

United States District Court
Southern District of Texas

ENTERED

January 24, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NATIONAL OIL WELL VARCO, L.P.,

Plaintiff,

v.

SADEESH SADAGOPAN,
MAJED HAMDAN, and
KHALED ZANTOUT

Defendants.

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CIVIL ACTION NO. H-16-2261

ORDER

At a hearing on January 6, 2017, the court ordered the defendants to produce unredacted bank statements for attorneys’ eyes only, with the additional protection that the documents would not be disclosed to the plaintiff’s in-house counsel or Dubai counsel. (Docket Entry No. 42). The defendants informed the court that Mr. Zantout has complied with the court’s order. Mr. Sadagopan and Mr. Hamdan refuse, citing concerns that the plaintiff will use the documents in related litigation pending in Dubai.

The amended scheduling order for briefing and oral argument on personal jurisdiction, Docket Entry No. 39, remains in effect. Mr. Zantout has complied with the court’s order, and there is no cause to delay ruling on the court’s personal jurisdiction as to him. As to Mr. Sadagopan and Mr. Hamdan, their refusal to produce the records, despite ample measures to protect their confidentiality, does not preclude this court’s decision on personal jurisdiction or require a change in the scheduling order. As to them, “a form of adverse inference instruction is warranted to level the evidentiary playing field and sanction the improper conduct” of refusing to produce despite the

protections the court provided to address their concerns. *Rimkus Consulting Grp. v. Cammarata*, 688 F.Supp.2d 598, 645 (S.D. Tex. 2010) (citing *Russell v. Univ. of Tex. of the Permian Basin*, 234 F.App'x 195, 207 (5th Cir. 2007) (unpublished); *Turner v. Pub. Serv. Co. of Colo.*, 563 F.3d 1136, 1149 (10th Cir. 2009). In their briefing on personal jurisdiction, the parties should advise about the appropriate adverse inference the court may draw from the withheld bank statements, and the impact of the inference on the personal jurisdiction analysis and findings.

SIGNED on January 24, 2017, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge