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

,

Plaintiff,

v.

,

Defendant.

No. CV-##-#####-PHX-ROS
RULE 16 SCHEDULING ORDER

[1.] Pursuant to the terms of the Case Management Plan and the representations made by the parties at the Rule 16 Scheduling Conference, all parties shall comply with the deadlines established in this Order.

A. All proceedings concerning this case shall be in accordance with the Federal Rules of Civil Procedure.

B. All Initial Disclosures as defined in FRCP 26(a)(1), if not already disclosed prior to the Scheduling Conference, shall be made **no later than five (5) days** after the date of the entry of this Order, or in the alternative, no later than _____.

C. To satisfy the requirements of FRCP 26(a)(1), the parties shall file with the Clerk of the Court a Notice of Initial Disclosure, rather than copies of the actual disclosures.

D. Procedural motions including Motions to Amend the Complaint or Answer and Motions to Join Additional Parties shall be filed no later than _____. All Motions to Amend shall attach a copy of the proposed complaint or answer.

1 E. The Plaintiff(s) shall disclose the identity of all persons who may be used at
2 trial to present evidence under Federal Rules of Evidence (FRE) 701, 702, 703, 704, and
3 705 no later than _____. The Defendant(s) shall disclose the identity of all
4 persons who may be used at trial to present evidence under FRE 701, 702, 703, 704, or
5 705 no later than _____. No deposition of any expert witness shall occur
6 before the disclosures concerning expert witnesses mandated by this Order have been
7 made.

8 The disclosures of the identities of all persons who may be used at trial to
9 present evidence under FRE 701,702, 703, 704, or 705 shall also include all of the
10 disclosures required by FRCP 26(a)(2)(B) if the witness is either (1) retained or
11 specifically employed to provide expert testimony in the case, or (2) is an agent or
12 employee of the party offering the testimony whose duties regularly involve giving expert
13 testimony.¹

14 F. All discovery, including answers to interrogatories, production of
15 documents, depositions and requests to admit shall be completed by _____.

16 G. The parties shall finally supplement all discovery, including material
17 changes in expert witness opinions and material disclosures, pursuant to FRCP 26(a)(3),
18 of all exhibits to be used and all witnesses to be called at trial, on or before
19 _____.²

20 H. Discovery by interrogatory shall be governed by the national uniform
21 requirements set forth in FRCP 33.

22 I. Depositions shall be limited by the national uniform requirements set forth
23 _____

24 ¹ The parties are on notice that this Order requires disclosure different than that
25 required by FRCP 26(a)(2).

26 ² The parties are on notice that this order supersedes the “30 days before trial”
27 disclosure deadline contained in FRCP 26(a)(3). Therefore, failure to timely supplement
28 pursuant to Rule 26(e), including attempts to include witnesses and exhibits in the
Proposed Final Pretrial Order or at trial 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 including dismissal and the imposition of default pursuant to FRCP 37, the
Local Rules of Civil Procedure of the District Court, and the inherent power of the Court.

1 in Rules 30, 31, and 32 of the FRCP.

2 J. Motions on discovery matters are prohibited. Should a discovery dispute
3 arise, counsel shall consult and make a sincere effort to resolve the matter(s). If the
4 parties cannot reach a resolution, they are directed to jointly **file and fax**, (602)322-7529,
5 a **joint statement** of the issue(s), limited to 14 lines per issue for each party. Upon
6 review of the statement an order will issue regarding further action required by the
7 parties. This procedure differs from the procedure set forth in Local Rule 7.2(j).

8 The parties shall also consult the Court's instructions concerning discovery
9 disputes to ensure full compliance with the Court's discovery dispute procedures, some of
10 which are not included here. Discovery Dispute Instructions are available on the District
11 of Arizona website at www.azd.uscourts.gov / Judges' Information / Orders, Forms &
12 Procedures for the Hon. Roslyn O. Silver.

13 K. This Order contemplates that each party will conduct discovery to permit
14 completion within the deadline. Any discovery which results in insufficient time to
15 undertake necessary additional discovery and which requires an extension of the
16 discovery deadline will be met with disfavor, will only be granted for good cause or only
17 to prevent manifest injustice pursuant to FRCP 16(b) and (e), and may result in denial of
18 an extension, exclusion of evidence, or the imposition of other serious sanctions pursuant
19 to FRCP 37(b),(c),(d).

20 L. All dispositive motions shall be filed no later than _____.
21 Unless permitted by Order of the Court, only **one** dispositive motion is allowed to be
22 filed by each party.

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

1 N. The parties shall keep the Court apprised of settlement negotiations and the
2 progress of discovery. A joint statement to the Court concerning the status of settlement
3 discussions (containing no specific settlement terms or offers) and the progress of
4 discovery shall be filed by _____ and initially labeled “First Notice of
5 Discovery and Settlement,” and shall be subsequently filed every FOUR (4) months
6 thereafter. If settlement is reached the parties shall file a Notice of Settlement with the
7 Clerk of the Court with a copy to Judge Silver's Chambers.

8 O. A Joint Proposed Pretrial Order, all Motions in Limine, a Joint Statement of
9 the Case, Joint Jury Instructions, Verdict Form, and Stipulated *Voir Dire* Questions to be
10 added to the Court’s standard Jury Questionnaire shall be lodged and filed by
11 _____. If dispositive motions have been filed, the Joint Proposed
12 Pretrial Order and Motions in Limine and other documents shall be due either on the
13 above date or 30 days following resolution of the dispositive motions, whichever is later.
14 The content of the Joint Proposed Pretrial Order is that prescribed in the Court’s form of
15 Joint Proposed Pretrial Order. [See Court’s website: www.azd.uscourts.gov / Judges’
16 Information / Orders, Forms & Procedures]. Responses to Motions in Limine are due 15
17 days after the Motions are filed, and no replies are permitted unless specifically ordered
18 by the Court.

19 P. If the case will be tried to the Court, rather than to a jury, in addition to
20 filing a Joint Proposed Pretrial Order, each party shall file Proposed Findings of Fact and
21 Conclusions of Law on the same date the Joint Proposed Pretrial Order is due.

22 Q. The attorneys who will be trying the case for each of the parties shall
23 appear at the Final Pretrial Conference that will be scheduled as promptly as possible
24 after the filing of the Joint Proposed Pretrial Order. The attorneys appearing at the
25 conference shall be prepared to address the merits of all issues raised in the Joint
26 Proposed Pretrial Order and fully briefed Motions in Limine. Unless one has already
27 been established, the Court will set a firm trial date at the Pretrial Conference and will
28 sign the Final Pretrial Order with any additional instructions for trial preparation.

1 R. Any other final pretrial matters required pursuant to FRCP 26(a)(3) are due
2 in accordance with this Order prior to the preparation and filing of the Joint Proposed
3 Pretrial Order.

4 S. The parties shall email to chambers mailbox
5 (silver_chambers@azd.uscourts.gov) their proposed *voir dire* questions and statement of
6 the case for the juror questionnaire, jury instructions, and form of verdict in Microsoft
7 Office Word 2010 or WordPerfect 9.0 format, in addition to other written materials filed
8 with the Clerk of the Court.

9 T. An Interim Rule 16 Status Conference is scheduled for
10 _____. Prior to the Interim Conference, counsel are to prepare and file
11 a Joint Status Report by _____.

12 This Court views compliance with the provisions of this Order as critical to its
13 case management responsibilities and the responsibilities of the parties under FRCP 1.

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