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IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

DEEPGULF, INC. and
TOKE OIL AND GAS, S.A.
Plaintiffs,
vs.
MARC M. MOSZKOWSKI,
Defendant.
_____/

Case No.: 2018 CA 000543
Division:

MOTION TO REQUIRE DEFENDANT TO PAY MEDIATION FEES

Comes now, Plaintiffs by and through their undersigned attorney, and moves this honorable court to require Defendant, Marc M. Moszkowski, to pay his share of mediation fees and in support thereof says:

1. On February 10, 2025, a hearing was held in this matter on several motions. At that hearing, the Court set a Case Management Conference (hereinafter "CMC") and required, among other things, that the parties coordinate a mediation before the CMC that could be held subsequent to the date of the CMC.

2. The undersigned contacted mediator H. Wesley Reeder to schedule some times for a mediation. Everyone agreed that they were available on certain dates in April or May, 2025. Mr. Reeder sent out his mediation engagement letter which required a $900 retainer payment from the Plaintiffs and Defendant.

3. Plaintiffs have remitted to the undersigned the $900 retainer payment and it is being held by the undersigned in his trust account.

4. In an email to the mediator, Defendant stated "If I'm not mistaken, and I apologize if I am, my understanding was that when mediation was ordered by Judge Shackelford it was

assumed that I, indigent Pro-Se Defendant, would not be expected to be charged for mediation." A true and correct copy of the email thread is attached hereto as Exhibit "A."

5. For the court's information, DeepGulf, Inc. and Toke Oil and Gas, S.A. both have no monetary assets, which can pay for this litigation or any mediator fees. Such expenses are loaned to the Plaintiffs by a shareholder. So, for all practical purposes, Plaintiffs are as indigent as Defendant claims to be.

6. Since the February 10, 2025 hearing, Defendant has filed a counterclaim against Plaintiffs making it so that not only is he defending a claim, but he is also pursuing his own claims against Plaintiffs. Pursuing his own claims puts the Defendant in a totally different position. For example, if a deposition were necessary, the Plaintiffs could require him to come to this jurisdiction in order to have his deposition taken. As such, Defendant should have to "pay to play" when it comes to participating in the case. If Defendant should wish to take a deposition, the Plaintiffs should not have to arrange and pay for the court reporter. In short, Defendant should be responsible for his own expenses in maintaining this litigation.

7. In the federal court case, the Defendant claimed indigency and subsequently was able to engage an attorney, pay for mediation fees, and come to Florida to participate in mediation and depositions. Defendant filed a response that indicated his claimed indigency on December 30, 2018, which is attached hereto as Exhibit "B." Less than four months later, attorney Mary Allie Boller appeared in the case on behalf of Defendant. Later in July, 2019, Defendant physically came to Pensacola, Florida for his deposition and the mediation in the federal court case.

8. This case was already mediated when it was previously in federal court and that mediation came to an impasse.

WHEREFORE, Plaintiffs demand that this honorable court require that Defendant pay his one half of the mediation fees and order such other and further relief as this court deems necessary and proper.

CERTIFICATE OF CONFERRAL

I certify that conferral prior to filing is not required under Rule 1.202.

RESPECTFULLY SUBMITTED,

BRADEN K. BALL, JR.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 26th day of March, 2025, a copy of the foregoing has been furnished to the Defendant, Marc M. Moszkowski, Le Verdos, 83300 Chateaudouble, France (m.moszkowski@deepgulf.net) via the Court's E-filing system.

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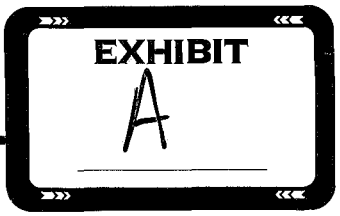

Monica Andrews

From: m.moszkowski@deepgulf.net
Sent: Monday, March 24, 2025 5:59 AM
To: 'Sherry E. Goldsby'
Cc: 'Wes Reeder'; Monica Andrews; 'Nadine M. Baldridge'; Braden Ball
Subject: RE: 00565-099436 HWR Potential Clients/Contacts: MEDIATION - Deepgulf, Inc. & Toke Oil & Gas, S.A. vs. Marc Moszkowski

Good morning Ms. Goldsby,

I have read your letter carefully, but there seems to have been some misunderstanding in the matter.

