

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

TOMMY WHITLOW, On Behalf of §
Himself and All Others Similarly §
Situated, §
§
Plaintiff, §
§
v. §
§
CRESCENT CONSULTING, L.L.C., §
§
Defendant. §

CASE NO. CIV-16-1330-R

ORDER

On May 12, 2017, there came on before the Court for hearing Defendant Crescent Consulting, L.L.C.’s (“Crescent Consulting”) *Motion to Compel Production of Documents* [ECF No. 45] (the “Motion to Compel”), *Second Motion for Extension of Time* [ECF No. 42] (the “Second Motion for Time”) and *Third Motion for Extension of Time and Expedited Consideration* [ECF No. 47] (the “Third Motion for Time”) (collectively, the “Motions”). Plaintiffs appeared through their counsel Jessica Bresler of the Josephson Dunlap Law Firm. Crescent Consulting appeared through its counsel Jared D. Giddens and J. Dillon Curran of the law firm Conner & Winters, LLP. Having read Crescent Consulting’s briefs and considered the arguments of counsel, the Court hereby finds:

1. The Motion to Compel should be GRANTED in part and DENIED in part;
 2. The Second Motion for Time should be GRANTED in part and DENIED in part;
- and
3. The Third Motion for Time is DENIED as moot.

IT IS THEREFORE ORDERED AS FOLLOWS:

Tax Returns, W-2 Forms and Forms 1099

A. Plaintiffs shall produce all (1) tax returns for Tommy Whitlow, Brent Segrest and Leo Adams Jr. and their respective businesses for the tax years during which a Plaintiff (or any of his businesses) invoiced Crescent Consulting during the applicable three-year statute of limitations and (2) W-2s and 1099s received by Plaintiffs or their respective businesses for the same years.

B. On May 17, 2017, Plaintiffs' counsel shall deliver to each Plaintiff and each Plaintiff's business an IRS Form 8821 Tax Information Authorization (in the form approved by Crescent Consulting's counsel)(each, a "TIA).

C. Each Plaintiff shall sign and return the TIA(s) to Plaintiffs' counsel on or before May 19, 2017. To the degree any Plaintiff is unable to electronically sign his TIA before May 19, 2017, he will do so as soon as possible.

D. Not later than May 19, 2017, Plaintiffs' counsel shall (1) submit to the applicable Plaintiff's tax preparer a written request for delivery to Plaintiffs' counsel of the subject returns, and all W-2s and 1099s for the subject years and (2) provide a copy of the request to Crescent Consulting's counsel.

- i. For Tommy Whitlow, Plaintiff's counsel shall make requests to Todd L. Alvey, Rick Miller, and any other person presently or previously responsible for preparing the subject returns for Mr. Whitlow (or his businesses).
- ii. For Leo Adams Jr., Plaintiff's counsel shall make requests to L. Duane Allen, Roger Saenz, and any other person presently or previously responsible for preparing the subject returns for Mr. Adams (or his businesses).

iii. For Brent Segrest, Plaintiff's counsel shall make requests to any person presently or previously responsible for preparing the subject returns for Mr. Segrest (or his businesses).

E. All tax returns, tax return transcripts, W-2 forms and Forms 1099s which are the subject of this Order which Plaintiffs possess or Plaintiffs' counsel receives from the IRS or a Plaintiff's tax preparer(s) shall be provided to Crescent Consulting's counsel immediately; provided, however, Plaintiffs' counsel may redact confidential identifying numbers and children's names.

F. Plaintiffs' counsel, on the same day as receiving a TIA, shall request a transcript of each subject tax return and order a copy of each such tax return from the IRS, with all schedules and related W-2s and 1099s.

G. On June 6, 2017, Plaintiffs' counsel shall deliver to each Plaintiff and each Plaintiffs' business IRS Forms 4506 and 4506T (in form approved by Crescent Consulting's counsel) (each a "Request"). Each Plaintiff shall sign and return each Request to Plaintiffs' counsel on or before June 9, 2017 (or as soon as possible thereafter).

H. Plaintiffs' counsel, on the same day as receiving a Request, shall submit each Plaintiff's Requests to the IRS.

I. Plaintiffs' counsel will timely provide Crescent Consulting's counsel responsive information obtained from the IRS website.

J. Crescent Consulting shall bear all of the IRS's charges, if any, for providing requested tax returns.

Text Messages

K. Plaintiffs shall produce all text messages in Plaintiffs' possession, custody or control to or from oil and gas operators for which Crescent Consulting submitted invoices for the services Plaintiffs performed during the following time periods:

- i. Tommy Whitlow: November 21, 2013 – December 9, 2014;
- ii. Brent Segrest: February 20, 2014 – January 9, 2015; and
- iii. Leo Adams Jr.: February 22, 2014 – April 13, 2015.

If Plaintiffs do not have the aforementioned text messages in their actual possession, on or before May 23, 2017 Plaintiffs, through counsel, shall make written demand on the applicable mobile provider for all text messages sent or received by Plaintiffs or Plaintiffs' businesses during the applicable above described time period and provide a copy of the request to Crescent Consulting's counsel. The text messages shall be delivered to Plaintiffs' counsel. Plaintiffs will then produce only those text messages between a Plaintiff and a Crescent Operator's representative for the above described time periods. Plaintiff's counsel reserves the right to seek protection from the Court and/or the attorneys' fees and costs associated with reviewing, sorting, and producing voluminous records of text messages between Plaintiffs and Crescent's oil and gas operators.

L. Crescent Consulting shall also bear all of the charges by the mobile carriers, if any, of retrieving and delivering the ordered text messages. If a mobile carrier indicates the total charge for retrieving and delivering the ordered text messages exceeds \$1,000, Plaintiffs' counsel shall obtain Crescent Consulting's counsel's approval before making final arrangements for retrieval and delivery.

Depositions

M. Plaintiffs will be made available for their deposition no later than June 12, 2017.

Crescent Consulting will conduct the depositions, as follows:

i. The deposition of Tommy Whitlow, if any, shall occur at the Oklahoma City offices of Noble McIntyre.

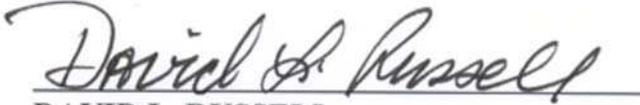
ii. The deposition of Brent Segrest, if any, shall occur in Houston, Texas at the office of a court reporter selected by Crescent Consulting. Plaintiff's counsel offered their Houston offices for this deposition free of charge. To the degree Crescent refuses to take this deposition at Plaintiff's office, Crescent shall bear all of the costs of taking this deposition at a court reporter's office.

iii. The deposition of Leo Adams Jr., if any, shall occur in Houston, Texas at the office of a court reporter selected by Crescent Consulting. Plaintiff's counsel offered their Houston offices for this deposition free of charge. To the degree Crescent refuses to take this deposition at Plaintiff's office, Crescent shall bear all of the costs of taking this deposition at a court reporter's office.

Extension of Time

N. Crescent Consulting's deadline to file its response to Plaintiffs' Motion for Conditional Certification [ECF No. 30] is extended by 45 days from May 15, 2017 or June 29, 2017.

IT IS THEREFORE ORDERED this 8th day of June, 2017.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

/s/ J. Dillon Curran

Jared D. Giddens, OBA No. 3355

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