COURT OF CHANCERY
OF THE
STATE OF DELAWARE

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Re: *Aequitas Solutions, Inc. v. Larry Anderson, et al.*
C.A. No. 7249-ML

Dear Counsel:

Trial in this statutory proceeding under 8 *Del. C.* § 225 is scheduled to begin on October 29, 2012. This is the fourth trial that has been scheduled in this proceeding: the initial trial in April 2012 was postponed by agreement of the parties, and the second and third trials scheduled for May 2012 and August 2012, respectively, were postponed due

to the health of one of the defendants. The May trial was postponed on the morning of trial because one of the defendants, Larry Anderson, did not appear for trial, claiming he was experiencing complications of an existing heart condition. On the same day that I postponed the second trial, I awarded the plaintiff its fees and costs associated with preparing for and attending that trial. I also awarded the plaintiff its fees and costs related to the motion to compel it had successfully brought the previous week because Mr. Anderson, inexplicably, still had not produced the discovery that was the subject of that motion.

Mr. Anderson participated telephonically in the proceedings during which I awarded plaintiff its fees and costs. Nonetheless, Mr. Anderson did not take exception to that award until late September, several months after the period to take exceptions to that ruling had expired. This is my final report on the award to plaintiff of its fees and costs associated with the postponed trial and the motion to compel. For the reasons stated below, I award the plaintiff its fees and costs and deny Mr. Anderson's exceptions as untimely.

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Aequitas Solutions, Inc. ("Aequitas" or the "Plaintiff"), filed this Section 225 action on February 25, 2012. A more complete description of the background underlying Aequitas's complaint appears in my final report denying Defendant Gary Loyd's motion for judgment on the pleadings. Briefly, Aequitas contends that on January 23, 2012, it acquired 100 shares of C Innovation stock from the

United States Trustee for the bankruptcy estate of James Charlton, who had a security interest in the C Innovation stock.[1] Aequitas asserts that these shares constituted all of the duly authorized, issued, and outstanding shares of C Innovation.[2]

Mr. Anderson (collectively with Mr. Loyd, the "Defendants"), who previously owned stock in C Innovation and who holds himself out as C Innovation's secretary, contends that Aequitas purchased only a small minority position in C Innovation. Specifically, the Defendants contend that: (1) the Trustee in bankruptcy only held a security interest in one share of C Innovation stock; (2) the remaining ninety-nine shares of stock authorized within C Innovation's certificate of incorporation are owned by Solomon Enterprises, Inc. ("Solomon"), which Solomon acquired by exercising an option (the "Solomon Option") in January 2010; and (3) Aequitas's ownership in C Innovation was further diluted when Mr. Anderson, as C Innovation's sole director, exercised the "poison pill" in C Innovation's bylaws. Mr. Anderson purportedly exercised the poison pill on January 23, 2012 by issuing an additional 15,000 shares of C Innovation stock to Solomon under Article X of C Innovation's bylaws, which authorized C Innovation's directors to "have the State of Delaware Authorize up to 100,000.00 new common shares of stock in the company, and then distribute some or all of that stock in a manner or amounts in its [sic] own discretion as to how many shares to distribute."[3] Aequitas

[1] Compl. ¶¶ 2, 11-20.
[2] Compl. ¶ 2.
[3] *See* Defs.' Op. Pre-Tr. Br. 5.

disputes the validity of the Solomon option, and contends that Mr. Anderson did not properly exercise the poison pill.[4]

The May 7, 2012 Discovery Ruling

As indicated above, trial in this action initially was scheduled for April 10, 2012. The parties agreed to postpone trial a few days before it was scheduled to begin, and the Court instead heard argument on Aequitas's motion for entry of a status quo order. Trial was rescheduled for May 14, 2012. On May 3, 2012, Aequitas filed a "renewed" motion to compel (the "Motion to Compel"). The Defendants responded to that motion on May 5, 2012, and the Court heard argument on May 7, 2012. I issued a draft oral report that day, granting the Motion to Compel in part.[5]

