

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

McCABE’S MECHANICAL SERVICE)
INC.,)
)
Plaintiff,)
)
v.) C.A. No. 2019-0809-SG
)
SCOTT BALLWEG,)
)
Defendant.)

ORDER

WHEREAS, on February 25, 2020, Plaintiff McCabe’s Mechanical Service Inc. (“McCabe’s”) filed a Motion to Compel Discovery (the “Motion”) from Defendant Scott Ballweg;

WHEREAS, McCabe’s Motion requested that Ballweg be required to retain a third-party vendor to search his electronically stored information (ESI), including his emails and personal text messages, and provide results to McCabe’s rather than accepting Ballweg’s self-production;

WHEREAS, on March 13, 2020, Ballweg opposed the Motion, arguing that his self-production was adequate and complete, and a third-party vendor was an unnecessary expense given the scope of the claim;

IT IS HEREBY ORDERED:

1. Defendant shall provide Plaintiff with an affidavit by April 17, 2020, affirming under oath that he has responded fully to all relevant document requests, including requests for ESI.
2. If, having received this affidavit, Plaintiff maintains that a third-party vendor is necessary, the parties shall confer and agree on an acceptable third-party vendor to conduct a search of Defendant's ESI, with costs associated with the third-party vendor born by Plaintiff.
3. If the third-party vendor's search of Defendant's ESI reveals either incomplete production or spoliation, then costs associated with the third-party vendor will shift to Defendant.

IT IS SO ORDERED.

/s/ Sam Glasscock III

Sam Glasscock III