

J. C. Stephenson *JCS*

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

J. C. Stephenson
Clerk of Superior Court Cobb County

**EDGAR "BO" POUNDS, individually and on)
behalf of the estate of Mary Jean Pounds,)
JOSEPH THOMPSON, FRANKLIN SMITH,)
EAGLE EYE FORENSICS, LLC, DIANNE)
BRACKIN, and WILLIAM SHARP,)
Derivatively On Behalf of COBB ELECTRIC)
MEMBERSHIP CORPORATION,)**

Civil Action File No. 07-1-9408-48

Plaintiffs,

vs.

**DWIGHT BROWN, DON BARNETT, DAVID)
MCGINNIS, KAY ANDERSON, AL)
FORTNEY, JR., FRANK BOONE, SARAH)
BROWN, LARRY CHADWICK, HENRY)
BALKCOM III, COBB ENERGY)
MANAGEMENT CORPORATION and)
DOES 1-15, inclusive,)**

Defendants,

-and-

**COBB ELECTRIC MEMBERSHIP)
CORPORATION, a Georgia Corporation,)**

Nominal Defendant.)

SPECIAL MASTER FIRST ORDER OF DISCOVERY

The above-styled case came on regularly for hearing on proposed orders for scheduling discovery, with counsel for all parties present. After hearing argument of counsel on five areas of disagreement, and statements of counsel in open court on the remaining consented-to proposals, the Special Master hereby adopts the consented-to proposals for scheduling discovery, and further finds:

1.

The Defendant's proposed order regarding the confidentiality of discovery does not limit adequately the ability of the party producing the discovery to mark the discovery as "confidential" in light of O.G.G.A. §46-3-271, which provides for open records inspection by an EMC member. The Special Master hereby adopts the Plaintiffs' proposed confidentiality order, and incorporates same as Attachment 1.

2.

The Defendants' proposed schedule for contention interrogatories is objected to by the Plaintiffs as not allowing adequate time for discovery. The contention interrogatories shall be set as agreed to by the parties after the initial discovery period.

3.

The Defendants propose staying the depositions of various defendants and other witnesses until after the Special Litigation Committee has issued its report. Counsel representing certain of those whose depositions are sought to be stayed could not represent any timetable to the Special Master as to a probable date for the report. In light of Judge Schuster's previous refusal to stay the litigation, the request to stay the depositions in paragraphs H and I of Defendants' proposed order is denied.

4.

Counsel for Defendant Dwight Brown objects to the amended notice of deposition and subpoena filed by Plaintiffs. The Special Master finds that the requested documents are not overly broad or cumbersome, and hereby allows the shorter time period for notice.

5.

The Plaintiffs object to the lack of electronic discovery procedures in Defendants proposed order. Defendants refer to the substantial costs that will be incurred by this requirement in Judge Schuster's order. The parties are hereby allowed forty-five days from the date of this order to consult on proposed scheduling of electronic discovery.

6.

Objections to the redeposition of any witness or party are not timely matters for decision.

So ordered, this 8th day of February, 2008



Michael Stoddard
Special Master for discovery

CONFIDENTIALITY ORDER

It is hereby ordered that the following provisions shall govern claims of confidentiality in these proceedings:

(a) Review of the confidential documents and information by counsel, experts, or consultants for the litigants in the litigation shall not waive the confidentiality of the documents or objections to production.

(b) The inadvertent, unintentional, or *in camera* disclosure of a confidential document and information shall not generally be deemed a waiver, in whole or in part, of any party's claims of confidentiality.

(c) Only documents containing trade secrets, special formulas, company security matters, customer lists, financial data, projected sales data, production data, matters relating to mergers and acquisitions, and data which touch upon the topic of price may be designated confidential, provided such documents have not previously been disclosed by the producing party to anyone except those in its employment or those retained by it. Such documents or parts thereof will be designated after review by an attorney for the producing party by stamping the word confidential on each page.

(d) If any party believes a document not described in the above paragraph should nevertheless be considered confidential, it may make application to the court or special master. Such application shall only be granted if the requirements set forth by the Georgia Supreme Court in Atlanta Journal & C. v .Long, 258 Ga. 410 (1988) for filing documents under seal are met.

(e) Documents designated confidential shall be shown only to the attorneys, the parties, parties' experts, actual or proposed witnesses, EMC members and other persons whom the attorneys deem necessary to review the documents for the prosecution or defense of this lawsuit. Each person who is permitted to see confidential documents shall first be shown a copy of this order and shall further be advised of the obligation to honor the confidentiality designation. The parties agree that any discovery material produced in this litigation may be used in all actions encompassed by this litigation and in any other action brought by or on behalf of any other EMC member who agrees to be bound by the terms of this order.

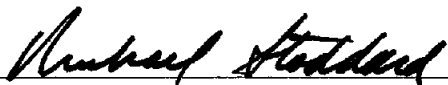
(f) If a party believes that a document designated or sought to be designated confidential by the producing party does not warrant such designation and the parties cannot resolve the dispute then the burden rests on the party seeking confidentiality to demonstrate that such designation is proper. The party seeking confidentiality shall have 20 days after production of the document to make application to the Court or Special Master, as the case may be, for a determination as to whether the designation is appropriate. Such order shall only be granted if the requirements set forth by the Georgia Supreme Court in Atlanta Journal & C. v .Long, 258 Ga. 410 (1988) for filing documents under seal are

met. If no application is made within this 20 day period, the thereafter the document shall not be required to be maintained as confidential. If application is made by the party designating the material as confidential within 20 days, the parties shall maintain the document as confidential pending a determination by the Court or Special Master as to whether the designation is proper.

(g) At the time of deposition or within 10 days after receipt of the deposition transcript, a party may designate as confidential specific portions of the transcript which contain confidential matters under the standards set forth in paragraph (a) above. This designation shall be in writing and served upon all counsel. No objection shall be interposed at deposition that an answer would elicit confidential information. Transcripts will be treated as confidential for this 10-day period. If within 10 days after receipt of the deposition transcript the parties do not agree on the designation of portions of the transcript as confidential, then the provisions in paragraph f above will apply and the party seeking confidentiality shall have 20 days to make application to the Court or Special Master. In filing materials with the court in pretrial proceedings, counsel shall file under seal only those specific documents and that deposition testimony agreed by the parties or determined by the Court or Special Master as confidential, and only those specific portions of briefs, applications, and other filings that contain verbatim confidential data, or that set forth the substance of such confidential information.

(h) In any application to the court or special master referred to or permitted by this order, the court or special master may exercise discretion in determining whether the prevailing party in such a dispute may recover the costs incurred by it and, if so, the amount to be awarded.

Dated: Feb 8, 2008


Judge, Superior Court of Cobb County,
Georgia