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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Plaintiff,
v.
Defendant.

No.
**ORDER SETTING RULE 16
SCHEDULING CONFERENCE**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a Scheduling Conference is set for _____ in Courtroom 506, Sandra Day O'Connor U.S. Federal Courthouse, 401 W. Washington St., Phoenix, Arizona 85003-2151. In preparation for this Scheduling Conference, it is hereby Ordered as follows:

INITIAL DISCLOSURES

The parties are ordered to provide initial disclosures at least 21 calendar days before the Scheduling Conference in the form required by Federal Rule of Civil Procedure 26(a)(1). The parties shall file with the Clerk of Court a Notice of Initial Disclosure; copies of the actual disclosures need not be filed. The parties are not free, without order of the Court, to delay or defer exchange of the Rule 26(a)(1) initial disclosures to a time after their Rule 26(f) Meeting to prepare the proposed Discovery Plan.

COMMENCEMENT OF DISCOVERY PERMITTED AND REQUIRED

The limitation on the commencement of formal discovery set forth in Federal Rule

1 of Civil Procedure 26(d) is waived. Formal discovery not only may commence at any
2 time after service of process, but the court expects discovery to commence prior to the
3 Scheduling Conference. The parties shall serve initial document discovery requests at
4 least 14 days before the Scheduling Conference.

5 CORPORATE DISCLOSURE STATEMENT

6 Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, any
7 nongovernmental corporate party to an action or proceeding must file a Corporate
8 Disclosure Statement. If not previously filed, the Court directs any nongovernmental
9 corporate party to file its Corporate Disclosure Statement within 10 days of receipt of this
10 Order. Forms are available on the court's website.

11 RULE 26(f) MEETING AND DISCOVERY PLAN

12 The parties are directed to meet and confer at least 14 calendar days before the
13 Scheduling Conference as required by Federal Rule of Civil Procedure 26(f). At this
14 Rule 26(f) Meeting, the parties shall develop a joint proposed Discovery Plan which
15 contains the following information in separately numbered paragraphs:

- 16 1. The parties who attended the Rule 26(f) Meeting and assisted in developing
17 the Plan;
- 18 2. A short statement of the nature of the case (**3 pages or less**), including a
19 description of each claim and defense;
- 20 3. A description of the principal factual and legal disputes in the case;
- 21 4. The jurisdictional basis for the case, citing specific jurisdictional statutes;¹
- 22 5. Any parties which have not been served and an explanation of why they
23 have not been served; and any parties which have been served but have not answered or
24 otherwise appeared;

25
26 ¹ If jurisdiction is based on diversity, the basis shall include a statement of the
27 citizenship of every party. *See* 28 U.S.C. §1332. The parties are reminded that (1) a
28 corporation is a citizen of the state where it is incorporated and the state of its principal
place of business and (2) partnerships and limited liability companies are citizens of
every state of which one of their members or partners is a citizen. *See* 28 U.S.C.
§1332(c); *Indus. Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990); *Belleville*
Catering Co. v. Champaign Market Place, L.L.C., 350 F.3d 691, 692 (7th Cir. 2003).

1 6. A statement of whether any party expects to add additional parties to the
2 case or otherwise to amend pleadings;

3 7. A listing of contemplated motions and a statement of the issues to be
4 decided by these motions (including motions under Federal Rules of Evidence 702, 703,
5 704, and 705);

6 8. Whether the case is suitable for reference to arbitration or a United States
7 Magistrate Judge for trial;

8 9. The status of related cases pending before other courts or other judges of
9 this Court;

10 10. A statement of when the parties exchanged Federal Rule of Procedure 26(a)
11 initial disclosures;

12 11. A discussion of necessary discovery, including:

13 a. The extent, nature, and location of discovery anticipated by the
14 parties;

15 b. Suggested changes, if any, to the discovery limitations imposed by
16 the Federal Rules of Civil Procedure;

17 c. The number of hours permitted for each deposition, unless extended
18 by agreement of the parties.

