

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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John C. Depp, II,

Plaintiff,

v.

Amber Laura Heard,

Defendant.

Civil Action No.: CL-2019-0002911

JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX COUNTY, VA

PLAINTIFF JOHN C. DEPP, II'S OPPOSITION TO DEFENDANT AMBER LAURA HEARD'S REQUEST TO APPOINT A CONCILIATOR AND MOTION TO COMPEL CONTACT INFORMATION FOR WITNESSES IDENTIFIED IN DISCOVERY

Plaintiff John C. Depp, II, by and through his undersigned counsel, hereby opposes Defendant's Request to Appoint a Conciliator and Motion to Compel Contact Information for Witnesses Identified in Discovery. Setting aside the fact that Ms. Heard has once again inappropriately combined two unrelated Friday motions into a single motion, in violation of the Rules of this Court, Plaintiff responds as follows:

1. The Court Should Not Appoint a Conciliator in This Matter to Assist with Discovery Disputes.

With only two months remaining in discovery, and a lengthy discovery history in this case, appointment of a conciliator at this late stage would hinder, not help, the discovery process. The parties have committed significant time and effort to meet-and-confers and have often made progress. When the parties are at a standstill, they (primarily Defendant) have sought the Court's guidance. Introducing a conciliator into the process, a new third-party who is unfamiliar with the case and the discovery disputes/resolutions to this point, is inefficient at this stage in the litigation. While the primary purpose of appointing a conciliator is to speed up the disposition of

cases and reduce costs (*see* Fairfax Circuit Court Practice Manual at § 3.00 (page M-2) (“It aims to speed up the disposition of cases and reduce the cost of litigation...”)), those goals would not be furthered here. To the contrary, at this point, enlisting a conciliator would only serve to add time and expense to the parties’ efforts, requiring the parties to engage in an additional discovery step and in otherwise unnecessary digressions of past discovery history.

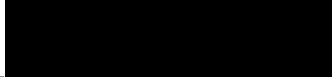
At the outset of this case, Defendant requested the special assignment of this case to one judge on the grounds that “it would be efficient for one judge to develop a working knowledge of the facts and the law in this matter” and “[t]here are likely to be numerous substantive and procedural pre-trial motions, demurrers, pleas in bar and motions *in limine*, many of them related, such that it would be beneficial for one judge to hear them all.” Plaintiff believes that the Court remains in the best position to resolve any remaining disputes between the parties, as it has for the past two years. To add a new third party to the discovery process, one who is unfamiliar with the facts and prior disputes, with only two months remaining in discovery, would be counterproductive. The Court should deny Defendant’s request to appoint a conciliator in this case.

2. The Court Should Deny Defendant’s Motion to Compel.


Defendant’s effort to compel Plaintiff to produce contact information in connection with an interrogatory requesting Plaintiff to identify certain persons with knowledge of the case should be rejected. Plaintiff is required by the Virginia rules to certify that the information provided in his interrogatory responses are true and accurate to the best of his knowledge, information, and belief. *See* Va. S. Ct. R. 4:8(b). Plaintiff cannot certify to the accuracy of something he does not know. Here, in response to the interrogatory, Plaintiff provided contact information for those persons he knew/was able and responded “Unknown” for those persons he

did not know. Plaintiff cannot just make up contact information for such persons. Indeed, even Defendant's interrogatory recognizes this limitation, providing in part "The answer to this Interrogatory should include contact information, *to the extent known*, for the following..." See Attachment 2 to Defendant's Motion (emphasis added). Plaintiff has done exactly that.¹ Defendant's motion to compel should be denied.

Respectfully submitted,


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Dated: February 12, 2021

¹ To the extent Plaintiff becomes aware of new information responsive to this interrogatory, Plaintiff is under an independent obligation under the Virginia Rules to supplement his original response and will do so accordingly.