The Motion to Compel sought responses to Aequitas's Third Set of Interrogatories and Third Request for Production of Documents (the "Discovery Requests"). Those Discovery Requests appear to have been prompted by some unusual issues that arose during discovery in this action. For example, when the parties exchanged documents in discovery, the Defendants were unable to produce original (*i.e.* not photocopied) versions of many of the critical documents in the case. When Aequitas conducted forensic testing on the original documents the Defendants did produce, including C Innovation's stock ledger and stock certificates, Aequitas's expert opined that, in his opinion, it was highly probable that those documents were recent fabrications. The Defendants also were unable to provide electronic versions of many of the critical documents in the case. Those few

[4] *See* Pl. Op. Pre-Tr. Br. 22, 28.
[5] *See* Transcript of hearing on Pl.'s Mot. to Compel dated May 7, 2012 (hereinafter "May 7 Transcript") at 24-25, 29-30.

documents that the Defendants did have in electronic format, including C Innovation's bylaws and documents relating to the Solomon Option, were stored on a thumb drive in Mr. Anderson's possession. Aequitas requested, and the Defendants provided, a forensic image of that thumb drive, which contained approximately twelve or thirteen documents saved in "JPEG" format. In other words, the "electronic" versions were not the versions of the documents as they originally were created on a computer, with accompanying metadata, but rather were scanned images of documents, with limited relevant metadata.

Confronted with this record in discovery, and believing that some or all of the critical documents in the case were fabricated or otherwise altered by the Defendants, Aequitas served their Discovery Requests on April 12, 2012. Aequitas's Third Set of Interrogatories asked Defendants to identify and describe each "'Electronic Storage Location'[6] on which [an] 'Electronic Document'[7] was created[,] … [including], where applicable, the Electronic Storage Location's manufacturer, make, model, serial number and current physical location or a unique identifying account name, network address, or server name."[8] Aequitas also sought forensic images of all "Electronic Storage Locations" identified in response to the Third Set of Interrogatories.

[6] "Electronic Storage Location" was defined as "computer hard drives, external hard drives, portable hard drives, thumb drives, flash drives, zip drives, CDs, DVDs, memory sticks, e-mail servers, e-mail accounts, network file servers, network shares, scanners, printers, internet based storage, web based storage, cloud based storage, and all other devices, media or locations that retain electronic documents or data." *See* Pl.'s Renewed Mot. to Compel at 2 n. 1.

[7] "Electronic Document" was defined by Aequitas's Third Set of Interrogatories, and included, among other things, a number of documents produced in the litigation, all of the .jpg files produced on the forensic image of Mr. Anderson's thumb drive, and "all other board meeting minutes, proposed or approved resolutions, proposed or approved written consents, and bylaws of C Innovation, Inc. or Solomon Enterprises, Inc." *See* Pl.'s Renewed Mot. to Compel at 2 n.2.

[8] Defs.' Answers to Pl.'s Third Set of Interrogatories (hereinafter "Interrogatory Responses") at 1.

Under the stipulated scheduling order, responses to the Discovery Requests were due on April 18, 2012. The Defendants did not respond to those discovery requests until May 2, 2012, and largely ignored Aequitas's communications regarding the status of the responses until Aequitas filed their initial motion to compel on April 24, 2012. Once served, the Defendants' responses to the Discovery Requests were notably deficient. Although the Defendants' interrogatory responses revealed that Mr. Anderson had "used at least 7 different computers and many different thumb drives" during the period in question, the response did not even attempt to indicate when those computers were acquired, when they were discarded or replaced, or, for the most part, the types of computers that were used.[9] The Defendants claimed that "any critical documents [from computers no longer in Mr. Anderson's possession] would have been backed up onto a thumb drive before the drives within were destroyed, as per [Mr. Anderson's] and [C Innovation's] normal business practice when an old computer is sold or discarded," but the interrogatory response alleged that only one such drive remained in Mr. Anderson's possession.[10] The Defendants then went on to describe, in great detail, Mr. Anderson's belief that the other drives in question had been stolen by John Uhler, one of Aequitas's directors, and his alleged mistress, who previously was employed by Mr. Anderson. The Defendants therefore claimed, in response to Aequitas's document requests, that no further forensic images could be produced because the only "Electronic Storage

