

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

E3 BIOFUELS-MEAD, LLC,)	
)	
Plaintiff,)	8:06CV706
)	
V.)	
)	
SKINNER TANK, Company,)	ORDER
)	
Defendant.)	
)	

On December 30, 2013, Defendant and Third-Party Plaintiff Skinner Tank Company (“Skinner Tank”) provided Plaintiff E3 Biofuels, LLC (“Plaintiff”) and Third-Party Defendant Dilling Mechanical Contractors (“Dilling”) with supplemental discovery responses. In its supplemental responses, Skinner Tank identified 1516 pages of additional documents that it intended to produce. These documents were received by Plaintiff’s counsel on December 31, 2013.

Plaintiff has now moved the Court to extend the pre-trial deadlines established in this case, to continue the January 17, 2014 pre-trial conference, and to continue the jury trial set to begin on February 18, 2014. ([Filing 188.](#)) Plaintiff maintains that it needs additional time to review the recently-produced documents.

Dilling has moved the Court to impose sanctions on Skinner Tank for its late discovery supplementation. ([Filing 193.](#)) In particular, Dilling maintains that it was prejudiced by Skinner Tank’s disclosure in its supplemental discovery responses that Skinner Tank would be seeking \$300,000 in attorneys’ fees incurred in defending this suit.

DISCUSSION

Plaintiff’s motion to continue will be denied. The trial in this case is set to commence on February 18, 2014. Skinner Tank represents that the majority of the 1516 supplemental documents have previously been produced in this litigation or are already otherwise in

Plaintiff's possession. Plaintiff should have sufficient time to review the documents in advance of trial, particularly given the recent continuance of another trial involving Plaintiff which stems from the same project underlying this litigation. *See E3 Biofuels, LLC v. Biothane*, Case No. 8:11-cv-00044 (D. Neb. 2011). To assist Plaintiff in its review, however, the Court will order Skinner Tank to identify, by bates number, which of the 1516 documents have previously been produced. Skinner Tank shall do so by January 17, 2014.

Dilling's motion for sanctions will be denied as premature. Questions regarding attorneys fees' are best left for the conclusion of this case when all issues are developed and resolved.

Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion to Extend ([filing 188](#)) is denied. However, by or before January 17, 2014, Skinner Tank shall identify, by bates number, which of the 1516 supplemental documents have previously been produced.
2. Dilling's Motion for Sanctions ([filing 193](#)) is denied as premature.

DATED January 10, 2014.

BY THE COURT:

**S/ F.A. Gossett
United States Magistrate Judge**