

IN THE SUPERIOR COURT OF DEKALB COUNTY  
STATE OF GEORGIA

FILED

2009 JUL -2 A 10:48

HEERY INTERNATIONAL, INC. a Georgia  
Corporation, E.R. MITCHELL & COMPANY, a  
Georgia Corporation, DBA HEERY MITCHELL,  
A JOINT VENTURE,

CLERK OF SUPERIOR CRT  
DEKALB COUNTY GEORGIA

Plaintiffs,

v.

CIVIL ACTION  
No. 07CV2532-3

DEKALB COUNTY SCHOOL DISTRICT,  
GEORGIA

Defendant.

**ORDER ON VARIOUS MOTIONS HEARD JULY 16, 2009**

On June 16, 2009, the parties appeared before this Court to argue several motions, this Court finds as follows:

As to Plaintiffs' Motion for Partial Summary Judgment – J. Kinson Cook Settlement Indemnification Claim, this Court hereby denies said motion on the ground that no such claim has been asserted in this case.<sup>1</sup> Thus, Plaintiffs' Motion to Open Discovery Regarding DeKalb County School District's "Claim" Related to the J. Kinson Cook Settlement is hereby denied as moot.

As to DCSC's Motion for Relief from this Court's Order Mandating Mediation, this Court grants said motion to the extent that the parties are relieved from the date concerning mediation. However, said mediation shall take place no later than July 31, 2009.<sup>2</sup> As to Plaintiffs' Motion to Extend the Scheduling Order, this Court hereby grants said motion. The

<sup>1</sup> During the hearing and in its brief, Defendant, DCSD specifically stated that it had not asserted an indemnification claim concerning the J. Kinson Cook Settlement. In fact, both parties agreed no claim had been asserted.

<sup>2</sup> The parties have notified this Court that the mediation has been scheduled for July 29<sup>th</sup> and July 30<sup>th</sup>.

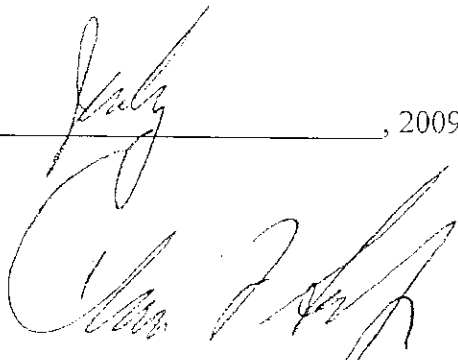
parties shall submit a new consent scheduling order no later than August 14, 2009, working backward from the scheduled trial date of March 1, 2010.

As to Plaintiffs' Motion to Compel the Testimony of Patricia A. Pope, this Court hereby grants said motion, in part. Further, DCSD's Motion for Protective Order is granted, in part, and denied, in part. Ms. Patricia Pope shall be deposed one last time by the Plaintiffs. The questions posed shall relate solely to the issues in this case, and any matters under investigation by the DeKalb County District Attorney's Office. However, no questions shall involve any personal issues, such as Ms. Pope's divorce.

As to DCSD's Motion for Sanctions, this Court grants said motion to the extent that this Court orders Plaintiffs to provide to DCSD a rebuttal expert report no later than June 26, 2009, at 4:00 p.m.

As to Plaintiffs' Motion for Partial Summary Judgment – Claims for Change Order Breach of Contract Damages, this Court takes the motion under advisement. Plaintiffs shall have until June 26, 2009, at 4:00 p.m. to submit any supplemental briefing, and DCSD shall respond no later than July 10, 2009, at 4:00 p.m.

SO ORDERED this 2 day of July, 2009, nunc pro tunc  
June 16, 2009.

  
CLARENCE F. SEELIGER, Judge  
DeKalb County Superior Court  
Stone Mountain Judicial Circuit