[9] *See* Interrogatory Responses at 1-3.
[10] *Id.*

Location" that remained available was the thumb drive of which a forensic image already had been produced.[11]

Aequitas promptly filed the Motion to Compel. During argument on that motion, the Defendants argued that their response to the interrogatories was as complete as they could make it. Although the Defendants' counsel conceded that Mr. Anderson had a computer that he currently used, the Defendants contended that the computer was unrelated to C Innovation. Notably, however, the Defendants' counsel did not know when that computer had been acquired.

In light of the impending trial date, the expedited nature of the proceedings, and the record Aequitas had provided, I concluded that the discovery Aequitas sought was reasonably calculated to lead to the discovery of admissible evidence, and therefore proper under Court of Chancery Rule 26(b)(1). It was not necessary for Aequitas to prove, for purposes of the Motion to Compel, that the documents at issue had been fabricated or altered. Aequitas presented sufficient evidence, including the analysis of its expert and the surprising dearth of electronic documents, to show that the authenticity of those documents would be an important issue at trial.[12]

I therefore ordered the Defendants to provide supplemental responses to the Discovery Requests, including responses to interrogatories that contained detailed information about all of the computers or other "Electronic Storage Devices" Mr.

[11] The Defendants argued that it was simply fortuitous that Mr. Anderson happened to store this one thumb drive, and the C Innovation stock ledger and stock certificates, in Mr. Anderson's safe, or they too might have been stolen. *See* May 7 Transcript at 13.

[12] *Cf. Ryan v. Gifford*, 2007 WL 4259557, at *1 (Del. Ch. Nov. 30, 2007) (granting plaintiffs' motion to compel documents in native file format, with original metadata, and holding that metadata is "especially relevant" in a case in which the dates entered facially on documents are at the heart of the dispute).

Anderson had during the period in question, including the type of device and the approximate dates on which the devices were acquired and discarded or replaced.[13] I further ordered the Defendants to identify any computers Mr. Anderson had in his possession and the dates on which those computers were acquired.[14] Finally, I ordered that, if Mr. Anderson had in his possession any computer that was acquired before this litigation commenced, a forensic image of that computer was to be produced. Due to Mr. Anderson's valid concerns regarding privileged information that might reside on that computer, I ordered that all e-mail files could be removed from the forensic image before it was produced to Aequitas, and that any privileged documents also could be removed from the forensic image, so long as the Defendant's counsel first reviewed any purportedly privileged documents and provided a log of such excluded files to Aequitas.[15] Due to the compressed nature of the proceedings, and the fact that the Discovery Requests at issue had been pending for weeks, I ordered the Defendants to produce supplemental responses within 24 hours, and a forensic image within 48 hours, although I explained that Defendants' counsel should alert Plaintiff's counsel if the discovery could not be completed in good faith within that timeframe.[16] Finally, I denied without prejudice Aequitas's request for attorneys' fees associated with the motion, but noted that I would reconsider that request if circumstances warranted.

[13] *See* May 7 Transcript at 24-25.
[14] *Id*. at 25.
[15] *Id*. at 29-30.
[16] *Id*. at 30.

