

*Prepared and filed by the Court
for the convenience of the Parties*

Filed

July 9, 2020

Jeffrey R. Jablonski, P.J. Ch.

BMC LLC

Plaintiff

-vs-

WTFK Bayonne LLC

Defendant

SUPERIOR COURT OF NEW JERSEY
Chancery Division: General Equity
Hudson County

DOCKET NO.: C-99-20

Civil Action

Order

This matter having been opened to this court following the Plaintiff's request by means of an order to show cause for certain affirmative relief as set forth in the verified complaint filed on June 30, 2020; and this court having ordered briefs on the issues presented in the order to show cause and having heard argument on the application on July 8 and July 9, 2020, and for the reasons set forth on the record on July 9, 2020;

IT IS on this 9th day of July, 2020, ORDERED:

1. The order to show cause sought by the Plaintiff be and is hereby denied, this court not having found that the Plaintiff is entitled to the emergent relief requested,

2. Count 1 of the Plaintiff's complaint seeking declaratory judgment be and is hereby dismissed without prejudice, this court having found that the relief requested in that count is within the exclusive determination of the Department of Health, and that the Plaintiff has not yet exhausted the administrative remedies available to it.
3. Counts 2, 3, and 4 of the Plaintiff are facially valid based on the arguments made as part of this application and the Defendants shall serve and answer or otherwise move as to those counts on or before July 17, 2020.
4. The remaining counts of the Plaintiff's complaint shall proceed to disposition in the normal course and following this discovery schedule:
 - a. All paper discovery (interrogatories, document demands, and requests for admissions) shall be served on or before July 20, 2020, and shall be answered by September 20, 2020. No further paper discovery shall be permitted.
 - b. All fact and party depositions shall be completed on or before October 20, 2020.
 - c. Affirmative expert report(s) shall be served on or before November 20, 2020.
 - d. Rebuttal expert report(s) shall be served on or before December 20, 2020.
 - e. All expert depositions shall be completed on or before January 20, 2021.
5. No amendments to the pleadings to add additional parties or additional causes of action requiring further discovery shall be permitted without court approval.
6. Discovery, or case management problems, if any, must first be addressed by conference of counsel and to the extent that this conference does not resolve this issue, in correspondence to the court. No party may file any motion pertaining to discovery without first discussing the same with the

- court and counsel, in a conference call, and after first receiving this court's permission. If a motion is prosecuted, the initial brief shall not exceed 20 pages in length (double spaced); the opposition shall not exceed 10 pages (double spaced), and the reply shall not exceed 5 pages (double spaced).
7. This court shall not conduct a pretrial conference or a status conference unless specially requested by counsel, with the appropriate justification set forth. Counsel, if requesting a pre-trial order, shall prepare and submit a proposed consensual pre-trial order five (5) days before the conference that is scheduled. The pretrial order shall comply with R. 4:25-1(b) and R 4:25-3.
 8. The trial is scheduled for **February 15, 2021 at 9:00 a.m.** This shall be a firm date. Pretrial briefs shall be filed by February 5, 2021 and shall contain the information contained in R. 4:25-1(b)(1) through (5) and (9) and any other matters as deemed appropriate. Trial briefs shall set forth a summary of the parties' contentions and address any legal and evidentiary problems anticipated at trial. No in limine motions may be filed unless court permission is received.
 9. Whenever motions are filed or trial briefs submitted, they shall be appropriately tabbed and include an index setting forth a list of exhibits.
 10. Counsel shall meet before trial to prepare either a combined exhibit list or individual witness list which shall not only include those exhibits that counsel plan to move into evidence, but they shall also include all exhibits (including charts, enlargements, learned treatises, etc) that counsel reasonable anticipate marking for identification. Exhibits shall be pre-marked as P-1 and following for the Plaintiff, D-1 and following for the Defendant, and J-1 and following for joint exhibits. Exhibit and witness lists shall be exchanged and forwarded to this court no later than 9:00 a.m. on the Wednesday before the trial is scheduled to begin.
 11. At least five (5) days before the scheduled trial date, the parties shall confer and shall stipulate which exhibits to be introduced into evidence without objection, which exhibits shall be marked for identification only, and shall file particularized written objections to exhibits when legal or

evidentiary issues are implicated. Except for good cause shown, no party may be permitted to offer any exhibits not identified or not submitted by said party for examination by opposing counsel in compliance with this order. Any objections not made in writing at least three (3) days before the scheduled trial date may be considered waived. Copies of each party's list of premarked exhibits shall be provided to this court along with copies of all exhibits which are to be introduced into evidence without objection. Copies of the reports of proposed expert witnesses are to be submitted should there be no objection to the same.

12.If any witness is unavailable for trial, his or her testimony shall be videotaped for trial.

13.The trial shall not be adjourned because of outstanding discovery. As referenced earlier in this order, discovery difficulties shall be promptly brought to this court's attention, at which time a determination shall be made on how best to proceed.


Jeffrey R. Jablonski, P.J. Ch.