

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

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CONSERVATION LAW : Civil No. 3:21CV00933 (SALM)
FOUNDATION, INC. :
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v. :
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SHELL OIL COMPLANY, et al. : March 1, 2022
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**SCHEDULING ORDER AND CASE MANAGEMENT PLAN**

Based, in part, on the Report of Parties' Planning Meeting [Doc. #40], the following dates are hereby set by the Court as reasonable and appropriate to serve the purposes of Fed. R. Civ. P. 1:

**Pleadings and Joinder:** Any motion to amend the complaint or join parties must be filed by the plaintiff no later than **July 22, 2022**. Any motion to amend the answer or join parties must be filed by the defendants no later than **August 22, 2022**. Any motion to amend the pleadings or join parties filed after these dates will be governed by the good cause standard of Fed. R. Civ. P. 16(b).

**Damages Analysis:** To the extent this has not been provided as part of the parties' initial disclosures, any party with a claim or counterclaim for damages shall serve a damages analysis on opposing counsel, in compliance with Rule 26(a)(1)(A)(iii), on or before **March 14, 2022**. Any party that is required to serve

a damages analysis shall serve an updated damages analysis on opposing counsel 14 days after the close of discovery.

**Discovery Deadlines:**<sup>1</sup>

Pursuant to the Rule 26(f) Report of Parties' Planning Meeting, initial disclosures pursuant to Rule 26(a)(1) were to have been exchanged by **February 11, 2022**.

All fact discovery will be completed (not propounded) by **November 4, 2022**. In order to ensure that this deadline is met, all written discovery requests related to fact discovery must be **propounded** on or before **August 12, 2022**.

Plaintiff requests that the Court increase the number of fact witness depositions from ten to twenty. See Doc. #40 at 14. Defendants object to this request. See id. The Court **DENIES, without prejudice,** plaintiff's request. Plaintiff has failed to show, at this time, why more than ten fact witness depositions would be necessary or otherwise unreasonably cumulative. See Fed. R. Civ. P. 30(a)(2)(A)(i); Fed. R. Civ. P. 26(b)(2)(C); see also Parimal v. Manitex Int'l, Inc., No. 3:19CV01910(MPS)(SALM),

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<sup>1</sup> Defendants "request that the appropriate scope of discovery be defined at the outset and that requests be limited to subjects relevant and proportional to the actual causes of action and Terminal in question." Doc. #40 at 11. The Court declines to address the substantive scope of discovery on the scant arguments raised in the 26(f) Report. If defendants receive a discovery request they believe to be unreasonable, they may comply with the meet and confer requirements of the Local Rules and file an appropriate motion.

2021 WL 1976311, at \*2 (D. Conn. May 18, 2021) (“On the current record, and particularly because plaintiff has not yet exhausted his presumptive limit of ten depositions, the Court denies plaintiff’s request to take thirteen depositions. At present, the Court cannot ascertain whether the testimony sought from certain witnesses would be unreasonably cumulative or duplicative.”).

For the same reasons, the Court **DENIES, without prejudice,** plaintiff’s request to serve more than 25 written interrogatories. See Doc. #40 at 14-15; Fed. R. Civ. P. 33(a)(1). After discovery has commenced, plaintiff may file an appropriate motion with the Court for leave to serve more than 25 interrogatories on a particular defendant.

Requests for admission are limited to twenty (20) in number (including subsections) without further order of the court.

**Discovery Relating to Expert Witnesses:** Unless otherwise ordered, any party intending to call an expert witness must comply with Fed. R. Civ. P. 26(a)(2). Parties must designate any trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) on any issues on which they bear the burden of proof by **December 12, 2022**. Depositions of any such experts must be completed by **July 28, 2023**.

Parties must designate all trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) on any issues on which they do not bear the burden of proof by **March 10, 2023**. Depositions of such experts must be completed by **July 28, 2023**.