The Defendants did not timely comply with either aspect of that May 7 draft report. Instead, Mr. Anderson fired his counsel, Robert Penza, Esquire, and moved for a continuance of the trial date so that he would have time to hire new counsel. A hearing on that motion was held on Thursday, May 10, 2012. Mr. Anderson argued that he was forced to fire Mr. Penza because Mr. Penza was unwilling to assist Mr. Anderson in seeking reconsideration of this Court's May 7, 2012 ruling. During the May 10, 2012 hearing, I explained to Mr. Anderson that the parties had spent substantial time and money preparing for trial, and that rescheduling trial in short order would be difficult because of the need to coordinate schedules of the Court, attorneys, litigants, and witnesses. Because the "emergency" associated with Mr. Anderson's decision to fire his attorney four days before trial was one of his own making, and because of the importance of promptly resolving disputes regarding corporate elections, I denied Mr. Anderson's motion for a continuance, although I granted Mr. Penza's motion to withdraw as counsel to Mr. Anderson. Mr. Penza continues to represent Mr. Loyd in this action.

The May 14, 2012 Ruling

With trial days away, the parties continued their preparations. Although Mr. Anderson was apprised of the fact that trial preparations were ongoing and were consuming the time and money of the parties, as well as the Court's time and resources,[17] and although he had apparently been experiencing for several days what he believed were

[17] *See* Transcript of hearing on Mr. Anderson's Motion for Continuance dated May 10, 2012 (hereinafter "May 10 Transcript") at 9, 14.

symptoms of an impending heart attack,[18] Mr. Anderson did not alert the parties or the Court to his health concerns until Saturday May 12, 2012. He made no mention of the issue during the teleconference on May 10, 2012. Mr. Anderson apparently was examined by his family physician on Friday May 11, 2012, and advised not to travel until he could be seen by his cardiologist.[19] Even after receiving that advice, however, Mr. Anderson waited until Saturday to attempt to get in touch with the Court or Aequitas.

Mr. Anderson, with the assistance of his former counsel, filed a letter at 3:00 p.m. on Saturday May 12, alerting the Court and Aequitas for the first time that he would not appear for trial on Monday morning. By that time, it was impossible for the Court to convene a conference or address Mr. Anderson's eleventh hour request for a postponement. As a result, Aequitas and Mr. Loyd were forced to continue to incur attorneys' fees and costs associated with preparing for trial, pending a decision by the Court.

As any attorney who has been involved in trial work must know, readying a case for trial involves a substantial amount of time preparing fact and expert witnesses and materials for direct and cross-examination. It also requires the attorneys (or self-represented litigants) to become intimately familiar with the case, including with what often is a substantial number of lengthy exhibits. When a trial is postponed, much of that work must be repeated, particularly where several months elapse before the rescheduled trial. Witnesses need to be prepared again, trial materials need to be updated to account

[18] *See* Letter from Robert Moody, D.O. on behalf of Larry Anderson dated May 11, 2012 (Trans. ID 44219416, E-Filed May 12, 2012).
[19] *Id.*

for newly discovered information, and attorneys need to repeat the work associated with achieving the necessary familiarity with the case and the documents. Clients, of course, are expected to pay for this reprise.

Accordingly, Mr. Anderson's decision to wait until the weekend before trial before alerting Aequitas and the Court to his health condition was not a cost-free decision. I do not discount the fact that Mr. Anderson's health concerns were real, or that he ultimately underwent surgery to address the problem. That does not change the effect of his delay in alerting the other parties to the fact that he would be unable to travel to Delaware for trial. In addition, had he alerted the Court and the parties in a timely fashion, efforts might have been undertaken to allow Mr. Anderson to participate in the proceedings remotely, thereby further reducing the prejudice to Aequitas. Instead, Mr. Anderson remained mum about his concerns until it was too late to allow the Court to address the issue before trial.

In addition, as of May 14, 2012, Mr. Anderson still had not complied with any aspect of the Court's May 7 discovery ruling. He had not provided supplemental interrogatory responses to Aequitas, and had not produced a forensic image of any computer in his possession. During the May 14 teleconference, Mr. Anderson claimed that the forensic image was forthcoming, but offered no coherent explanation of his failure to provide supplemental interrogatory responses.