If I'm not mistaken, and I apologize if I am, my understanding was that when mediation was ordered by Judge Shackelford it was assumed that I, indigent Pro-Se Defendant, would not be expected to be charged for mediation.

Best regards,

Marc Moszkowski

Defendant

From: Sherry E. Goldsby [mailto:SGoldsby@esclaw.com]
Sent: Wednesday, March 19, 2025 1:24 PM
To: Braden Ball; m.moszkowski@deepgulf.net
Cc: Wes Reeder; Monica Andrews; Nadine M. Baldridge
Subject: 00565-099436 HWR Potential Clients/Contacts: MEDIATION - Deepgulf, Inc. & Toke Oil & Gas, S.A. vs. Marc Moszkowski

Mr. Ball & Mr. Moszkowski,

Attached is the mediation engagement letter in the above-referenced matter. Please review the letter and return a signed copy to us at your earliest opportunity. Once we have the signed engagement letter and once the deposits have been paid, we can set a firm date for the mediation.

If you have any questions about the terms of the engagement letter, please don't hesitate to contact us.

ESC
EMMANUEL SHEPPARD & CONDON
A PROVEN LEGACY. A POWERFUL FUTURE.

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Legal Assistant

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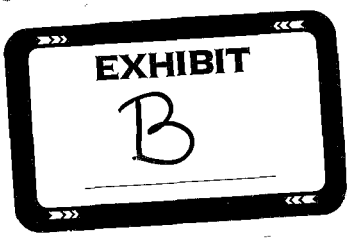

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Pensacola Division

DEEPGULF, INC.

TOKE OIL AND GAS, INC.

Plaintiffs

v.

MARC M. MOSZKOWSKI

Defendant

Case No. 3:18-cv-1466-MCR-MJF

DEFENDANT'S RESPONSE AND MEMORANDUM IN OPPOSITION TO *PLAINTIFFS' MOTION TO COMPEL DEFENDANT TO PRODUCE INITIAL DISCLOSURES, APPEAR PERSONALLY AT DEPOSITION AND TO APPEAR PERSONALLY AT MEDIATION*

The Defendant opposes the Plaintiff's Motion to Compel on the grounds that:

A. The Attorney for the Plaintiffs did not comply with the requirements of District Court Local Rule 7.1 (B);

B. The documents requested by the Plaintiffs from the Defendant are either already in the hands of the Plaintiffs, or were established by the Plaintiffs and were repeatedly demanded from them by the Defendant, although his demands were consistently ignored by the Plaintiffs;

C. The state of financial destitution into which the Plaintiffs have reduced the Defendant does not allow him to travel, and he has no visa to enter the United States since he was forced out of the country by the Plaintiffs negligence to, or conspiracy not to, renew his visa;

D. More urgent issues exist, particularly with regard to (1) the non-existence of one of the Plaintiffs; (2) the jurisdiction of a U.S. Court in a case involving a non-existent foreign company with no activity in the United States against a foreign Defendant residing overseas; (3) the 5 year Statute of Limitations which clearly applies; (4) a conflict of interest for the Attorney for the Plaintiffs, and (5) the still unfulfilled obligation for the extant Plaintiff to provide legal support for the still unrepresented Defendant as per company by-laws.

Details are provided below, in paragraphs numbered as above.

Additionally, It appears to the Defendant, Marc Moszkowski, that the Motion filed by the Plaintiffs is intended to put unbearable procedural pressure on him, as a substitute for the absolute lack of evidence in the Plaintiffs' complaint, which is based on fabrication instead of facts and logic, the accusations being either imaginary or unsubstantiated or being related to events that happened and were fully reported to the Plaintiffs more than five years before the complaint was filed and therefore are clearly covered by the Statute of Limitations.

