

HONORABLE JULIE SPECTOR
HEARING DATE: OCTOBER 24, 2013
WITHOUT ORAL ARGUMENT

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KING COUNTY
SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ROGER M. BELANICH and SUSAN P.
BELANICH, a Washington marital
community,

Plaintiffs,

v.

EMPLOYERS' FIRE INSURANCE
COMPANY, a foreign insurance company;
ONEBEACON AMERICAN INSURANCE
COMPANY, a foreign insurance company;
ONEBEACON INSURANCE COMPANY, a
foreign insurance company; JOHN DOE
INSURANCE COMPANIES 1-5,

Defendants.

NO. 12-2-14368-4 SEA

SPECIAL DISCOVERY MASTERS'
[PROPOSED] ORDER GRANTING *IN PART*
PLAINTIFFS' MOTION FOR
SANCTIONS AGAINST EMPLOYERS'
FIRE INSURANCE COMPANY –
FAILURE TO PRODUCE RÉSUMÉS

THIS MATTER having come on regularly before this Court upon “Plaintiffs’ Motion for Sanctions Against Employers’ Fire Insurance Company – Failure to Produce Résumés” dated October 16, 2013, and the Court having considered the following:

1. Plaintiff’s Motion for Sanctions Against Employers’ Fire Insurance Company – Failure to Produce Résumés dated October 16, 2013;

2. Declaration of Stephanie L. Grassia in Support of Motion for Sanctions Against EFIC – Résumés dated October 16, 2013;

3. Defendant Employers’ Fire Insurance Company’s Opposition to Plaintiff’s Motion for Sanctions and Related Relief dated October 22, 2013;

1 4. Declaration of Kevin Cooke in Support of Defendant Employers' Fire Insurance
2 Company's Opposition to Plaintiff's Motion for Sanctions and Related Relief dated October 22,
3 2013;

4 5. Declaration of Michael Hooks in Support of Defendant Employers' Fire Insurance
5 Company's Opposition to Plaintiff's Motion for Sanctions and Related Relief dated October 22,
6 2013;

7 6. Plaintiffs' Reply re Motion for Sanctions Against Employers' Fire Insurance
8 Company – Failure to Produce Résumés dated October 23, 2013; and

9 7. The pleadings and files on record herein.

10 The Court finds that defendant Employers' Fire Insurance Company's failure to produce
11 résumés and *curricula vitae* pursuant to the Court's August 30 and September 20, 2013 orders
12 was without reasonable excuse or justification and is therefore deemed to be willful, especially
13 ~~given the defendant's failures to respond to plaintiffs' counsel's inquiries about the status of the~~
14 ~~documents' production.~~ The Court also finds that Employers' Fire Insurance Company's initial
15 objection based on "relevance" was frivolous and unfounded, especially where Employers' Fire
16 Insurance Company did not oppose production of the résumés and *curricula vitae* on the
17 plaintiffs' Motion to Compel.

18 **IT IS HEREBY ORDERED** that Plaintiffs' Motion For Sanctions is **GRANTED** and
19 that:

20 1. Defendant Employers' Fire Insurance Company must produce the following
21 documents ~~within five (5) calendar days of the entry of this Order;~~ *immediately upon*
22 *receipt of this order but in no event later than November 7, 2013*
23 Résumés and/or *curricula vitae* for the following individuals, showing experience,
24 education, and employment information for at least the last 10 years:

25 a. Kevin Cooke

26 b. Elizabeth Sackett

SS

SS

1 c. Clayton Budlong

2 d. Bonnie McClements

3 e. Christopher Goss

4 f. Robert McCarthy

5 f. Dan McCarthy

6 g. Michael Stanley

7
8 2. The plaintiffs only are relieved from the following deadlines in the Order
9 Amending Case Schedule dated June 10, 2013:

- 10 • Disclosure of Possible Primary Witnesses: November 4, 2013
- 11 • Disclosure of Possible Additional Witnesses: December 16, 2013
- 12 • Change of Trial Date: December 30, 2013
- 13 • Discovery Cutoff: February 17, 2014

See below # 5

14 3. Defendant Employers' Fire Insurance Company shall pay monetary sanctions in
 15 the sum of \$ 2500.⁰⁰ to serve the purpose of deterring, punishing, and educating
 16 ~~Employers' Fire Insurance Company for engaging in discovery abuses and for compensating~~
 17 ~~plaintiffs for the harm caused by Employers' Fire Insurance Company's discovery abuses.~~
 18 ~~Employers' Fire Insurance Company shall delivery this sum to Cairncross & Hempelmann~~
 19 ~~within ten (10) calendar days of the entry of this order.~~

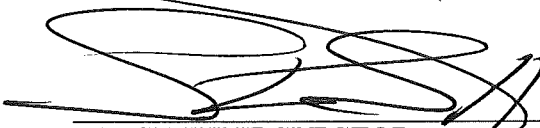
20 4. ~~The Court has considered other sanctions and has determined that the least severe~~
 21 ~~sanction to serve the purpose of deterring, punishing, compensating Plaintiffs and educating~~
 22 ~~Defendant is monetary sanctions and the plaintiffs' relief from certain deadlines in the Order~~
 23 ~~Amending Case Schedule dated June 10, 2013 described above.~~

24 5. Defendant Employers' Fire Insurance Company shall pay reasonable attorneys'
 25 fees and costs that Plaintiffs incurred in bringing Plaintiffs' Motion for Sanctions in an amount to
 26 be determined at a later date upon Plaintiffs' separate application. *in the*

Amount of \$1,000.⁰⁰

1 ~~IT IS HEREBY FURTHER ORDERED~~ that failure to comply with this Order will
2 subject defendants to further, harsher sanctions pursuant to CR 26, CR 37 and KCLCR 37
3 or other applicable rule.

4 DATED 7th
5 DONE IN OPEN COURT this 5 day of November, 2013.

6 
7 JUDGE JULIE SPECTOR

8 STEVE SCOTT
9 SPECIAL DISCOVERY MASTER

10 PREPARED AND PRESENTED BY:

11 CAIRNCROSS & HEMPELMANN, P.S.

12 ~~/s/ Stephanie L. Grassia~~
13 Stephanie L. Grassia, WSBA No. 34907
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15 Seattle, WA 98104
16 Telephone: (206) 587-0700
17 Fax: (206) 587-2308
18 E-Mail: sgrassia@cairncross.com

On August 30, 2013 EFIC was
ordered by Judge Spector to
produce the resumes within
5 days. In its opposition to
this Motion EFIC states,
on October 22, 2013, that it
is drafting a motion asking
the Court of Appeals to stay
discovery. As of today, Nov.
5, 2013, over 2 months after
being ordered to produce the resumes, discovery
has not been stayed. The delay in complying with
the August 30 Order is entirely inexcusable.

19 * There has been no showing of a need
20 for extension of deadlines. The denial of this
21 request is without prejudice to plaintiff's
22 making a request for extension of deadlines
23 to Judge Spector.

24 