After considering the parties' arguments, I postponed trial on May 14, but issued a draft oral report awarding Aequitas its attorneys' fees and expenses incurred in

connection with preparing for the postponed trial.[20] I also awarded Plaintiff its fees and costs associated with the Motion to Compel, due to Mr. Anderson's failure to timely comply with that order.[21] I did not stay the case on May 14, but instead ordered Mr. Anderson to decide within two weeks whether he intended to retain counsel or represent himself, at which time the trial would be rescheduled.[22] Mr. Anderson participated in the proceeding during which I issued that draft report, and did not file any exceptions to that report. The Plaintiff submitted its bill of fees and costs on May 31, 2012 (the "Bill of Fees").

On May 28, 2012, Mr. Anderson requested, in essence, a stay of the proceedings in this case. Mr. Anderson chose not to retain counsel, but was scheduled to undergo an angiogram the following week. Mr. Anderson's cardiologist opined that Mr. Anderson would need approximately 30 days to recover from that procedure. After considering Mr. Anderson's request and Aequitas's objections to a further delay, I stayed further proceedings in the case and ordered the parties to schedule trial for August or September.[23] Trial was rescheduled for August 18, 2012.

The September 4, 2012 Scheduling Conference

As a result of further complications in Mr. Anderson's condition, I extended the stay until September 4, 2012 and trial again was rescheduled for October 29, 2012. On September 4, 2012, the parties participated in a scheduling conference with the Court.

[20] *See* Transcript of hearing on Mot. to Postpone Trial dated May 14, 2012 (hereinafter "May 14 Transcript") at 50-52.
[21] *Id*. at 51-52.
[22] *Id*. at 50.
[23] *See* Letter to the parties dated June 1, 2012.

During that teleconference, Mr. Anderson confirmed that he would be representing himself in this litigation.[24] During that scheduling conference, I noted that my ruling on Aequitas's entitlement to its fees and costs associated with the postponed trial and the Motion to Compel was final, but that Mr. Anderson had not had an opportunity to respond to the amount of fees and costs requested by Aequitas in its Bill of Fees because the litigation was stayed one day after the Bill of Fees was filed.[25] The parties agreed that Mr. Anderson would respond to Aequitas's Bill of Fees, as well as to Aequitas's outstanding motion for sanctions, by September 21, 2012. Mr. Anderson affirmed at least twice that he understood that his responses were due by that date.[26]

Mr. Anderson's Untimely Exceptions

Mr. Anderson did not, however, submit any objections on that date, nor did he request an extension or even alert the Court or Aequitas that he would not be able to comply with the Court-ordered deadline. Although Mr. Anderson sent Aequitas an e-mail on September 20, 2012, indicating that he would be one day late in filing his response to Aequitas's outstanding motion for sanctions, he made no mention of his response to Aequitas's Bill of Fees.[27] Aequitas filed its reply in support of its Bill of Fees on September 26, 2012, and the Court entered an order the same day, awarding Aequitas the entire amount of requested fees and costs.

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[24] Transcript of Status Teleconference dated September 4, 2012 (hereinafter "September 4 Transcript") at 6.
[25] *Id*. at 10. ("Mr. Anderson, I have already ruled on the fact that [Aequitas is] entitled to fees and costs with respect to the trial that was postponed in May, but if you have objections, they have submitted a bill of costs, and if you have objections to anything that [is] contained in that bill of costs, you should also submit those objections by September 21, 2012.")
[26] *Id*. at 9, 11.
[27] *See* Plaintiff's Objection to Mr. Anderson's Untimely Response to Aequitas's Bill of Fees and Costs, Exhibit B.