A. Regarding the requirements of Rule 7.1 (B) in Plaintiffs' Motion to Compel

The Defendant reads in Rule 7.1 (B) of the District Court Local Rules that:

> *"Before filing a motion raising an issue, an attorney for the moving party must attempt in good faith to resolve the issue through a meaningful conference with an attorney for the adverse party. The adverse party's attorney must participate in the conference in good faith. The conference may be conducted in person, by telephone, in writing, or electronically, but an oral conference is encouraged. An*

email or other writing sent at or near the time of filing the motion is not a meaningful conference."

However, in the opinion of the Defendant, instead of seeking a meaningful conference in an attempt to resolve the issue, the Attorney for the Plaintiffs flatly stated in an email his demands and a thinly veiled threat to file the motion if the Defendant did not comply. The email was sent only two working days before the Motion to Compel was filed.

The email from the Attorney for the Plaintiffs read as follows (emphasis added by the Defendant):

"I am preparing to file a Motion to Compel to require you to do three things: (1) provide more complete initial disclosures with regards to the requirement that you disclose "a copy or description of, by category and location, of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and that the disclosing party may use to support is claims or defenses, unless solely for impeachment"; (2) appear personally for a deposition in the district where the court is located; and (3) appear personally at the court ordered mediation.

Please take this email as my attempt to confer with you on these issues. If you are willing to comply with any of the three items mentioned above, let me know as soon as you can, so we might avoid the filing of part or all of the Motion."

Far from an attempt in good faith to resolve the issue through a meaningful conference, the Defendant sees in the Attorney's email nothing but an arrogant ultimatum. He however replied to the email the very same day.

B. Regarding Plaintiffs' Motion to Compel Defendant to produce initial disclosures

The Defendant reads in Title V, Rule 26, of the Federal Rules of Civil Procedure, that he must provide to the other parties "*a copy—or a description by category and location— of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses*".

However, the Defendant reasserts that:

1. Documents which are already in the hands of the Plaintiffs, since they were either sent to the Plaintiffs by the Defendant or were sent by the Plaintiffs to the Defendant: all the documents which the Defendant intends to use in support of his claims or defenses are already in the hands of the Plaintiffs, since they consist in part in the correspondence exchanged with the extant Plaintiff since at least 2007, the other part being documents which the Plaintiffs have established but have failed or refused to make available to the Defendant, as described in paragraph 2 below. Some copies of the correspondence were even sent to the Defendant by the Plaintiffs as part of the discovery, which proves, if need be, that they are in the hands of the Plaintiffs, although these documents were incomprehensibly titled by the Plaintiffs as "*Documents in Defendant's possession, custody, or control that it may use to support its claims*" [1] . See **Exhibit A** attached to this memorandum: *"Defendant's Comments on Plaintiff's Rule 26(A)(1) Initial Disclosures"*.

[1] Likewise, the Plaintiffs' computation of damages was titled "*Computation of damages claimed by Defendant*". Despite the Defendant's remarks about the apparently absurd titles, the Plaintiffs have not furnished any explanation yet.

2. Documents which are in the hands of the Plaintiffs but are not available to the Defendant, although they were repeatedly demanded by the Defendant: more importantly, the most significant documents which the Defendant intends to use in his claims and defenses consist in the extensive accounting records and other documents which are in the hands of the Plaintiffs, but not in his, and which the Defendant has demanded since at least 2016, but to no avail yet. The Defendant has requested from the Plaintiffs the production of 64 items of documentation, but to this day has received no response from the Plaintiffs. See said request for the production of 64 items of documentation in **Exhibit B** attached to this memorandum.

Although the Defendant has reserved the right in his Initial Disclosures to use other documents, he does not think he may use documents other than those already in the hands of the Plaintiffs, since they were specifically addressed and sent to the Plaintiff over the last decade, or were established by the Plaintiffs.