19 12. Proposed specific dates for each of the following (deadlines should fall on a
20 Friday unless impracticable):

21 a. A deadline for the completion of fact discovery² and disclosure
22 pursuant to Rule 26(a)(3);

23 b. Dates for complete disclosures of expert testimony under Rule
24 26(a)(2)(C) of the Federal Rules of Civil Procedure;³

25
26 ² The discovery deadline is the date by which all discovery must be completed.
27 Discovery requests must be served and depositions noticed sufficiently in advance of this
28 date to ensure reasonable completion by this deadline, including time to resolve discovery
disputes. Absent extraordinary circumstances, the Court will not entertain discovery
disputes after this deadline.

³ No expert witness not timely disclosed will be permitted to testify unless the

- 1 c. A deadline for completion of all expert depositions;
2 d. A deadline for filing dispositive motions;
3 e. A date by which the parties shall have engaged in good faith
4 settlement talks.

5 13. Whether a jury trial has been requested and whether the request for a jury
6 trial is contested (if the request is contested, set forth the reasons);

7 14. The estimated length of trial and any suggestions for shortening the trial;

8 15. The prospects for settlement, including any request of the Court for
9 assistance in settlement efforts; and

10 16. Any other matters that will aid the Court and parties in resolving this case
11 in a just, speedy, and inexpensive manner as required by Federal Rule of Civil Procedure
12 1.

13 The parties shall jointly file the Plan with the Clerk (e-file the Plan using the Other
14 Documents category and use the drop down event Report re: Rule 26(f) Planning
15 Meeting) not less than seven calendar days before the Scheduling Conference (absent
16 extraordinary circumstances, no extensions of time will be granted). It is the
17 responsibility of Plaintiff(s) to initiate the Rule 26(f) Meeting and preparation of the joint
18 Plan. Defendant(s) shall promptly and cooperatively participate in the Rule 26(f)
19 Meeting and assist in preparation of the proposed plan.

20 SCHEDULING CONFERENCE AND ORDER

21 The Court directs counsel to Rule 16 of the Federal Rules of Civil Procedure for
22 the objectives of the Scheduling Conference. Counsel who will be responsible for trial of
23 the lawsuit for each party shall appear and participate in the Scheduling Conference and
24 shall have authority to enter into stipulations regarding all matters that may be discussed.

25
26 party offering such witness demonstrates: (a) that the necessity of such expert witness
27 could not have been reasonably anticipated at the time of the deadline for disclosing such
28 expert witness; (b) the Court and opposing counsel or unrepresented party were promptly
notified upon discovery of such expert witness; and (c) that such expert witness was
promptly proffered for deposition. *See Wong v. Regents of the Univ. of Cal.*, 410 F.3d
1052, 1060 (9th Cir. 2005).

1 A continuance of the Scheduling Conference will be granted only for good cause and will
2 not be granted beyond the time limit set forth in Federal Rule of Civil Procedure Rule
3 16(b).

4 During or after the Scheduling Conference, the Court will enter a Scheduling
5 Order. The form of the Court's standard Scheduling Order can be found on the Court's
6 website at www.azd.uscourts.gov under Judges & Courtrooms; Orders, Forms &
7 Procedures; Judge Rayes. The Court fully intends to enforce the deadlines in the
8 Scheduling Order. The parties should plan their litigation activities accordingly.

9 OTHER MATTERS

10 Counsel for all parties are expected to comply fully with the Federal Rules of Civil
11 Procedure and Local Rules and to minimize the expense of discovery.

12 Counsel should ensure that all pleadings comply with LRCiv 7.1 and LRCiv 7.2.

13 Unless counsel can otherwise show cause, an order shall accompany the Discovery
14 Plan dismissing any party which has not been served, fictitious or unnamed parties, or
15 seeking default judgment against any non-appearing party;

16 **If a party has been served, but has not appeared, plaintiff or counter-**
17 **claimant shall give notice of this order to that party. Rule 16(b)(2), Fed. R. Civ. P.**

18 The parties shall not file written discovery motions without leave of court. If a
19 discovery dispute arises and cannot be resolved despite sincere efforts to resolve the
20 matter through personal consultation, the parties shall call the Court's Judicial Assistant,
21 Mary Farmer, at (602)322-7530, to set a telephonic conference.