Only then did Mr. Anderson lodge any objections to the Court's decision to award Aequitas its fees and costs incurred in connection with the postponed trial and the Motion to Compel. On September 27, 2012, Mr. Anderson filed what amounted to objections to that decision.[28] Notably, neither Mr. Anderson's objections, nor his two subsequent filings,[29] contained any objection to the amount of fees and expenses for which Aequitas sought reimbursement. Rather, Mr. Anderson sought to reargue both the Motion to Compel and the merits of the Court's May 14 ruling that Mr. Anderson should bear the fees and costs Aequitas incurred in connection with the postponed trial and the Motion to Compel. The Court heard argument on those objections on October 16, 2012.

ANALYSIS

Court of Chancery Rule 144 governs the process for taking exceptions to draft and final reports issued by a Master in Chancery. Under that rule, a party wishing to take exception to a draft report may do so by "filing a notice of exception with the Office of the Register in Chancery … within one week of the date of the draft report."[30] Any party who fails to take exceptions to a draft report within that time period "shall be deemed to have waived the right to review of the report …."[31] When no party takes exception within the time periods allotted by the rule, the report is "final" and the parties are

[28] *See* Mr. Anderson's Request for Reconsideration, dated September 26, 2012 (Trans. ID 46721973).
[29] *See* Mr. Anderson's response to Plaintiff's Objection to Mr. Anderson's Untimely Response (Trans. ID 46824555); Motion for Immediate Telephonic Conference to Stay September 26 Order (Trans. ID 46972700).
[30] Ct. Ch. R. 144(a)(1).
[31] *Id*.

deemed to have stipulated to the approval and entry of the report as a final order of the Court.[32]

The period for taking exceptions to the Court's May 7, 2012 draft report on Aequitas's Motion to Compel expired May 14, 2012. The period for taking exceptions to the Court's May 14, 2012 draft report awarding Aequitas its fees and expenses incurred in connection with the Motion to Compel and the postponed trial expired May 21, 2012. Mr. Anderson did not file exceptions to either report within those time periods, and those reports therefore are final orders of the Court under Rule 144(a)(2). Similarly, Mr. Anderson did not comply with the explicit, Court-ordered deadline to submit his response to Aequitas's Bill of Fees, and did not seek relief from that deadline, but instead simply elected to submit his response six days late, without so much as a "heads-up" to the parties or the Court.

During argument on Mr. Anderson's objections, and in response to the Court's questions about his failure to abide by these deadlines, Mr. Anderson argued that he is a pro se party and could not be expected to understand the Court's rules or comply with deadlines because he does not have an attorney's legal expertise or the support of any staff. He further suggested that it was the Court's fault that he fired his attorney and was unrepresented. Aequitas, on the other hand, argued that Mr. Anderson's objections were untimely and should summarily be denied.

[32] *See* Ct. Ch. R. 144(a)(2).

The rules governing the process and deadlines for taking exceptions to a Master's reports are important and necessary to ensure that cases tried before a Master in Chancery proceed in an efficient and orderly manner. Mr. Anderson's belated attempt to reargue the Court's May 7 and May 14 rulings perfectly illustrates the importance of enforcing those deadlines. Mr. Anderson is asking the Court to reconsider a discovery ruling it made months ago, and with which Mr. Anderson has largely complied, albeit not entirely and not within the time period ordered by the Court. Mr. Anderson further seeks to reargue a ruling the Court made about Aequitas's entitlement to certain fees and expenses, months after that ruling was entered and on the eve of trial, when the parties' resources and the Court's time are better spent on more immediate matters. Enforcing the deadlines prescribed by the rules also helps ensure that the Judicial Officer assigned to review the case does not need to review every aspect of the proceedings, but only those portions of the case to which the parties took exception in a timely manner. This conserves the resources of the parties and the Court.