C. Regarding the Defendant's personal appearance in Northwest Florida

The Defendant resides overseas, but not by his own choice, since he was forced out of the United States by the negligence on the part of the Plaintiffs to provide him with a U.S. visa, or perhaps even by their design not to. The Plaintiffs, however, in a display of utter bad faith, have accused him of having *"absconded"*, despite the fact that he was forced to leave U.S. soil because of their actions, more than a year before the Plaintiffs filed this lawsuit. The Defendant describes below the reasons for his views regarding the current impossibility of his personal appearance in Northwest Florida. He has already disclosed extensively those reasons to the Attorney for the Plaintiffs:

1. The Defendant is in a state of utter financial destitution as a consequence of his treatment at the hands of the Plaintiffs during the past several years:

    a) For the past five and three-quarter years the Plaintiffs have not paid any salary to the Defendant, who is a Director and the President of the extant Plaintiff company, including during such periods when he returned a sizeable revenue to the company;

b) However, the Plaintiffs have caused the Defendant to have all his personal professional revenue ascribed to themselves;

c) Nearly 20 years after having initially arrived in the U.S. in 1998, the Defendant was forced to leave the U.S. abruptly in February 2017 with just one bag of personal items, as a consequence of the extant Plaintiff's negligence to, or conspiracy not to, renew his U.S. visa;

d) As will be explained in detail in the next paragraphs, the Defendant does not have the wherewithal to travel away from his place of residence in France, which, for lack of resources, he has never left in the past 18 months;

e) Because of his economic circumstances, the Defendant lives in absolute solitude and seclusion except for the person who brings him provisions once a month, and he has never been in a motor vehicle since he arrived more than a year and a half ago. At any rate he does not own a vehicle;

f) For lack of resources and for more than 18 months, the Defendant, who is in his 65th year, has not been in a village or in a town, or in a store, or visiting friends, or seen a dentist or a

physician, despite three painful broken teeth and a severe double hernia, all left untreated;

g) The Defendant does not have any alternative to his current residence;

h) The Defendant's residence, the only one he owns, is in an isolated place 12 miles by a mountain road from the closest grocery store. His provisions are brought to him by a delivery person once every month;

i) The Defendant's income is of the order of $500 a month at purchasing power parity, which is understandably barely enough to procure basic food, electricity, internet presence for the company and telephone connectivity, and pay the grocery delivery person. He had to discontinue all insurance coverage. His bank account, with a balance below $500 at all times, is likely to be seized soon by the French Government, since his insufficient income did not allow him to pay his accrued local taxes, which were due on December 15;

j) Since a lack of sufficient resources as a consequence of the Plaintiff's deeds over the past several years have made the

Defendant in fact a prisoner in his own house, it would be indeed quite impossible for him to travel to Northwest Florida, which is located 5,000 miles away on another continent. If a solution to the next 2 paragraphs could be found the Defendant would indeed endeavor to take the opportunity to come to Pensacola to publicly face his accusers. If not, the Defendant believes that electronic communication can be extended. It has worked quite efficiently since and before this lawsuit was filed.

2. The foreign Defendant has no visa to enter the United States, since the extant Plaintiff, who is his employer, neglected to, or conspired not to, provide one. The Defendant is not allowed by U.S. authorities to enter the United States for purposes other than tourism or limited business, which evidently does not apply to this Court case. The Defendant will not risk ten years at least of deportation for wrongfully entering the United States under false pretenses.

3. However, extant Plaintiff's company By-laws stipulate expressly in their Article XI that the corporation shall hold harmless and indemnify the Defendant, as a Director or Officer of the corporation, against expenses including attorney's fees and costs of investigation, and

that all expenses shall be promptly advanced or reimbursed by the Corporation. The Plaintiffs have not acknowledged the Defendant's numerous requests regarding the provisions of Article XI of the By-laws.

