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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Peter S. Davis, as Receiver of DenSco
Investment Corporation, an Arizona
corporation,

Plaintiff,

vs.

Clark Hill PLC, a Michigan limited
liability company; David G. Beauchamp
and Jane Doe Beauchamp, husband and
wife,

Defendants.

No. CV2017-013832

JOINT REPORT
(Commercial case)

(Assigned to the
Honorable Daniel Martin)

The parties signing below certify that they have conferred about the matters set forth in Rules 8.1(f) and 16(d), and that this case is not subject to the mandatory arbitration provisions of Rule 72. With regard to matters upon which the parties could not agree, they have set forth their positions separately in item 14 below. The parties are submitting a Proposed Scheduling Order with this Joint Report. Each date in the Joint Report and in the Proposed Scheduling Order includes a calendar month, day, and year. Because the parties have been unable to agree on a pre-trial schedule, they jointly request that the Court hold an in-person scheduling conference to discuss and finalize a scheduling order.

1. Brief description of the case: The plaintiff in this action is Peter S. Davis, the court appointed receiver of DenSco Investment Corporation (the "Receiver"). He was

1 appointed on August 18, 2016 in *Arizona Corporation Commission v. DenSco*
2 *Investment Corporation*, Case No. CV 2016-014142, after the death by suicide of
3 DenSco's sole director, officer and employee, Denny Chittick, and the filing of an
4 application for the appointment of a receiver by the Securities Division of the Arizona
5 Corporation Commission. DenSco was in the business of funding the purchase of real
6 estate secured by deeds of trust, using money raised from investors who purchased
7 promissory notes from DenSco. After analyzing DenSco's books and records and
8 other information, the Receiver determined that DenSco had suffered substantial
9 losses arising from its lending relationship with Yomtov Scott Menaged or his related
10 companies. The Receiver learned that Defendants Clark Hill PLC and David
11 Beauchamp had advised DenSco between January and June 2014 about DenSco's
12 lending relationship with Menaged and his entities, including in negotiating and
13 drafting a Forbearance Agreement pursuant to which DenSco agreed to loan
14 additional monies to Menaged and his entities. The Receiver has brought claims
15 against Defendants Clark Hill and Beauchamp for legal malpractice based on
16 negligence, legal malpractice based on breach of fiduciary duty, and for aiding and
17 abetting Denny Chittick's breaches of fiduciary duty. The damages sought by the
18 Receiver are based on losses DenSco suffered after January 2014 as a result of its
19 lending relationship with Menaged and his entities. Defendants deny that they have
20 breached the applicable standard of care or aided or abetted breaches of fiduciary duty
21 by Denny Chittick or that their conduct caused injury.

- 22 · If a claimant is seeking other than monetary damages, specify the relief
23 sought: Not applicable.
- 24 · This is a commercial case under Rule 8.1 because at least one plaintiff
25 and one defendant are business organizations, Rule 8.1(a)(1)(A), and the
26 case concerns, arises out of or involves: the internal affairs and
27 receivership of a business organization, Rule 8.1(b)(1); the liability of
28 individuals within a business organization (including officers and

1 directors), Rule 8.1(b)(2); tortious business activity, Rule 8.1(b)(12); the
2 purchase or sale of securities, Rule 8.1(b)(8); and a malpractice claim
3 against a professional other than a medical professional, that arises from
4 services the professional provided to a business organization,
5 Rule 8.1(b)(11).

6 **2. Current case status:** Every defendant has been served or dismissed.

7 [x] yes [] no.

8 · Every party who has not been defaulted has filed a responsive pleading.

9 [x] yes [] no.

10 · Explanation of a “no” response to either of the above statements:

11 Not applicable

12 **3. Amendments:** A party anticipates filing an amendment to a pleading that will
13 add a new party to the case: [] yes [x] no.

14 **4. Special case management:** Special case management procedures are
15 appropriate: [] yes [x] no.

16 · If “Yes,” the following case management procedures are appropriate
17 because: Not applicable.

18 **5. Commercial Case Management [Rule 8.1(f)]:**

19 **a. Approximate Amount in Controversy:** In excess of \$24 million.

20 **b. Anticipated Areas of Expert Testimony (not binding):**

21 Plaintiff: Standard of care, damages.

22 Defendants: Standard of care, damages.

23 **c. Electronically Stored Information**

24 [x] The parties do not expect Electronically Stored Information (“ESI”)
25 to be at issue in the case.

26 [] The parties do expect ESI to be at issue in the case.

27 Have the parties reached an agreement regarding the discovery of ESI?

28 [] yes [x] no.

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If yes, have the parties filed a stipulated order? Not applicable.

Do the parties currently have disputes or anticipate particular disputes over ESI? yes no.

If yes, please describe the dispute(s): Not applicable.

d. Privilege Issues and Protective Order

Have the parties reached an agreement regarding the inadvertent production of privileged material pursuant to Rule 502 of the Rules of Evidence? yes no.

If so, have the parties filed a stipulated order? yes no.

Have any issues arisen or do you expect any issues to arise regarding claims of privilege or protection of trial preparation materials pursuant to Rule 26.1(f)? yes no.

If so, please describe the issue(s): Not applicable.

Do the parties believe that a protective order is necessary? yes no.

If so, have the parties filed a stipulated protective order? yes no

6. Settlement: The parties agree to engage in settlement discussions with a settlement judge assigned by the court, or a private mediator.

The parties will be ready for a settlement conference or a private mediation by the date of the requested pre-trial conference in:

March 2019 (requested by Plaintiff)

March 2020 (requested by Defendants)

If the parties will not engage in a settlement conference or a private mediation, state the reason(s): Not applicable.