It is for that reason that Mr. Anderson's argument that he should not be held to the Court's deadlines because he is self-represented lacks persuasive force. The Court's rules apply to all parties, whether or not represented by counsel. Although the Court may be willing to overlook certain technical aspects of its rules when dealing with self-represented litigants, such as the format of briefs or how filings are presented, it cannot overlook a party's failure to comply with deadlines, whether those deadlines are

contained in the rules or explicitly ordered by the Court.[33] To do otherwise would invite chaos, and would significantly impair the efficient administration of cases.[34]

Arguably, Mr. Anderson's objections to the Court's September 26 order could be viewed as exceptions to the Court's determination of the amount of fees and expenses to which Aequitas was entitled. Although the Court's ruling on Aequitas's entitlement to certain fees and expenses became final on May 21, the amount of those fees was not determined until the Court entered its order on September 26. Mr. Anderson's objections, however, contain no discussion of the amount of fees and expenses awarded. Instead, they simply repeat, *ad nauseum*, his assertion that this Court's rulings of May 7 and May 14 were in error. As previously indicated, however, those arguments are untimely.

Finally, even if I were willing to overlook the fact that Mr. Anderson did not take exceptions to the Court's May 7 and May 14 rulings in a timely manner, and were to consider the merits of Mr. Anderson's arguments, there is nothing contained in his filings that provides a basis to revise those rulings. In essence, Mr. Anderson is arguing that (1) the Court's May 7 order to produce a forensic image of his computer within 48 hours was an impossible task; (2) he had no choice but to fire his attorney when his attorney would not seek reconsideration of that ruling; (3) the Court's denial of his request for a continuance in order to retain new counsel was improper; (4) as a result of the Court's

[33] Mr. Anderson has ignored both types of deadlines.

[34] *See, e.g. Draper v. Medical Center of Delaware*, 767 A.2d 796, 799 (Del. 2001) ("There is no different set of rules for *pro se* plaintiffs, and the trial court should not sacrifice the orderly and efficient administration of justice to accommodate an unrepresented plaintiff."); *Pitts v. City of Wilmington*, 2009 WL 1515580, at *1 (Del. Ch. May 29, 2009) (explaining that the fact that a litigant is representing himself does not excuse him from complying with the procedural rules of this Court).

rulings, Mr. Anderson suffered undue stress that aggravated his heart condition and precluded his appearance at trial on May 14; and (5) the Court's decision to award Aequitas its fees and expenses associated with the Motion to Compel and the postponed trial should be overturned because it was the Court's actions, rather than Mr. Anderson's decisions, that resulted in his failure to timely produce the Court-ordered discovery and his failure to appear for trial.

I will not repeat the bases for my May 7 and May 14 rulings, which are set forth at length above, because Mr. Anderson's arguments largely collapse under their own weight. I would be remiss, however, not to point out the glaring omissions in the facts as Mr. Anderson recounts them. First, Mr. Anderson's argument ignores the fact that, in the May 7 draft report I indicated to the Defendants that if they could not in good faith comply with the 48 hour deadline, they should alert Aequitas and provide support for that argument. The Defendants did not proceed in that manner, and Mr. Anderson has yet to articulate a reason why he did not provide supplemental interrogatory responses or the requested forensic image in a timely manner. Second, my decision to award Aequitas its fees and expenses incurred in preparation for the May trial was based in large part on the fact that Mr. Anderson remained in violation of the May 7 ruling, without explanation, and had acted wantonly by waiting until Saturday before alerting the parties and the Court that he would not appear for trial on Monday. Finally, this Court repeatedly has given Mr. Anderson time to retain counsel in advance of trial in this action, and has urged

him to do so. Any argument to the contrary is both illogical and inconsistent with the record.

For the foregoing reasons, I deny Mr. Anderson's objections to the May 7, May 14, and September 26 rulings of this Court. This is my final report on Aequitas's request for fees and expenses incurred in connection with the Motion to Compel and the postponed trial. The period for taking exceptions to this final report is stayed until this Court issues a final post-trial report in this matter.

Respectfully submitted,

/s/ *Abigail M. LeGrow*
Master in Chancery