

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Administrative Proceedings Rulings
Release No. 5224 / November 8, 2017

Administrative Proceeding
File No. 3-17157

In the Matter of

**Steven Zoernack, and
EquityStar Capital Management,
LLC**

Amended Scheduling Order

By my order, the parties held a prehearing conference, resulting in a joint prehearing conference statement submitted on November 6, 2017.¹ *See Steven Zoernack*, Admin. Proc. Ruling Release No. 5189, 2017 SEC LEXIS 3339, at *1-2 (ALJ Oct. 19, 2017) (finding that the amended Rules of Practice apply). Respondent Steven Zoernack reaffirmed his agreement to receive service of papers other than Commission orders through email.² I set the following amended procedural schedule based on the parties' proposed schedule, as modified below:

December 15, 2017: Completion of depositions of fact witnesses. Parties are responsible for requesting and serving their own subpoenas under Rules of Practice 232 and 233, 17 C.F.R. §§ 201.232, .233. Any subpoena request should be submitted no later than two

¹ Respondents' counsel, Thomas V. Sjoblom, submitted a notice of withdrawal of counsel under Rule of Practice 102(d), 17 C.F.R. § 201.102(d), on November 1, 2017, so Steven Zoernack participated in the prehearing conference and signed the joint statement individually and on behalf of Respondent EquityStar Capital Management, LLC.

² The parties' joint statement does not state whether Zoernack has agreed to email service on EquityStar.

weeks before the date on which attendance is required. Subpoena forms are available online at <http://www.sec.gov/alj>.

- January 10, 2018: Completion of production of any documents not already produced, as set forth in Rules of Practice 230 and 232, 17 C.F.R. §§ 201.230, .232.
- January 17, 2018: Motions for summary disposition under Rule of Practice 250(c), 17 C.F.R. § 201.250(c), are due. A motion for leave to file a motion for summary disposition should be filed concurrently.
- February 7, 2018: Oppositions to summary disposition are due.
- February 8, 2018: Expert witness disclosures and reports under Rule of Practice 222(b), 17 C.F.R. § 201.222(b), if any, are due. The filing of the expert's report constitutes the expert's direct testimony. During the hearing, the expert will not be subject to direct examination, and will simply be sworn in and proffered for cross-examination. On request, however, a party may conduct a brief direct examination of the party's expert.

Witness and exhibit lists are due. Witness lists shall include witnesses' names, occupations, addresses, and a brief summary of their expected testimony. 17 C.F.R. § 201.222(a)(4). Exhibit lists shall be emailed to my office at alj@sec.gov in Microsoft Excel or Word format and include exhibit numbers, a description of each exhibit, and Bates-stamp numbers, if any. The parties should also exchange, but not file, copies of marked exhibits.

Subpoenas requiring the attendance of fact witnesses under Rule of Practice 232, 17 C.F.R. § 201.232, are due. Given the agreed deadline for filing expert reports, subpoenas requiring the attendance of expert witnesses may be requested no later than ten days before the date of the expert's anticipated testimony, and any expert witness who offers a report should be prepared to attend the hearing based on such limited notice.

Written stipulations under Rule of Practice 324, 17 C.F.R. § 201.324, including stipulations concerning the contents, authenticity, or admissibility of documents and matters of which official notice may be taken, are due.

February 14, 2018: Replies in support of summary disposition are due.

February 16, 2018: Motions *in limine*, including objections to witnesses and exhibits, are due.

Motions for the production of witness statements under Rule of Practice 231, 17 C.F.R. § 201.231, if any, are due.

Optional, ten-page prehearing briefs are due. Briefs that merely duplicate summary disposition briefing are unhelpful and unnecessary.

February 23, 2018: Oppositions to motions *in limine* are due.

February 26, 2018: Final telephonic prehearing conference at 3:00 p.m. EST.

March 1, 2018: The hearing, if necessary, will begin at a time and location to be determined. After the close of the parties' evidentiary presentation, I will establish a post-hearing schedule for the filing of briefs and exhibits.

In addition to the required filing with the Office of the Secretary, electronic courtesy copies of filings should be emailed to alj@sec.gov in both PDF text-searchable format and, when possible, Microsoft Excel or Word format.

Jason S. Patil
Administrative Law Judge