In view of the reality of his financial destitution, it would be ironic in other circumstances to read that the Defendant is however accused absurdly of having stolen millions from the Plaintiffs, without a shred of evidence or any explanation given by the Plaintiffs whatsoever about the manner in which the millions would have been transferred between countries, exchanged for other currencies, and then spent. The Directors who brought suit on behalf of the Plaintiffs have been intimately aware since 2013 of the Defendant's dire financial situation, for which the Defendant maintains his accusers bear a heavy responsibility.

D. Legal issues which in the Defendant's opinion are urgent and must be addressed in priority

The Plaintiffs never addressed constructively the several urgent issues which the Defendant believes must precede any further action, among them:

1. The more than probable lack of legal existence for one of the two Plaintiffs;

2. The jurisdiction of the United States Court in a case brought by an inexistent foreign Plaintiff with exclusively overseas operations suing in U.S. Court a foreign national residing overseas;

3. The Statute of Limitations which have been broadly exceeded, since the events to which the Plaintiffs' accusations of theft relate happened more than 5 years before their complaint was filed, while the Chairman of the Board of extant Plaintiff, who initiated the lawsuit, was clearly informed of said events more than 5 years before the complaint was filed [2];

4. The conflict of interest for the Plaintiffs' Attorney, who, in a case brought by the existing company against a Shareholder and Director thereof, arbitrarily represents in fact two of the Directors against a

[2] To wit: the amounts which the Plaintiffs accuse the Defendant of having stolen from the extant Plaintiff are exactly equal, to the cent, to the amounts which the Defendant reported to the Plaintiff more than 5 years before the complaint was filed. Plaintiff could not have obtained these exact figures from anyone but the Defendant and in addition the reports were among the documents sent by the Plaintiff to the Defendant during discovery, which shows that the Plaintiffs were and are in possession of said detailed reports.

third one. The Defendant believes that although it would have been probably understandable from a legal standpoint for two Directors, as Shareholders, to sue a third Director in a Court of Law according to well defined procedures, their suing in the name of a company which is owned nearly by half by the Defendant, who is the largest shareholder, a Director and the President, cannot but create a definite conflict of interest, since the Defendant is also as much a Plaintiff in this case as the two Directors who caused the lawsuit, and the extant Plaintiff is required by its By-laws to procure legal representation and defense for the Defendant;

5. The obligation for the Plaintiffs, as per the By-laws of the extant company, to provide legal representation for the Defendant, who is a Director and an Officer of the company. The Plaintiffs have so far ignored the Defendant's several requests, while they expend on this absurd lawsuit the funds they owe the Defendant for salaries unpaid since 2013. Also, the Defendant has demanded to be held harmless regarding the expenditure of legal costs, since he owns nearly half the company, but his demands have remained ignored by the Plaintiffs.

The Defendant has sought support from more than twenty attorneys in Florida, but hasn't been able to retain any, since the few who responded demanded an hourly fee equal to almost as much as his monthly income, with a retainer amounting to between 5 and 10 years of personal income. As a consequence, the Defendant still has no counsel to help him conduct his case in a professional manner, and, in particular, assist him, wherever applicable, in filing the legitimate motions to dismiss the Plaintiffs' absurd accusations.

For the reasons expounded above, the Defendant, Marc Moszkowski, respectfully requests that the Court deny Plaintiff's Motion to Compel.

Respectfully submitted to the Court on December 30th, 2018, by

Marc M. Moszkowski, Pro Se

Email: m.moszkowski@deepgulf.net

Phone: +1 (850) 316 8462

Le Verdos, 83300 Châteaudouble, France

M. Moszkowski

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1 (F)

I certify that this document contains 2,647 words, not including this word-count statement, the case style, the signature block and the certificate of service, and therefore is within the 8,000 word limit.

M. Moszkowski

CERTIFICATE OF SERVICE

I hereby certify that, on this Sunday, 30th day of December, 2018, I have posted a copy of this document via the Court's E-filing system, 13 days after I was notified of the Motion to Compel.

M. Moszkowski