Docket #0581 Date Filed: 2/24/2023

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re:	Chapter 11 Cases
TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Reorganized Debtors.	14-40987-EDK 14-40988-EDK 14-40989-EDK Substantively Consolidated
STEPHEN B. DARR, TRUSTEE OF THE ESTATES OF TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Plaintiff, v. FRANZ BALAN, A REPRESENTATIVE OF A CLASS OF DEFENDANT NET WINNERS, Defendants.	Adversary Proceeding No. 16-4006
STEPHEN B. DARR AS TRUSTEE OF THE ESTATES OF TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Plaintiff, v. MARCO PUZZARINI AND SANDRO PAULO FREITAS, REPRESENTATIVES OF A CLASS OF DEFENDANT NET WINNERS, Defendants.	Adversary Proceeding No. 16-4007

JOINT MOTION TO EXTEND "PHASE I" DEADLINES TO COMPLETE DISCOVERY AND EXPERT REPORT

Stephen B. Darr, the Trustee (the "Trustee") of the Chapter 11 Estates of TelexFree, LLC, TelexFree, Inc. and TelexFree Financial, Inc. (collectively, "Telexfree"), along with

Class Representatives Frantz Balan, Marco Puzzarini, and Sandro Paulo Freitas (the "Class Representatives"), on behalf of classes of alleged "net winner" Defendants in *Darr v. Argueta*, Adv. Pro. 16–4006 (the "Domestic Case") and *Darr v. Alecci*, Adv. Pro. 16–4007 (the "International Case"), jointly move to extend the "Phase I" deadlines for expert discovery and expert reports by 45 additional days in this matter, to allow for the completion of the Class Representatives' Expert Rebuttal Report and to accommodate ongoing discovery related to the admissibility of the Trustee's Expert Report. In support thereof, the Trustee and Class Representatives jointly state as follows:

1. On December 1, 2021, the Court entered an order approving the Motion by Liquidating Trustee to Schedule Case Management Conference Respecting Supplementation of Expert Report. (*Domestic Case* ECF No. 407; *International Case* ECF No. 557.) That order was conditioned upon certain cooperation by the parties and required that (a) the parties negotiate and file an amended fee arrangement for the Defendants; and that (b) the parties file either an agreed-to proposed scheduling order or separate competing proposed scheduling orders.

2. On January 4, 2022, the parties filed a stipulation respecting fees for professionals retained by the class action defendants. (*Main Case* ECF No. 3707.) On January 11, 2022, the Court approved the form and scope of the stipulation. (*Main Case* ECF No. 3710.) In the stipulation, the Parties conceptually agreed to conduct remaining class proceedings in two phases: "Phase I" and "Phase II."

3. On March 24, 2022, the Court set the remaining "Phase I" deadlines as follows:

- The Parties shall complete all "Phase I" fact discovery by **February 28, 2023**.

- The Class Representatives shall complete any discovery of Trustee's expert, Borelian, by **February 28, 2023**.
- The Class Representatives shall provide the Trustee with any rebuttal expert report on or before **February 28, 2023**.
- The Trustee shall complete any discovery of the Class Representatives' expert, StoneTurn, by **March 31, 2023**.
- The Trustee shall provide any reply expert report ("Reply Report") to the Class Representatives' Rebuttal Report on or before **March 31, 2023**.
- Any motions to exclude the supplemental expert report of Borelian ("Daubert Motion"), and any related dispositive motions, shall be filed by **April 30, 2023**.

(*Domestic Case* ECF No. 425; *International Case* ECF No. 575.)

4. The parties have been diligently conducting discovery and preparing their expert opinions. The volume of discovery and certain scheduling delays have necessitated extending the existing deadlines by 45 days in order to allow for the orderly completion of fact discovery, expert discovery, and expert reports.

5. Accordingly, the Trustee and the Class Representatives now jointly request an additional 45 days to complete their expert discovery and to complete their rebuttal report, and that all other deadlines set forth in Paragraph 2 above be extended by 52 days,[1] as reflected in proposed amended scheduling order is attached hereto as Exhibit A.

