

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

PRESENT:

Hon. Alan D. Scheinkman
Justice Supreme Court

-----X
Yonkers Contracting Co., Inc.
Plaintiff,

**PRELIMINARY CONFERENCE
ORDER - COMMERCIAL CASE**

Index No. 61442/2014

-against-

KJC Waterproofing, Inc. and Superior Gunite,
Defendant.
-----X

SCHEINKMAN, J.:

Counsel having appeared for a preliminary conference on January 15, 2016:

Plaintiff:

Yonkers Contracting Co., Inc.

Anthony Tavormina
Name

Lewis & McKenna
Firm

82 E. Allendale Rd.
Address

(201) 934-9800
Telephone Number

(201) 934-8681
Fax

Defendant:

*Superior Gunite and
KJC Waterproofing, Inc.*

- and -

Third-Party Defendant,

D+E Industries, LLC

Name

Firm

Address

Telephone Number

Fax

and the Court having conducted a preliminary conference in the above-entitled action, it is hereby ORDERED as follows, pursuant to Rule 8 of the Rules of Practice for the Commercial Division:

1. Any Demand for a Bill of Particulars shall be served on or before N/A and all Responses to such Demands shall be served on or before 2/5/2016.
2. Any Demands for Discovery and Inspection shall be served on or before 2/1/2016 and all Responses to such Demands shall be served on or before 3/1/2016.
3. Any Interrogatories shall be served on or before 2/1/2016 and all Answers to Interrogatories shall be served on or before 3/1/2016.
4. Any deposition on Oral Questions to be taken of Plaintiff shall be held on or before 4/1/2016 at a location to be mutually agreed upon by the Parties.
5. Any deposition on Oral Questions to be taken of Defendant shall be held on or before 6/1/2016 at a location to be mutually agreed upon by the Parties.
6. Any deposition on Oral Questions to be taken of any non parties shall be held on or before ~~2/4/2016~~ 6/30/2016 at a location to be mutually agreed upon by the Parties.
7. Other Disclosure, including Expert Disclosure, shall be:
~~conducted and for exchanged by 8/1/2016.~~

8. Electronic Discovery shall be:
produced in electronically searchable format moving forward and to the extent possible.

9. Discovery shall be limited to the following issues:

Those claimed and identified in the pleadings.

10. Impleader shall be completed on or before N/A

11. All discovery shall be completed by 7/9/1/2016 and any discovery not then completed may be considered waived. The failure to provide a document, or to otherwise provide discovery, may result in preclusion.

12. A Trial Readiness Conference will be held on JUN 30 2016 at 9:30 AM. On this date a Trial Readiness Order will be issued to the Plaintiff to which Plaintiff shall serve and file a Note of Issue and Certificate of Readiness within (10) days of the date of the Trial Readiness Order.

13. Absent an order of the Court to the contrary, the making of any dispositive motion will NOT stay discovery and will NOT result in, or justify, any change or adjustment in the dates set forth hereinabove.

14. THE DATES SET FORTH ABOVE MAY NOT BE ADJOURNED EXCEPT WITH THE PRIOR APPROVAL OF THE COURT.

15. In the event of a discovery dispute, counsel shall comply with Rule 14 of the Rules of Practice in the Commercial Division. In furtherance thereof, in the event that counsel, after good faith consultation, cannot resolve a discovery dispute, counsel shall promptly contact the Court at 914-824-5419 and arrange for either an in-court or telephonic conference. No motion relating to discovery shall be made without the prior permission of the Court. Neither the existence of any discovery dispute nor the making of any discovery motion shall result in, or justify, any change or adjustment in the dates set forth above, unless otherwise permitted by the Court.

16. All motions (including any discovery motions permitted by the Court) shall be governed by Rules 16 through 24 of the Rules of Practice in the Commercial Division. No sur-reply (which includes reply in further support of a cross-motion) or post-submission papers will be considered by the Court, except as authorized by the Court or by Rule 18. All motions shall be made returnable on Fridays. No motion shall, absent the permission of the Court, be made returnable on any other day.

17. Counsel shall not copy the Court on correspondence between them.

18. No document, including correspondence, shall be sent to the Court without prior authorization from Chambers to do so.

19. Absent the express permission of the Court, copies of all papers filed with the Court shall be transmitted to all opposing counsel in such fashion as to be received by counsel prior to, or contemporaneously with, receipt by the Court.
20. As set forth in Commercial Division Rule 11-a (a) & (b), the parties are advised that the interrogatories in this action shall be limited both in terms of the topics to be covered and the number of interrogatories permitted (*i.e.*, 25 including subparts). Furthermore, pursuant to Commercial Division Rule 11-a(d), the Court hereby orders that there shall be no additional interrogatories permitted concerning the claims and contentions of the parties.

Dated: White Plains, New York

2/15/16



ALAN D. SCHEINKMAN
Supreme Court Justice