

documents already found within these same materials. *See Pickle Aff.* at ¶¶ 3–4.

Requests to Produce were served upon the Plaintiffs on November 29 and December 7, 2007. The Plaintiffs objected to each and every request on the grounds that all requested documents were either irrelevant, confidential, or privileged. As Ms. Hayes put it in her affidavit of May 29, 2008, “Both Plaintiffs found **ALL** the Requests to Produce served upon them to be objectionable ...” (emphasis added) [Doc. 61 at ¶ 6].

The Plaintiffs followed Defendant Pickle’s Requests to Produce and his motion to compel of December 14, 2007, with an untimely request for a Confidentiality Order that included a severely overbroad and unduly restrictive proposed order clearly designed to effectively “impound” discovery. Court scheduling delays then contributed to further delays resulting in an order dated April 17, 2008.

After the Confidentiality Order was issued, one would presume that the issues of confidentiality and privilege were largely disposed of. *See Pickle Aff.* at ¶ 5. Yet despite repeated requests, no dates for production of documents responsive to Defendant Pickle’s Requests to Produce were given. *See Pickle Aff.* at ¶ 6, Ex. A. A motion to compel is now pending.

Plaintiffs’ counsel has now made it clear in the status conference of May 7, 2008, and by telephone on June 6, 2008, that they intend to continue to obstruct the Defendants’ discovery efforts by challenging the scope and relevance of all production requests to the Plaintiffs and third parties. *See Pickle Aff.* at ¶¶ 8, 10, 12. And a letter from Plaintiffs’ counsel dated May 27, 2008, shows that the Plaintiffs intend to leave open the question of relevancy until as late as July 11, 2008, even though Plaintiffs’ counsel had earlier stated that this could be partly resolved by May 20. *See Pickle Aff.* at ¶ 11, Ex. B–C. This will clearly make the discovery process as protracted as possible.

Since this is a *modus operandi* of the Plaintiffs as demonstrated in such controversies as

the a) the complaint filed with the California Department of Fair Employment and Housing and the EEOC, b) *Shelton v. Shelton*, and c) the action brought by 3ABN against the Department of Revenue of the State of Illinois, which found 3ABN to be a Shelton family business largely because of 3ABN's failure to produce documents, the Defendants recognize that it will take time and resources to compel discovery from these very reluctant Plaintiffs. In fact, they have become so reluctant and so abusive as to substantially support a claim of abuse of Process, *inter alia*.

ARGUMENT

In order to intelligently serve Requests to Admit or Interrogatories, or additional Requests to Produce upon the Plaintiffs, the Defendants need to receive and analyze the documents they have already requested. Similar to the Plaintiffs' motion for a confidentiality order, their challenge of scope and relevance is untimely and abusive. Therefore, it becomes clear that the June 11, 2008, discovery deadline for such service is no longer tenable.

Given the fact that the Plaintiffs intend to fight additional protracted battles over discovery, a 90-day extension may not be sufficient, but is certainly not too long. And on this one issue, Defendants and Plaintiffs' counsel have come to an agreement that a 90-day extension of all discovery deadlines is both reasonable and acceptable, despite the failure to stipulate.

CONCLUSION

The Defendants have thus far essentially received next to nothing from the Plaintiffs in the way of documents essential to the Defendants' defense against the Plaintiff's allegations. This has been largely due to the reluctant, untimely, and obstructive behavior of the Plaintiffs. In addition, the Court's schedule delayed the issuance of a confidentiality order resulting, in effect, in a stay of discovery for more than 120 days. Importantly, a motion to compel the production of documents that are key to the Defendant's defense is now pending.

Wherefore, in the interest of justice, the Defendants pray the Honorable Court for an

extension of 90 days of all discovery deadlines in order to complete their discovery in preparation of their defense against all claims.

Respectfully submitted,

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