

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, NEWPORT NEWS DIVISION

Pecos River Talc LLC v. Dr. Theresa Swain Emory, et al.

Pecos River Talc · No. 4:24cv75 · Decided March 10, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia denied Pecos River Talc, LLC's motion to compel defendants to disclose information concerning third-party litigation funding. The court held that the motion was untimely because it was filed 25 days after the close of fact discovery and plaintiff had not shown good cause for the delay. The court also stated that, even if timely, the requested funding discovery was tangential to the merits and unwarranted.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Newport News Division
WRITING FOR THE COURT	Robert J. Krask
JURISDICTION	United States District Court for the Eastern District of Virginia, Newport News Division
DECIDED	March 10, 2026
DOCKET	4:24cv75
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to compel defendants to answer new interrogatories concerning third-party litigation funding after the close of fact discovery. The court denied the motion as untimely and stated that it would also deny the motion on the merits because the requested discovery was of little or no relevance.
STANDARD OF REVIEW	Discovery rulings and determinations of relevance are committed to the district court's broad discretion. An untimely motion to compel may be considered only if the movant offers an acceptable explanation for the delay.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; persuasive only
PARTIES	Pecos River Talc LLC v. Dr. Theresa Swain Emory, Dr. John Maddox, Dr. Richard Kradin

TOPICS

discovery dispute

civil procedure

commercial litigation

commercial

PRACTICE AREAS

civil procedure

discovery

commercial litigation

third-party litigation funding

QUESTIONS PRESENTED

1. Whether plaintiff's motion to compel, filed 25 days after the close of fact discovery, should be considered despite its untimeliness.
2. Whether discovery concerning persons or entities funding defendants' defense or potential damages was relevant and proportional to the claims and defenses.
3. Whether plaintiff's dissatisfaction with deposition answers justified reopening written discovery after the discovery deadline.

HOLDINGS

1. The motion to compel was untimely, and plaintiff did not provide an acceptable explanation or good cause sufficient to excuse the delay.
2. Even if timely, the motion to compel would be denied because discovery into defendants' litigation or damages funding was tangential at best and had little to no relevance to the merits of the case.

KEY QUOTATIONS

"Courts in this District and Circuit deny 'belated motions to compel filed close to, or after, the close of discovery.'" (III)

"Even if plaintiff's motion had been filed timely, the Court would deny the motion to compel." (III)

"For the reasons discussed above, plaintiff's motion, ECF No. 105, is DENIED as untimely." (IV)

FACTUAL BACKGROUND

Pecos River Talc sued three physicians who served as plaintiff-side expert witnesses in asbestos litigation and had published an article concerning mesothelioma cases and cosmetic talc exposure. Plaintiff alleged that statements in the article were false and theorized that a law firm or other persons might have supported the article or defendants' litigation efforts. During the defendants' depositions, plaintiff asked about persons or entities funding the defense or potential damages, and defendants generally answered that they did not know or were not aware of such funding, with some privilege-related instructions. Plaintiff later sought to reopen discovery through three interrogatories concerning litigation and damages funding.

PROCEDURAL HISTORY

Pecos River Talc LLC filed suit against the defendants on May 9, 2024, asserting trade libel or product disparagement, fraud, and false advertising claims. During depositions, plaintiff asked about funding of defendants' defense and potential damages, but plaintiff claimed that certain questions were not fully answered.

After fact discovery closed on October 3, 2025, plaintiff continued conferring with defense counsel and filed its motion to compel on October 28, 2025. The court denied the motion.

DISPOSITION

other

CASES CITED

- Singletary v. Sterling Transportation Co., 289 F.R.D. 237, 241 (E.D. Va. 2012)
- EEOC v. Sheffield Financial, LLC, No. 1:06cv889, 2007 WL 1726560, at *3 (M.D.N.C. June 13, 2007)
- Merrill v. Waffle House, Inc., 227 F.R.D. 467, 473 (N.D. Tex. 2005)
- Tucker v. Momentive Performance Materials USA, Inc., No. 2:13cv4480, 2016 WL 8252929, at *3 (S.D.W. Va. Nov. 23, 2016)
- Watson v. Lowcountry Red Cross, 974 F.2d 482, 489 (4th Cir. 1992)
- Miller v. McWilliams, 1:20cv671, 2021 WL 11723055, at *1 (E.D. Va. May 6, 2021)
- U.S. ex rel. Becker v. Westinghouse Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002)
- In re Valsartan N-Nitrosodimethylamine Contamination Products Liability Litigation, 405 F. Supp. 3d 612, 616 (D.N.J. 2019)
- V5 Technologies v. Switch, Ltd., 334 F.R.D. 306, 312 (D. Nev. 2019)

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