 weeks before trial] | Approximately January 4, 2020 |
| Trial Briefs [Court recommends 2 weeks before Trial] | January 18, 2022 |
| Trial Term Begins [Local Rule 3.05 (c)(2)(E) sets goal of trial within 2 years of filing complaint in all Track Two cases; trial term <i>must not</i> be less than 4 months after dispositive motions deadline (unless filing of such motions is waived); district judge trial terms typically begin on Monday preceding the 1st day of the month; trials before magistrate judges will be set on a date certain after consultation with the parties] | February 1, 2022 |
| Estimated Length of Trial [trial days] | 10 |
| Jury / Non-Jury | Jury |

| | |
|---|---|
| <p>Mediation Deadline:</p> <p>Mediator:</p> <p>Address:</p> <p>Telephone:</p> <p>[Absent arbitration, mediation is <i>mandatory</i>; Court recommends either 2 - 3 months after CMR meeting, or just after discovery deadline]</p> | <p>May 31, 2021</p> <p>To Be Determined</p> |
|---|---|

| DEADLINE OR EVENT | AGREED DATE |
|--|---|
| <p>All Parties Consent to Proceed Before Magistrate Judge</p> | <p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>Likely to Agree in Future <input type="checkbox"/></p> |

I. Meeting of Parties in Person

Lead counsel must meet *in person* and not by telephone absent an order permitting otherwise. Here, counsel obtained an order from the Court allowing the case management meeting to occur using the Zoom video conferencing platform. Counsel will meet in the Middle District of Florida, unless counsel agree on a different location. Pursuant to Local Rule 3.05(c)(2)(B) or -(c)(3)(A),¹ a meeting was held via Zoom on September 22, 2020 at 2:00 PM and was attended by:

| | |
|-----------------------|--------------------|
| <u>Name</u> | <u>Counsel for</u> |
| Jared J. Perez | Plaintiff/Receiver |
| Lawrence J. Dougherty | Plaintiff/Receiver |

¹ A copy of the Local Rules may be viewed at <http://www.flmd.uscourts.gov>.

John W. Waechter

Plaintiff/Receiver

Mark L. Horwitz

Defendant/Mr. Montie

Vincent A. Citro

Defendant/Mr. Montie

II. Pre-Discovery Initial Disclosures of Core Information

Fed. R. Civ. P. 26(a)(1)(A) - (D) Disclosures

Fed. R. Civ. P. 26, as amended effective December 1, 2000, provides that these disclosures are mandatory in Track Two and Track Three cases, except as stipulated by the parties or otherwise ordered by the Court (the amendment to Rule 26 supersedes Middle District of Florida Local Rule 3.05, to the extent that Rule 3.05 opts out of the mandatory discovery requirements):

The parties ____ have exchanged agree to exchange (check one) information described in Fed. R. Civ. P. 26(a)(1)(A) - (D) by October 22, 2020.

Below is a description of information disclosed or scheduled for disclosure, including electronically stored information as further described in Section III below.

The parties will exchange the information required by the Federal Rules of Civil Procedure.

III. Electronic Discovery

The parties have discussed issues relating to disclosure or discovery of electronically stored information (“ESI”), including Pre-Discovery Initial Disclosures of Core Information in Section II above, and agree that (check one):

No party anticipates the disclosure or discovery of ESI in this case;

One or more of the parties anticipate the disclosure or discovery of ESI in this case.

If disclosure or discovery of ESI is sought by any party from another party, then the following issues shall be discussed:²

- A. The form or forms in which ESI should be produced.
- B. Nature and extent of the contemplated ESI disclosure and discovery, including specification of the topics for such discovery and the time period for which discovery will be sought.
- C. Whether the production of metadata is sought for any type of ESI, and if so, what types of metadata.
- D. The various sources of ESI within a party's control that should be searched for ESI, and whether either party has relevant ESI that it contends is not reasonably accessible under Rule 26(b)(2)(B), and if so, the estimated burden or costs of retrieving and reviewing that information.
- E. The characteristics of the party's information systems that may contain relevant ESI, including, where appropriate, the identity of individuals with special knowledge of a party's computer systems.
- F. Any issues relating to preservation of discoverable ESI.
- G. Assertions of privilege or of protection as trial-preparation materials, including whether the parties can facilitate discovery by agreeing on procedures and, if appropriate, an Order under the Federal Rules of Evidence Rule 502. If the parties agree that a protective order is needed, they shall attach a copy of the proposed order to the Case Management Report. The parties should attempt to agree on protocols that minimize the risk of waiver. Any protective order shall comply with Local Rule 1.09 and Section IV. F. below on Confidentiality Agreements.

² See Generally: *Rules Advisory Committee Notes* to the 2006 Amendments to Rule 26 (f) and Rule 16.

H. Whether the discovery of ESI should be conducted in phases, limited, or focused upon particular issues.

Please state if there are any areas of disagreement on these issues and, if so, summarize the parties' position on each:

The parties have discussed the need for a confidentiality agreement and are in the process of drafting mutually acceptable language.

If there are disputed issues specified above, or elsewhere in this report, then (check one):

One or more of the parties requests that a preliminary pre-trial conference under Rule 16 be scheduled to discuss these issues and explore possible resolutions. Although this will be a non-evidentiary hearing, if technical ESI issues are to be addressed, the parties are encouraged to have their information technology experts with them at the hearing.

If a preliminary pre-trial conference is requested, a motion shall also be filed pursuant to Rule 16(a), Fed. R. Civ. P.

