

parties shall be filed no later than _____.

4. The Plaintiff(s) shall disclose the identity of all persons who may be used at trial to present evidence under Fed.R.Evid. 702, 703, 704, and 705 no later than _____. The Defendant(s) shall disclose the identity of all persons who may be used at trial to present evidence under Fed.R.Evid. 702, 703, 704, or 705 no later than _____. The parties shall disclose the identity of all rebuttal expert testimony no later than _____.

The disclosures of the identities of all persons who may be used at trial to present evidence under Fed.R.Evid. 702, 703, 704, or 705 shall also include all of the disclosures required by Fed.R.Civ.P. 26(a)(2)(B) if the witness is either (1) retained or specifically employed to provide expert testimony in the case, or (2) is an agent or employee of the party offering the testimony whose duties regularly involve giving expert testimony. No deposition of any expert witness shall occur before the disclosures concerning expert witnesses mandated by this Order are made.

5. The parties are required to finally supplement all discovery, including material changes in expert witness opinions and disclosure, pursuant to Fed.R.Civ.P. 26(a)(3), of all exhibits to be used and all witnesses to be called at trial, on or before _____. The parties are reminded that this order governs and supersedes the "30 days before trial" disclosure deadline contained in Fed.R.Civ.P. 26(a)(3). Therefore, (1) failure to timely supplement Rule 26(a) disclosures, including

witnesses and exhibits for trial, (2) failure to timely supplement responses to any valid discovery requests, and (3) attempts to include witnesses or exhibits in the Proposed Final Pretrial Order that were not previously disclosed in a timely manner may result in the exclusion of such evidence at trial or the imposition of other sanctions pursuant to Fed.R.Civ.P. 37, the Local Rules of the District Court, and the inherent power of the court.

6. All discovery, including answers to interrogatories, production of documents, depositions and requests to admit must be completed by _____.

7. Discovery by interrogatory shall be governed by Fed.R.Civ.P. 33 unless otherwise ordered by the Court. Therefore, there is a limit of twenty-five (25) interrogatories, including discrete subparts.

8. Depositions shall be limited as provided by Rules 30 and 31 of the Fed.R.Civ.P.

9. Motions on discovery matters are strongly discouraged. Parties are directed to Local Rule Civil 7.2(j), which prohibits filing discovery motions unless parties have first met to resolve any discovery difficulties. If the parties cannot reach a resolution, they may file a motion. Motions, responses and replies shall not exceed two pages each.

10. All dispositive motions shall be filed no later than _____. **A party or parties represented by the same lawyer shall file no more than one motion for summary judgment unless leave of Court is obtained.**

11. All parties are specifically admonished that pursuant to Local Rule Civil Rule 7.2(i), "[if a motion does not conform in all substantial respects with the requirements of this Rule, or **if the opposing party does not serve and file the required answering memoranda, or if counsel for any party fails to appear at the time and place for oral argument, such non-compliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily.**"

12. **A Joint Proposed Pretrial Order** shall be lodged by _____, notwithstanding the pendency of unresolved dispositive motions. The parties are therefore advised to get their dispositive motions resolved sooner rather than later. The Proposed Pretrial Order shall be in the Form of Joint Proposed Pretrial Order attached to this order.

13. If the case will be tried to the Court, rather than to a jury, in addition to filing a **Joint Proposed Pretrial Order**, each party shall also submit very brief Proposed Findings of Fact and Conclusions of Law on the same date the **Joint Proposed Pretrial Order** is due.

14. Motions in limine are discouraged. The parties shall file and serve all **Motions in Limine** no later than the filing of the **Joint Proposed Pretrial Order**. Responses shall be filed at least two days before the final pretrial conference. The lawyers for all parties shall come to the final **Pretrial Conference** prepared to address the merits of all such motions; no replies shall be filed. Motions in limine and responses shall not exceed two pages and

shall be limited to matters which might avoid a mistrial.

15. The parties are advised that they are required to file with the **Joint Proposed Pretrial Order** the following:

(A) A joint stipulated Statement of the Case to be read to the jury. If the parties have any disagreement about the statement, the party proposing the statement will set it forth in the joint pleading and the party objecting shall set forth the reason for the objection below the statement and offer an alternative statement.

(B) Proposed voir dire questions that are case specific.

(C) Proposed jury instructions. The instructions shall be accompanied by citations to legal authority. Instructions shall not be partisan. Prepare them as though you were the judge's law clerk.

(D) A joint stipulated form of verdict. If the parties have any disagreement about the form of verdict, the party proposing the form will set it forth in the joint pleading and the party objecting shall set forth the reason for the objection and offer an alternative form of verdict.

(E) A Trial Memorandum of Law for each party. The memorandum shall be **brief** but must address all questions of law, including evidentiary issues that the party anticipates will arise at trial.

16. The lawyers for each party who will be responsible for trial of the lawsuit shall appear and participate in a **Pretrial**

Conference on Friday, _____ at 3:00 p.m.

IT IS FURTHER ORDERED directing the parties to submit their proposed jury instructions and forms of verdict in WordPerfect format on disk or by e-mail (mary_molyneaux@azd.uscourts.gov) in addition to the written materials filed with the Clerk of the Court.

IT IS FURTHER ORDERED setting bench/jury trial on _____
at 9:30 a.m. (bench) or 9:00 a.m. (jury) Estimated length _____
days.

Dated this _____ day of _____, 200__ .

Frederick J. Martone
United States District Judge

