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MORRIS HARDWICK SCHNEIDER, LLC  
ORDER ON PLAINTIFF'S MOTION TO  
COMPEL

Kelly Lee Ellerbee  
*Fulton County Superior Court, Judge*

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**IN THE SUPERIOR COURT OF FULTON COUNTY  
BUSINESS CASE DIVISION  
STATE OF GEORGIA**

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MORRIS HARDWICK SCHNEIDER,  
LLC and LANDCASTLE TITLE,  
LLC,

Plaintiffs,

v.

NATHAN E. HARDWICK IV, and  
DIVOT HOLDINGS, LLC,

Defendants.

CIVIL ACTION NO.  
2014CV250583

Business Case Div. 3

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**ORDER ON PLAINTIFF'S MOTION TO COMPEL**

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The above styled action is before the Court on Plaintiff Morris Hardwick Schneider, LLC's ("MHS") Motion to Compel filed December 18, 2018. Therein MHS asks the Court to "enter an order compelling Defendant Hardwick to provide a complete answer to MHS's interrogatory number 6, which requires the disclosure of Hardwick's experts, including the substance of the facts and opinions to which each expert is expected to testify and a summary of the grounds of each opinion." (MHS Mot. to Compel 1.)

O.C.G.A. §9-11-26(b)(4)(A) generally governs the scope of expert discovery and provides in relevant part:

Discovery of facts known and opinions held by experts, otherwise discoverable under paragraph (1) of this subsection and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A)(i) A party may, through interrogatories, require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(ii) A party may obtain discovery under Code Section 9-11-30, 9-11-31, or 9-11-34 from any expert described in this paragraph, the same as any other witness, but the party obtaining discovery of an expert hereunder must pay a reasonable fee for the time spent in responding to discovery by that expert, subject to the right of the expert or any party to obtain a determination by the court as to the reasonableness of the fee so incurred...

Here, in response to MHS's interrogatory number 6, Defendant Hardwick identified three expert witnesses (Sheldon Kay, Jean-Pascal Gingras and John Remsen), provided their curricula vitae, and provided information regarding topics upon which each is expected to offer expert opinions and rebuttal expert opinions at trial. Defendant Hardwick also identified 53 documents upon which the experts have relied and included those documents on a thumb drive that was provided to Plaintiff's counsel. Further, Defendant notes that each of the experts testified at his criminal trial, which arises from the same events and circumstances as this action, and Plaintiffs' counsel was present in the courtroom and heard the expert

testimony provided by Defendant's three expert witnesses.

Given all of the above, the Court finds Defendant Hardwick has sufficiently complied with O.C.G.A. §9-11-26(b)(4)(A). However, the experts' testimony in this action shall be limited to those matters identified in Defendant's responses to interrogatory number 6 as further define by the expert testimony and opinions rendered by each expert in Defendant Hardwick's criminal trial.

In light of the foregoing dispute regarding Defendant's experts which has delayed the depositions of those experts, MHS also asks the Court to extend the deadline by which it must depose Defendant's experts and to extend all attendant deadlines accordingly. The Court amends the case management deadlines as follows:

1. Defendants' expert witnesses must be deposed no later than **March 1, 2019**.
2. *Daubert* motions and dispositive motions must be filed by **March 29, 2019**.
3. The parties will notify the Court by **March 29, 2019** if mediation is to be scheduled in this case, and any mediation must be completed by **April 29, 2019**.
4. Within two weeks of the adjudication of the dispositive motions (or, if no dispositive motions are filed, on or before **April 29, 2019**), the parties

will propose an additional scheduling order governing the filing of the pretrial order, motions in limine, the pre-trial conference and the trial commencement date.

**SO ORDERED this 1st day of February, 2019.**



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HONORABLE KELLY LEE ELLERBE  
Superior Court of Fulton County  
Business Case Division  
Atlanta Judicial Circuit

**Served upon registered service contacts through eFileGA**

Attorneys for Plaintiff	Attorneys for Defendants
<p><b>Edward D. Burch</b>  <b>David C. Newman</b>            SMITH, GAMBREL &amp; RUSSELL,            LLP            1230 Peachtree Street, N.E.            Promenade, Suite 3100            Atlanta, Georgia 30309-3592            Tel: (404) 815-3500            Fax: (404) 815-3509  <a href="mailto:eburch@sgrlaw.com">eburch@sgrlaw.com</a>  <a href="mailto:dnewman@sgrlaw.com">dnewman@sgrlaw.com</a>  <i>Counsel for Morris Hardwick            Schneider, LLC</i></p> <p><b>W. Reese Willis, III</b>  <b>Austin E. James</b>            FIDELITY NATIONAL LAW GROUP            4170 Ashford Dunwoody Road – Suite            460            Atlanta, Georgia 30319            Tel: (770) 325-4831            Fax: (770) 325-4843  <a href="mailto:Reese.willis@fnf.com">Reese.willis@fnf.com</a>  <a href="mailto:Austin.james@fnf.com">Austin.james@fnf.com</a>  <i>Counsel for LandCastle Title, LLC</i></p>	<p><b>Nathan E. Hardwick, IV and            Divot Holdings, LLC</b>            Inmate #69849-019            Robert A. Deyton Detention Facility            P.O. Box 730            Lovejoy, Georgia 30250</p> <p><b>Nathan E. Hardwick, IV and            Divot Holdings, LLC</b>  <b>c/o Mr. and Mrs. Nathan E.            Hardwick, III</b>            1624 Durrett Way            Dunwoody, Georgia 30338</p>
Attorneys for United States	
<p><b>Byung J. “BJay” Pak</b>  <b>J. Russell Phillips</b>            U.S. DEPARTMENT OF JUSTICE            600 U.S. Courthouse            75 Ted Turner Drive, S.W.            Atlanta, GA 30303            Tel: (404) 581-6000            Fax: (404) 581-6181  <a href="mailto:russell.phillips@usdoj.gov">russell.phillips@usdoj.gov</a></p>	