

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:

**ORDER ON PRETRIAL CONFERENCE AND GRANTING MOTION FOR
SANCTIONS, STRIKING PLEADINGS AND ENTERING A DEFAULT AGAINST
DEFENDANT / COUNTER-PLAINTIFF, MARC M. MOSZKOWSKI**

This matter came before the Court on a properly noticed, in-person, Pretrial Conference. The Pretrial Conference was held on June 10, 2025 at 9:30 AM and finished at approximately 10:45 AM. DeepGulf, Inc. and Toke Oil and Gas, S.A. appeared through their counsel, Braden K. Ball, Jr. and their authorized representative, Rustin Howard. Defendant, Marc M. Moszkowski did not appear at the Pre-Trial Conference. The Court considered the posture of the case and outlined the management of the upcoming bench trial. The Court, having considered the prior rulings, the Court file, the evidence presented to it, and being otherwise advised in the premises, finds as follows:

This case was filed seven years ago on April 3, 2018. It was removed to Federal District Court for several years and then remanded to state court. The amended complaint was filed in June 2021, and for several years, there was almost no activity on the file. However, since January 2025, there has been significant activity including approximately 150 filings.

Plaintiffs DeepGulf, Inc. and Toke Oil and Gas, S.A. are represented by Counsel.

Defendant, Marc Moszkowski, is *pro se* and resides in France. This case arises out of a business relationship over a period of approximately ten (10) years and includes Counts for Injunctive Relief & Intellectual Property/Business Opportunity; Breach of Non-Competition Agreement; Civil Theft; Conversion; Fraudulent Misrepresentation; Declaratory Relief; Accounting; Breach of Contract; and Injunctive Relief. Much of the evidence and testimony will require examination of non-compete agreements, contracts, and consideration of patents in the oil and gas industry.

Defendant has also filed a counterclaim affirmatively seeking relief in Escambia County. The Counterclaim alleges Breach of Contract (Work and Labor Done); Breach of Contract; Fraud Based on Promise to Pay; Fraudulent Misrepresentation; and Accounting. Defendant attempted to file an Amended Counterclaim in the case on June 8, 2025. However, this amendment was not filed in compliance with the Florida Rules of Civil Procedure.

Due to the age of the case, the Court set the matter for a Case Management Conference on April 3, 2025. Counsel for Plaintiffs, Plaintiffs' representative Rustin Howard, and Defendant, *Pro se*, appearing from his home in France, were present by Zoom.

At the Case Management Conference, the Court again addressed the requirement for mediation (by Zoom) and set the case for bench trial in-person. It was at this hearing on April 3, 2025, that Defendant raised the issue of his financial inability to pay for mediation or a plane ticket to the United States. He also testified to concerns about leaving his house and animals unattended, as well as health issues. Under oath, Defendant stated that if Plaintiff was required to pay his costs to come to the U.S., Defendant would appear in-person.

After the Case Management Conference, the Court entered four orders: Order on Case Management Conference (April 9, 2025); Order Referring Case to Mediation (April 9, 2025); Order for Pretrial Conference and Setting Judge Trial (April 10, 2025) and, Order to Appear for

Mediation or Order to Show Cause (April 17, 2025). These orders, in part, required the parties and counsel to participate in mediation prior to the Judge Trial; allowed the parties and counsel to appear by Zoom at mediation; ordered payment of a deposit if required by the mediator; set the Pretrial Conference for June 10, 2025 and required in-person appearance by the parties and counsel; set the Judge Trial for June 17-18, 2025; and required in-person appearance by the parties and counsel for the trial. The orders also referenced possible sanctions for failure to comply including striking of pleadings, dismissal, and entry of a default.

Since the filing of these orders, Defendant has repeatedly and on an almost daily basis filed notices and motions to request the following: waiver of the mediation fee due to financial issues; waiver of appearance in person at the Pretrial Conference and Judge Trial due to financial and health issues; ruling on all outstanding motions; and, a continuance to manage the volume of exhibits and paperwork necessary in the case. The Notice of Supplemental Medical Evidence filed May 28, 2025 includes a photograph of the body of presumably¹ the Defendant to support his contention that he cannot travel to the United States.

As stated earlier, this case has been pending for over seven years old and has far exceeded the requirements of Fla. R. Gen. Prac. & Jud. Admin. 2.250(a)(1)(B). Both parties have had ample time to prepare for trial. The case involves allegations spanning nearly 10 (ten) years, complex business dealings, a country in Southeast Asia, oil and gas patents, and hundreds of pages of documents/exhibits. Counsel for Plaintiffs objected to a judge trial by Zoom. In addition, Defendant is *pro se* and lives in Chateaudouble, France which is seven time zones ahead of Escambia County. As stated above, Defendant has affirmative claims of his own that he has brought by virtue of his counterclaims.

¹ The photograph does not include the head of the person, and it is unclear what the photo is intended to demonstrate.

For these reasons, the Court required in-person appearance for parties and counsel at the Pretrial Conference and the Judge Trial. The Pretrial Conference is critical for narrowing of issues, review of exhibits, determination of witnesses, and discussions about the procedure of the trial. To accommodate the fact that Mr. Moszkowski resides in France, the Pretrial Conference was scheduled only one week prior to trial.