Rebuttal expert reports, if any, shall be disclosed on or before **May 19, 2023**. Depositions of any such experts must be completed by **July 28, 2023**.

Any motion related to preclusion of an expert must be filed by **August 11, 2023**.

**Motions to Compel:** Any motion for an order compelling disclosure or discovery pursuant to Fed. R. Civ. P. 37(a) must be filed **within 30 days after the response was due under the Rules of Civil Procedure**. Ordinarily, that will mean any motion to compel must be filed **within 60 days of the service of the request**. If the Court has previously expressly granted an extension of the deadline for serving the response at issue, any motion to compel must be filed **within 30 days of the extended response deadline**.

If the parties are negotiating in good faith in an attempt to resolve the discovery dispute, a motion to extend this deadline may be filed. Failure to file a timely motion in accordance with this scheduling order constitutes a waiver of the right to file a motion to compel. Any motions relating to

discovery must comply fully with the Local Rules, as well as the Federal Rules of Civil Procedure. Counsel are directed to review Local Rule 37 before filing any discovery motion. Failure to comply with the Local and Federal Rules, and with this Order, may result in summary denial of any such motions.

**Dispositive Motions:** Any motion for summary judgment or for judgment on the pleadings must be filed no later than **November 17, 2023**.

**Joint Trial Memorandum:** A joint trial memorandum shall be filed on or before **January 5, 2024**, or 30 days after a ruling is issued on any summary judgment motion, whichever is later. Counsel signing the memorandum must certify that it is the product of consultation between the lawyers who will be trying the case.

**Joint Status Reports of Counsel:** A joint status report of counsel shall be filed on or before **May 27, 2022**. The report must address the matters that are relevant to the case at the time and provide each of the following items:

- (1) a detailed description of the discovery conducted up to the date of the report, and any significant discovery yet to be completed;
- (2) the remaining deadlines set in the case, and whether the parties expect to seek any extensions of those deadlines;

(3) any amendments to pleadings or additional parties contemplated;

(4) whether the parties expect to file any dispositive motions;

(5) whether the parties consent to the jurisdiction of a Magistrate Judge for all purposes, including trial; and

(6) a representation that counsel have conferred with each other and their clients on the question of whether to seek referral for a settlement conference.

Joint status reports of counsel addressing each of these matters shall be filed **every three months** thereafter until the matter is resolved, that is, on **August 26, 2022; November 28, 2022; February 28, 2023; May 26, 2023; August 28, 2023;** and corresponding dates in the future if this case has not been resolved. If a motion for summary judgment has been filed, or a firm trial date has been set, no further status reports are required.

**Extensions of Time:** All dates set forth in this Order are firm and will be extended only for good cause. The good cause standard requires a particularized showing that, despite due diligence, the party seeking the extension could not comply with this order. A motion to extend an interim or final discovery deadline will not be granted unless the movant shows that discovery was commenced promptly and pursued with due diligence

in a good faith effort to comply with the deadline established by this Order. **Any motion for extension of a deadline must comply with Local Rule 7.**

Given the generous nature of this schedule, the Court does not anticipate granting extensions of the deadlines set forth in this Scheduling Order absent extraordinary and truly unforeseeable circumstances.

**Settlement:** The parties are encouraged to discuss settlement as soon as possible. Nearly all civil cases settle. The sooner the parties look seriously at the possibility for settlement, the less expensive the litigation of the case will be for the parties. The Court understands that it may be necessary to conduct some discovery before the parties can engage in a productive mediation; the Court encourages the parties to discuss exchanging limited discovery for that purpose. But the parties may begin settlement discussions at any time, on their own, through a private mediator, or with the assistance of a Magistrate Judge.

The parties are advised that the Magistrate Judges are extremely busy, and may not be able to conduct settlement discussions on short notice; conferences are often scheduled 60 to 90 days in advance, or even further. Accordingly, counsel should seek a referral for settlement discussions **at the earliest possible date.** To do so, counsel for any party may file

