

**IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION**

CASE NO. 2017-022222-CA-08

DILLON POOLS, INC, a Florida
corporation,

Plaintiff,

vs.

LUNACON ENGINEERING GROUP, INC
D/B/A LUNACON CONSTRUCTION
GROUP, INC,

Defendants.

**ORDER GRANTING PLAINTIFF'S
AMENDED 6TH MOTION TO COMPEL
AND FOR SANCTIONS AND MOTION
TO TAX FEES AND COSTS**

THIS CAUSE, having come before the Special Magistrate on *Plaintiff's Amended Sixth Motion to Compel Discovery Responses and for Sanctions for Violation of the Orders of the Court and Plaintiff's Motion to Tax Fees and Costs* specially scheduled for evidentiary hearing on March 29, 2021, and the Special Magistrate having reviewed the motions, applicable case law, notices of filings, supporting documents and transcript(s), testimony of witnesses, evidence presented and/or otherwise offered and/or set forth in the record; having taken testimony at the hearing; having heard the argument of counsel; and having been otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED as follows:

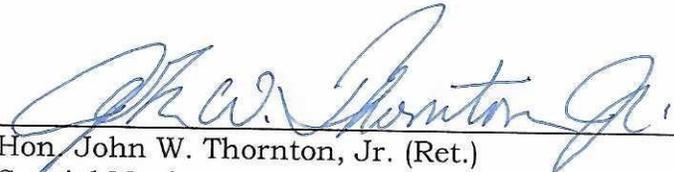
1. The Special Magistrate has jurisdiction over this matter under the Order of this Court dated October 27, 2020.
2. The Special Magistrate sets forth these specific findings of fact:
 - a. Defendant intentionally, willfully and contumaciously deleted relevant and/or crucial emails, evidence and/or discovery in violation of Florida law, the Florida Rules of Civil Procedure and the Orders of this Court.
 - b. Defendant intentionally, willfully and contumaciously selectively excluded from production to Plaintiff relevant and crucial emails, evidence and/or discovery in violation of Florida law, the Florida Rules of Civil Procedure and the Orders of this Court.
 - c. Defendant intentionally, willfully and contumaciously failed to comply

- with discovery by not timely producing to Plaintiff thousands of relevant emails, evidence and/or discovery in violation of Florida law, the Florida Rules of Civil Procedure and the Orders of the Court.
- d. Defendant intentionally, willfully and contumaciously failed to comply with five (5) discovery Orders entered by the Court pursuant to the Florida Rules of Civil Procedure.
 - e. Defendant knowingly, intentionally, willfully and contumaciously made false statements and/or representations to the Court when Defendant represented to the Court it had “diligently searched its files and produced all documents responsive to Plaintiff’s request in its possession, custody and control” in the *Agreed Order on Plaintiff’s Fourth Motion to Compel Discovery Responses*, in violation of Florida law, the Florida Rules of Civil Procedure and the Orders of the Court.
3. The Special Magistrate deems the intentional and willful conduct of Defendant in deleting emails, hiding emails from production, ignoring Orders of the Court to produce discovery, and making false representations to the Court to be serious abuses of the judicial process.
 4. The Special Magistrate deems Defendant’s conduct to be willful, deliberate and in contumacious disregard for the Court’s authority.
 5. The Special Magistrate deems Defendant’s conduct to be a willful disregard and/or gross indifference to the five (5) Orders of the Court compelling discovery.
 6. *Plaintiff’s Amended Sixth Motion to Compel Discovery Responses and for Sanctions for Violation of the Orders of the Court* is GRANTED.
 7. *Plaintiff’s Motion to Tax Fees and Costs* is GRANTED.
 8. *Plaintiff* shall be awarded its attorney’s fees and costs associated with and/or relating to its securing discovery, reviewing discovery, and prosecuting the prior motions to compel and the instant Motions.
 9. Plaintiff shall, within 30 days from the entry of this Order, supplement its Affidavit of Reasonable Fees and Costs to include attorney’s fees and costs incurred after December 24, 2020.
 10. Plaintiff shall, within 30 days from receipt of Plaintiff’s affidavit, file its

Affidavit of Reasonable Fees and Costs opposing Plaintiff's request.

11. Within 15 days of receipt of Defendant's Affidavit in opposition thereto and/or the expiration of the 30-day response period, the Special magistrate will set for evidentiary hearing the award of attorney's fees and costs.
12. This Court reserves jurisdiction to enter such other and further Orders consistent with the decision entered.

DONE AND ORDERED, in Miami-Dade County, Florida, this 2nd day of April, 2021.



Hon. John W. Thornton, Jr. (Ret.)
Special Magistrate

Copies to: Mr. Adam N. Neijna, Esq. (amn@amnlawfirm.com)
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