

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

RICHARD E. KAPLAN,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 05-144-B-H
)	
FIRST HARTFORD)	
CORPORATION AND)	
NEIL ELLIS,)	
)	
DEFENDANTS)	

PROCEDURAL ORDER

Yesterday, I conducted a conference of counsel in this case at the request of FHC’s lawyer. Because I had just come out of an employment discrimination jury trial, I had not read the transcript of the last conference of counsel (July 31), nor the agreed-to scheduling Order that I entered on July 31. I have done so now. At the July 31 conference the lawyers told me that they were going to try to agree on a valuation date based upon practical, as opposed to legal reasons, and that in the meantime they had agreed on a scheduling order for discovery (which I entered). At yesterday’s conference, I learned that the parties have been unable to agree on a valuation date. Accordingly, yesterday I set a briefing schedule in preparation for a judicial ruling on that issue.

But I also learned yesterday, with some concern (that I did not express because I had not reviewed the previous filings), that the defendants have not provided the names and CVs of their experts (required by the Scheduling Order to

be disclosed by August 8, 2007) and that FHC has not provided the discovery that was due September 6, 2007, apparently on the basis that it could not provide discovery until it knew the valuation date. I see no basis for such a delay. If agreement to a valuation date had been the premise, then the agreed-to scheduling order entered July 31 was premature, there being no agreement then on a valuation date.

I had thought from the July 31 conference that the parties had reached conceptual agreement on remedy and had decided to cooperate. Yesterday's conference makes clear that I was overly optimistic. We appear to have made zero progress in two months. It is time for the parties to take the relief phase of this lawsuit seriously; delay will not make it go away. From what the defendants' lawyers said at yesterday's conference, I assume that they have now disclosed the individual identities and CVs of their experts; if not, they shall do so by Tuesday October 9, 2007. FHC shall respond to Richard Kaplan's interrogatories and document requests by that same date (materials that were due September 6, 2007).

Summer is long over; it is time to focus energies on bringing this matter to a conclusion.

SO ORDERED.

DATED THIS 4TH DAY OF OCTOBER, 2007

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CIVIL DOCKET FOR CASE #: 1:05cv144 (DBH)**

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