


FILED AUG 29 2014 

IN THE TRIBAL COURT OF THE
SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY

LYNN K. McDONALD
CLERK OF COURT

SMSC RESERVATION

STATE OF MINNESOTA

In Re the Marriage of:

Kenneth Jo Thomas,

Court File No. 778-13

Petitioner,

and

MEMORANDUM AND ORDER

Sheryl Rae Lightfoot

Respondent.

Pursuant to a request from counsel for the Petitioner, the Court convened a telephone status conference on the record on August 23rd, 2014. This Memorandum and Order will summarize the conference and will, the Court hopes, guide the parties to a resolution of their disputes.

The Petitioner's request arose from disagreements between the parties with respect to the scope of their obligations to provide discovery responses beyond what had been provided at the time of the conference. In particular, counsel for Respondent has noted, correctly, that Rule 22 of this Court's Rules of Civil Procedure limits the number of interrogatories that a party may serve as follows:

...no party may serve more than a total of 50 interrogatories upon any other party unless permitted to do so by the Court upon motion, notice and a showing of good cause. In computing the total number of interrogatories each subdivision of separate questions shall be counted as an interrogatory.

Relying upon the limitation in Rule 22, Respondent has declined to respond to any inquiry in the Petitioner's interrogatories after the thirty-sixth numbered interrogatory, noting that many of the preceding interrogatories contained multiple sub-parts, and calculating that the thirty-fifth numbered interrogatory was the fiftieth actual interrogatory. Petitioner's counsel responded that Respondent's interrogatories likewise contained multiple subparts, and therefore also effectively exceeded the limits of Rule 22.

Disputes also apparently exist with respect to the Petitioner's production of documents. Counsel for Respondent informed the Court that Petitioner's production was insufficient, but declined to specify the particulars underlying that position. Rather, counsel took the position that, because the Court's

deadline for discovery has passed, the Petitioner has forfeited the ability to correct or supplement his production, and that he therefore will be foreclosed, at trial, from taking certain unspecified positions or producing or disputing certain unspecified documents.

At the conclusion of the conference the Court directed the parties to file, by the end of the day, copies of all of their discovery requests and all of their responses, excluding only the documents that have been produced in response to requests for production. The parties complied, and the Court now has reviewed those materials.

As the Court said during the conference, the judicial obligation in any case is to arrive at a just decision, a resolution of the issues that is supported by the law and by all pertinent facts. The Court's view, therefore, is that all reasonable discovery requests should be the subject of appropriate responses, and that if objections are made they should be specific and should be made to the Court.

Neither party, at this time, has filed a motion seeking any discovery-related relief from the Court, and therefore the Court cannot enter an Order pertaining to the parties' disagreements. But the Court has reviewed in some detail the interrogatories and requests for production that have been served, and is of the view that, were motions made to expand the limits under Rule 22 to include all interrogatories that have been served, the Court would be inclined to grant the motion. Likewise, at least on the face of the parties' requests for production, the Court does not see anything that appears to be gross overreaching; and if there indeed have been documents withheld that clearly fall within the scope of those requests, the Court would be inclined to grant a motion to compel.

It is clear to the Court, therefore, that the parties' counsel should immediately confer with the aim of reaching agreement as to their differences; and, if agreement is not forthcoming, then the Court will give expedited consideration to any discovery-related motion that either party may make.

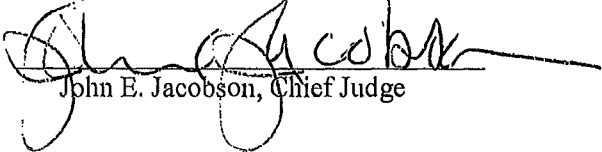
In addition to the discussion pertaining to discovery, the parties also raised with the Court certain additional matters which are dealt with below.

ORDER

1. Not later than September 3, 2014, counsel for the parties will confer with the aim of resolving all issues pertaining to discovery.
2. If the conference mandated by this Order does not result in a resolution of the parties' disagreements pertaining to discovery, any motion relating to those disagreements shall be filed not later than September 5, 2014; responses to any such motion shall be filed not later than September 8, 2014; and oral argument with respect to any such motion will be heard beginning at 10:00 a.m. on September 10, 2014.

3. Initial appraisal reports, as agreed-upon by the parties, will be exchanged not later than September 10, 2014, and rebuttal appraisal reports, if any, will be exchanged not later than September 24, 2014.
4. Prehearing statements, in accordance with Chapter 5, section 5 of the Domestic Relations Code of the Shakopee Mdewakanton Sioux Community, will be filed not later than September 29, 2014, and shall include lists of the witnesses that each party intends to call, and the exhibits that each party intends to offer, at trial. The Petitioner shall number his exhibits from 1 to 500, and the Respondent shall number her exhibits from 501 to 1000.
5. At trial, the presentations of each party, including both direct examination and cross examination, shall not exceed six hours, and the trial shall conclude not later than 5:00 p.m. on October 22, 2014,

Dated: August 29, 2014


John E. Jacobson, Chief Judge