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Order on Motion to Compel (MARCUS WATSON)

Elizabeth E. Long
Superior Court of Fulton County

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IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

FILED IN OFFICE
FEB 02 2007
Deputy Clerk, Superior Court
Fulton County, Georgia

MARCUS WATSON, in his capacity as PLAN ADMINISTRATOR for WLP ESTATE, INC., F/K/A DEBTOR WELLINGTON LEISURE PRODUCTS, INC. AND ITS DEBTOR AFFILIATES

Plaintiff,

v.

GRANT THORNTON LLP,

Defendant,

Civil Action No. 2004VS074999Y
(Business Division Two --- E)

FILED IN OFFICE
2007 FEB -2 PM 2:36
MARK HAMER
CLERK/STATE COURT OF
FULTON COUNTY, GEORGIA

ORDER ON MOTION TO COMPEL

This case is before the Court on Defendant's Motion to Compel Plaintiff to Produce Documents in Response to Defendant's First Request for Production of Documents.

Plaintiffs brought this action against Defendant alleging accounting misstatements made by Defendant during the course of a 2001 fiscal year-end auditing report made on behalf of Wellington Leisure Products, Inc. ("Wellington"). Wellington filed for bankruptcy in 2003. Plaintiff Watson, as the plan administrator for Wellington, is the successor in interest to Wellington and brought this action on its behalf.

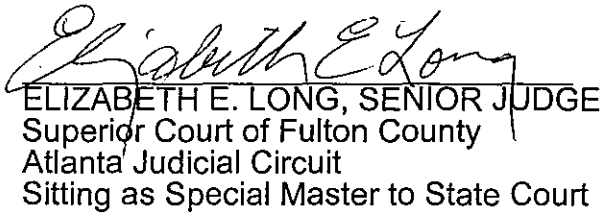
The first issue raised by Defendant in the Motion to Compel is the threshold question of which party should bear the responsibility for reviewing and producing relevant documents. The parties are in agreement that plaintiffs in general should bear the responsibility for producing the relevant and responsive documents. See Gazelah et al. v. Rome General Practice, P.C., 232 Ga. App. 343, 344 (1998). To the extent that the current indexing system assists Plaintiff Watson in satisfying his responsibility to produce, Plaintiff Watson may rely upon the indexing system. However, to the extent that the index

is insufficient, Plaintiff Watson must develop an alternative or supplemental approach.

Defendant seeks to compel production of the Request to Produce Documents Number 2. The Court agrees with Plaintiff Watson that documents relating to presentations or reports provided by Defendant to Wellington are in Defendant's control and Plaintiff Watson shall not be required to produce them. The remaining documents requested, however, are reasonable. Plaintiff Watson is hereby ordered to produce the requested minutes, memoranda, and resolutions.

Defendant's Request to Produce Documents Number 30 is also at issue. Because the request is overly broad, this Court hereby denies Defendant's request for an order to compel production.

SO ORDERED this 2nd day of February, 2007.



ELIZABETH E. LONG, SENIOR JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit
Sitting as Special Master to State Court

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