WHEREFORE, the Trustee and Class Representatives jointly request that this Court:

[1] In additional to the 45-day extension jointly agreed to above, the Trustee has requested an additional week for his deadlines to complete expert discovery and to prepare his Reply Report to accommodate April school vacation week. Class Representatives agree to the addition of a week to the deadlines referenced.

1. approve the proposed amended scheduling order attached hereto; and

2. Grant such other relief as is just and proper.

STEPHEN B. DARR, THE TRUSTEE OF THE CHAPTER 11 ESTATES OF TELEXFREE, LLC, TELEXFREE, INC. AND TELEXFREE FINANCIAL, INC.,

By his counsel,

/s/ Charles R. Bennett

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Dated: February 24, 2023

FRANTZ BALAN,
CLASS REPRESENTATIVE FOR
DOMESTIC CLASS ACTION,

MARCO PUZZARINI AND SANDRO
PAULO FREITAS,
CLASS REPRESENTATIVES
FOR INTERNATIONAL CLASS ACTION,

By their counsel,

Dated: February 24, 2023

/s/Ilyas J. Rona
Ilyas J. Rona (BBO #642964)
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CERTIFICATE OF SERVICE

I, Ilyas J. Rona, hereby certify that I have caused a copy of the **Joint Motion to Extend "Phase I" Deadlines to Complete Discovery and Expert Report** to be served on counsel for the Trustee by email as follows and all registered electronic filers appearing in this case via the Court's CM/ECF system:

Charles R. Bennett, Jr.
MURPHY & KING P.C.
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Boston, MA 02109
cbennett@murphyking.com

Dated: February 24, 2023

/s/Ilyas J. Rona
Ilyas J. Rona, Esq.

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[JOINTLY PROPOSED] ORDER REGARDING REMAINING "PHASE I" SCHEDULE

This matter comes before the Court on a Joint Motion to Extend "Phase I"

Deadlines to Complete Discovery and Expert Report, which seeks to extend by 45 days

the deadlines previously set in the Amended Scheduling Order dated March 24, 2022 (ECF No. 425 in Adv. Pro. 16-4006 and ECF No. 575 in Adv. Pro. 16-4007) ("Amended Scheduling Order") with respect to "Phase I" of Adversary Proceedings 16-4006 and 16-4007 (the "Adversary Proceedings"), as defined in the Amended Scheduling Order.

Now, upon joint motion of the parties in these Adversary Proceedings, it is hereby Ordered that the Amended Scheduling Order is amended as follows:

A. With respect to "Phase I" of the Adversary Proceedings:

a. The Parties shall complete all "Phase I" fact discovery by **April 14, 2023**.

b. The Class Representatives shall complete any discovery of Trustee's expert, Borelian, by **April 14, 2023**.

c. The Class Representatives shall provide the Trustee with any rebuttal expert report on or before **April 14, 2023**.

d. The Trustee shall complete any discovery of the Class Representatives' expert, StoneTurn, by **May 22, 2023**.

e. The Trustee shall provide any reply expert report ("Reply Report") to the Class Representatives' Rebuttal Report on or before **May 22, 2023**.

f. Any motions to exclude the supplemental expert report of Borelian ("Daubert Motion"), and any related dispositive motions, shall be filed by **June 22, 2023**.

g. If a *Daubert* Motion or related dispositive motion is filed, the Court will enter a separate scheduling order setting the date for the submission of a pretrial memorandum and establishing a trial date, if applicable.

h. After the Court issues its rulings with respect to Phase I, the Court shall determine the necessity of Phase II.

i. If no Daubert Motion or dispositive motions are filed, and if the cases have not otherwise been resolved or disposed of, the Parties will proceed to Phase II.

B. With respect to "Phase II," if required

a. Within twenty-four (24) days of the conclusion of Phase I, the Parties shall submit a joint scheduling order, or competing scheduling orders in the event an order cannot be agreed to, which shall address issues remaining to be litigated, designate additional discovery required, and establish a schedule for the filing of dispositive motions.

Dated at Boston within said District this _____ day of _____ 2023.

_____
Honorable Elizabeth D. Katz
United States Bankruptcy Judge