7. Readiness: This case will be ready for trial by

May 1, 2019 (requested by Plaintiff)

August 1, 2020 (requested by Defendants)

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By: /s/John E. DeWulf (with permission)
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Attorneys for Defendants

This document was electronically filed
and copy served via eFiling system*/
first-class mail this 30th day of
March, 2018, on:

Honorable Daniel Martin*
Maricopa County Superior Court
101 West Jefferson, ECB-412
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Clark Hill PLC, a Michigan limited
liability company; David G. Beauchamp
and Jane Doe Beauchamp, husband and
wife,

Defendants.

No. CV2017-013832

PROPOSED SCHEDULING ORDER
(Commercial case)

(Assigned to the
Honorable Daniel Martin)

Preliminary Statement: As noted in their Joint Report, the parties have conferred to address the matters in Rule 16(b) but were unable to agree on a pre-trial schedule. They therefore jointly request that the Court schedule an in-person scheduling conference to discuss and finalize a scheduling order, and have set forth below their respective proposed dates for each deadline.

Upon consideration of the parties' Joint Report, the court orders as follows:

1. Initial disclosure: The parties exchanged their initial disclosure statements on March 5, 2018.

1 **2. *Expert witness disclosure:*** The parties shall simultaneously disclose areas of
2 expert testimony by:

3 Plaintiff requests **July 6, 2018.**

4 Defendants request **October 1, 2018.**

5 The parties shall simultaneously disclose the identity and opinions of experts
6 of case-in-chief experts by:

7 Plaintiff requests **December 7, 2018.**

8 Defendants request **August 1, 2019.**

9 The parties shall simultaneously disclose their rebuttal expert opinions by:

10 Plaintiff requests **January 11, 2019.**

11 Defendants request **October 1, 2019.**

12 The parties have agreed to follow the terms of Fed. R. Civ. P. 26(a)(2)(B) with
13 respect to the requirement for, and the contents of, a written report signed by each
14 expert. The parties have further agreed to follow the terms of Fed. R. Civ. P. 26(b)(4)
15 with respect to discovery of expert witnesses.

16 **3. *Lay (non-expert witness) disclosure:*** The parties shall seasonably disclose all
17 lay witnesses under Rule 26.1. A final list of lay witnesses shall be filed by:

18 Plaintiff requests **September 7, 2018.**

19 Defendant requests **November 1, 2019.**

20 **4. *Final supplemental disclosure:*** Each party shall provide final supplemental
21 disclosure by:

22 Plaintiff requests **February 15, 2019.**

23 Defendants request **January 15, 2020.**

24 This Order does not replace the parties' obligation to seasonably disclose Rule
25 26.1 information on an on-going basis and as it becomes available.

26 No party shall use any lay witness, expert witness, expert opinion, or exhibit at
27 trial not disclosed in a timely manner, except upon order of the court for good cause
28 shown or upon a written or an on-the-record agreement of the parties.

1 **5. *Discovery deadlines:*** The parties may need to exceed the presumptive limits
2 on discovery. They will first confer in good faith before requesting relief from the
3 Court. The parties will propound all discovery undertaken pursuant to Rules 33
4 through 36 by:

5 Plaintiff requests **September 14, 2018.**

6 Defendant requests **September 14, 2019.**

7 The parties will complete the depositions of the parties and lay witnesses by:

8 Plaintiff requests **November 16, 2018**

9 Defendants request **January 15, 2020.**

10 The parties will complete the depositions of expert witnesses by:

11 Plaintiff requests **February 8, 2019.**

12 Defendants request **February 3, 2020.**

13 The parties will complete all other discovery, which includes but not limited to,
14 submission of full and final responses to written discovery by:

15 Plaintiff requests **February 8, 2019.**

16 Defendants request **February 3, 2020.**

17 (“Complete discovery” includes conclusion of all depositions and submission
18 of full and final responses to written discovery.)

19 **6. *Settlement conference or private mediation:*** The parties will conduct a
20 private mediation no later than the pre-trial conference to be set by the Court. The
21 parties request a pretrial conference by:

22 Plaintiff requests the month of **March 2019.**

23 Defendants request the month of **March 2020.**

24 All attorneys and their clients, all self-represented parties, and any non-
25 attorney representatives who have full and complete authority to settle the case, shall
26 appear personally appear and participate in good faith in this mediation, even if no
27 settlement is expected. However, if a non-attorney representative requests a
28

1 telephonic appearance and the mediator grants the request prior to the mediation date,
2 a non-attorney representative may appear telephonically.

3 **7. Dispositive motions:** The parties shall file all dispositive motions by:

4 Plaintiff requests **February 22, 2019.**

5 Defendants request **March 2, 2020.**

6 **8. Trial setting conference:** On _____ at

7 _____ .m, the court will conduct a telephonic trial setting conference.

8 Attorneys and self-represented parties shall have their calendars available for the
9 conference.

10 Plaintiff will initiate the conference call by arranging for the presence of all
11 other counsel and self-represented parties, and by calling this division at (602) 372-
12 2925 at the scheduled time.

13 **9. Firm dates:** No stipulation of the parties that alters a filing deadline or a
14 hearing date contained in this scheduling order will be effective without an order of
15 this court approving the stipulation. Dates set forth in this order that govern court
16 filings or hearings are firm dates, and may be modified only with this court's consent
17 and for good cause. This court ordinarily will not consider a lack of preparation as
18 good cause.

19 **10. Further orders:** The court further orders as follows:

20 _____.

21 DATED this ____ day of _____, 2018.

22
23 _____
24 The Honorable Daniel Martin
25 Judge of the Superior Court

26 7535101