On June 3, 2025, the Court entered an Order Denying Defendant's Request for Continuation of Bench Trial and Denying Request for Zoom Appearance at the Pretrial Conference and Trial. In that Order, the Court found that allowing the Pretrial Conference and Judge Trial to be conducted by Zoom would create an administrative burden on the Court and would fundamentally alter the nature of the proceedings. The Motion for Continuation of Bench Trial was also denied.

On June 9, 2025, Defendant filed a Supplemental Memorandum in Further Support of Defendant's Motion to Preclude Sanctions and to Dismiss Plaintiff's Request for an Order to Show Cause. In that Memorandum, Defendant referred to his estate in France as consisting of roughly 140 hectares² and a large, centuries-old stone house.

At the Pretrial Conference, Plaintiffs presented evidence that their required deposit for mediation was paid. However, it was established that Defendant did not tender the deposit for mediation as required for the Court, and there was consequently no mediation. As stated previously, the Defendant failed to appear in person at the Pretrial Conference as required by the Order to Appear for Mediation or Order to Show Cause.

During the Pretrial Conference, Counsel for Plaintiffs requested the opportunity to present evidence regarding Defendant's financial assets and medical condition. As far as the financial

² The equivalent of approximately 395 acres.

ability of the Defendant, Rustin Howard testified about his prior visits to the Defendant's home in France approximately 13 years ago. He testified that this was an over 300-acre property in the wine district of Provence, France. There is a large home on the property, consisting of over 5,000 square feet and a separate servant's quarters larger than 1,000 square feet. Every room was furnished with antique furniture, original paintings, antique tapestries, Renaissance era statues, and fine draperies. There were at least 6 bedrooms and each bedroom, as the best he could recall, had a corresponding bathroom. The home had a spring fed swimming pool located on a large terrace. Plaintiffs offered and accepted into evidence a set of photographs depicting the property, one of which included a picture of a maid who lived on site.

As far as Defendant's medical condition, Plaintiffs offered pleadings from the federal court case which consisted of the following:

1. 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 dated December 30, 2018. On Page 10 of this pleadings, Defendant referred to his "severe double hernia" to support his opposition to appearing in Northwest Florida for a deposition.

2. Joint Motion to Extend Dates in Final Scheduling Order dated March 29, 2019. In this pleading, the parties agreed that Mr. Moszkowski would be deposed in the Northern District of Florida, in person, absent unforeseen circumstances, on or before July 30, 2019.

3. Memorandum in Support of Defendant's Renewed Motion for Protective Order on June 14, 2019. In this pleading, Mr. Moszkowski asserted that "since the entry of this Court's 4 April 2019 Order, Defendant has **developed** a severe medical condition which requires surgery." (emphasis added). That pleading referred to Mr. Moszkowski's double hernias. It also referred to

a requirement for surgery in October or November of that year. The fact that he claimed that it had “developed” is misleading, since clearly Mr. Moszkowski was aware of the problem on or before December 30, 2018.

4. Order dated July 5, 2019. Taking the arguments of the parties into account, the District Court entered an Order denying Mr. Moszkowski’s Protective Order and requiring Defendant to appear for a deposition in Northwest Florida on July 17, 2019. Mr. Moszkowski did appear for such a deposition in person on that date.

An *ore tenus* Motion was made by the Plaintiff requesting the Court to take judicial notice of the four pleadings presented and said Motion was granted and will be addressed in a separate order.

Based upon the Defendant’s failure to pay for the required mediation in this case, his subsequent failure to attend mediation from occurring in this case, and the Defendant’s failure to appear at the Pre-Trial Conference in person on June 10, 2025, the Court determines that sanctions are warranted against Defendant, Marc M. Moszkowski.

It is hereby **ORDERED AND ADJUDGED:**

1. Defendant, Marc M. Moszkowski has not shown cause why he should not be sanctioned.

2. Defendant, Marc M. Moszkowski is hereby sanctioned.

3. A Default is hereby entered against Defendant, Marc M. Moszkowski.

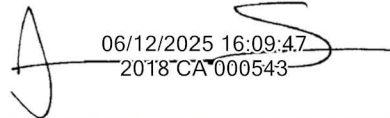
4. Defendant, Marc M. Moszkowski’s pleadings are stricken, which shall include, but not be limited to his Counterclaim, his improperly filed Amended Counterclaim, and all Affirmative Defenses.

5. All of Mr. Moszkowski’s pending motions which have not been addressed by

separate Order in this case are Denied.

6. The in-person bench trial remains set for June 17, 2025 at 8:30 a.m. pursuant to the Order for Pretrial Conference and Setting Judge Trial entered April 10, 2025.

DONE AND ORDERED in Chambers in Escambia County, Florida.

 06/12/2025 16:09:47
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signed by CIRCUIT COURT JUDGE JAN SHACKELFORD 06/12/2025 04:09:47 IELLfN4

Copies to:

Braden K. Ball, Jr, Esq.
Attorney for Plaintiff

Marc M. Moszkowski
Pro Se Defendant