All parties agree that a hearing is not needed at this time because they expect to be able to promptly resolve these disputes without assistance of the Court.

IV. Agreed Discovery Plan for Plaintiffs and Defendant

A. Certificate of Interested Persons and Corporate Disclosure Statement

This Court has previously ordered each party, governmental party, intervenor, non-party movant, and Rule 69 garnishee to file and serve a Certificate of Interested Persons and Corporate Disclosure Statement using a mandatory form. No party may seek discovery from any source before filing and serving a Certificate of Interested Persons and Corporate Disclosure Statement. A motion, memorandum, response, or other paper — including an emergency motion — is subject to being denied or stricken unless the filing party has previously filed and served its

Certificate of Interested Persons and Corporate Disclosure Statement. Any party who has not already filed and served the required certificate is required to do so immediately.

Every party that has appeared in this action to date has filed and served a Certificate of Interested Persons and Corporate Disclosure Statement, which remains current:

Yes

No

B. Discovery Not Filed

The parties shall not file discovery materials with the Clerk except as provided in Local Rule 3.03. The Court encourages the exchange of discovery requests on diskette. *See* Local Rule 3.03(f). The parties further agree as follows:

No further agreements at this time.

C. Limits on Discovery

Absent leave of Court, the parties may take no more than ten depositions per side (not per party). Fed. R. Civ. P. 30(a)(2)(A); Fed. R. Civ. P. 31(a)(2)(A); Absent leave of Court, the parties may serve no more than twenty-five interrogatories, including sub-parts. Fed. R. Civ. P. 33(a); Absent leave of Court or stipulation of the parties each deposition is limited to one day of seven hours. Fed. R. Civ. P. 30(d)(2). The parties may agree by stipulation on other limits on discovery. The Court will consider the parties' agreed dates, deadlines, and other limits in entering the scheduling order. Fed. R. Civ. P. 29. In addition to the deadlines in the above table, the parties have agreed to further limit discovery as follows:

1. Depositions: No further agreements or limitations at this time.
2. Interrogatories: No further agreements or limitations at this time.
3. Document Requests: No further agreements or limitations at this time.

4. Requests to Admit: No further agreements or limitations at this time.
5. Supplementation of Discovery: No further agreements or limitations at this time.

D. Discovery Deadline

Each party shall timely serve discovery requests so that the rules allow for a response prior to the discovery deadline. The Court may deny as untimely all motions to compel filed after the discovery deadline. In addition, the parties agree as follows:

No further agreements at this time.

E. Disclosure of Expert Testimony

On or before the dates set forth in the above table for the disclosure of expert reports, the parties agree to fully comply with Fed. R. Civ. P. 26(a)(2) and 26(e). Expert testimony on direct examination at trial will be limited to the opinions, basis, reasons, data, and other information disclosed in the written expert report disclosed pursuant to this order. Failure to disclose such information may result in the exclusion of all or part of the testimony of the expert witness. The parties agree on the following additional matters pertaining to the disclosure of expert testimony:

No further agreements at this time.

F. Confidentiality Agreements

Whether documents filed in a case may be filed under seal is a separate issue from whether the parties may agree that produced documents are confidential. The Court is a public forum, and disfavors motions to file under seal. The Court will permit the parties to file documents under seal only upon a finding of extraordinary circumstances and particularized need. *See Brown v. Advantage Engineering, Inc.*, 960 F.2d 1013 (11th Cir. 1992); *Wilson v. American Motors Corp.*, 759 F.2d 1568 (11th Cir. 1985). A party seeking to file a document

under seal must file a motion to file under seal requesting such Court action, together with a memorandum of law in support. The motion, whether granted or denied, will remain in the public record.

The parties may reach their own agreement regarding the designation of materials as “confidential.” There is no need for the Court to endorse the confidentiality agreement. The Court discourages unnecessary stipulated motions for a protective order. The Court will enforce appropriate stipulated and signed confidentiality agreements. *See* Local Rule 4.15. Each confidentiality agreement or order shall provide, or shall be deemed to provide, that “no party shall file a document under seal without first having obtained an order granting leave to file under seal on a showing of particularized need.” With respect to confidentiality agreements, the parties agree as follows:

The parties have discussed the need for a confidentiality agreement and are in the process of drafting mutually acceptable language.

G. Other Matters Regarding Discovery

No further agreements at this time.

V. Settlement and Alternative Dispute Resolution.

A. Settlement

The parties agree that settlement is

likely unlikely (check one)

The parties request a settlement conference before a United States Magistrate Judge.

yes no likely to request in future

B. Arbitration

The Local Rules no longer designate cases for automatic arbitration, but the parties may elect arbitration in any case. Do the parties agree to arbitrate?

yes _____ no likely to agree in future _____
_____ Binding _____ Non-Binding

C. Mediation

Absent arbitration or a Court order to the contrary, the parties in every case will participate in Court-annexed mediation as detailed in Chapter Nine of the Court's Local Rules. The parties will agree on a mediator from the Court's approved list of mediators, and have agreed to the date stated in the table above as the last date for mediation. The list of mediators is available from the Clerk and is posted on the Court's web site at <http://www.flmd.uscourts.gov>.

D. Other Alternative Dispute Resolution

The parties intend to pursue the following other methods of alternative dispute resolution:

No further agreements at this time.

Date: September 24, 2020

Signature of Counsel (with information required by Local Rule 1.05(d)) and Signature of Unrepresented Parties.

s/ Jared J. Perez
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Counsel for Raymond P. Montie, III

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of September 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing.

/s/ Jared J. Perez
Attorney