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

’
Plaintiff(s),
v.
’
Defendant(s).

No. CV -PHX-SRB
CASE MANAGEMENT ORDER

The Court enters the following Case Management Order to govern the litigation in this case:

1. Mandatory Initial Discovery Pilot Project. This case is subject to the Mandatory Initial Discovery Pilot Project (“MIDP”) implemented by General Order 17-08. The parties must comply with the requirements of the MIDP, and need not make the initial disclosures required by Federal Rule of Civil Procedure 26(a). If responses required by the MIDP have not been exchanged, they shall be exchanged by:

2. Deadline for Joining Parties, Amending Pleadings, and Filing Supplemental Pleadings. The deadline for moving to join parties, amend pleadings, and/or file supplemental pleadings is _____ from the date of this Order.

3. Discovery Limitations. Depositions shall be limited to seven hours each as provided in Rule 30(d)(1) of the Federal Rules of Civil Procedure. Each side may propound up to 25 interrogatories, including subparts, 25 requests for production of documents, including subparts, and 25 requests for admissions, including subparts.

1 4. MIDP Responses and Fact Discovery. The deadline for final
2 supplementation of MIDP responses and the completion of fact discovery, including
3 discovery by subpoena, shall be _____.¹ To ensure compliance with this
4 deadline, the following rules shall apply:

5 a. Written Discovery: All interrogatories, requests for production of
6 document, and requests for admissions shall be served at least **45 days** before the
7 discovery deadline.

8 b. The parties may mutually agree in writing, without Court approval,
9 to extend the time provided for discovery responses in Rules 33, 34, and 36 of the Federal
10 Rules of Civil Procedure. Such agreed-upon extensions, however, shall not alter or
11 extend the discovery deadlines set forth in this Order.

12 5. Expert Disclosures and Discovery.

13 a. Plaintiff(s) shall provide full and complete expert disclosures, as
14 required by Rule 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure, no later
15 than_____.

16 b. Defendant(s) shall provide full and complete expert disclosures, as
17 required by Rule 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure, no later
18 than_____.

19 c. Rebuttal expert disclosures, if any, shall be made no later
20 than_____. Rebuttal experts shall be limited to responding to opinions stated
21 by initial experts.

22 d. Expert depositions shall be completed no later than
23 _____.

24 e. Disclosures under Rule 26(a)(2)(A) must include the identities of
25 _____

26 ¹ General Order 17-08 implements the MIDP and should be reviewed carefully. It
27 requires parties to timely supplement their MIDP responses as new information is
28 discovered. Parties who fail to timely disclose relevant information will be precluded
from using it in the case and may be subject to other sanctions. Parties who unreasonably
postpone disclosure of relevant information to the end of the discovery period will also be
subject to sanctions.

1 treating physicians and other witnesses who will provide testimony under Federal Rules
2 of Evidence 702, 703, or 705, but who are not required to provide expert reports under
3 Rule 26(a)(2)(B). Rule 26(a)(2)(C) disclosures are required for such witnesses on the
4 dates set forth above. Rule 26(a)(2)(C) disclosures must identify not only the subjects on
5 which the witness will testify, but must also provide a summary of the facts and opinions
6 to which the expert will testify. The summary, although clearly not as detailed as a
7 Rule 26(a)(2)(B) report, must be sufficiently detailed to provide fair notice of what the
8 expert will say at trial.²

9 f. As stated in the Advisory Committee Notes to Rule 26 (1993
10 Amendments), expert reports under Rule 26(a)(2)(B) must set forth “the testimony the
11 witness is expected to present during direct examination, together with the reasons
12 therefor.” Full and complete disclosures of such testimony are required on the dates set
13 forth above; absent extraordinary circumstances, parties will not be permitted to
14 supplement expert reports after these dates. The Court notes, however, that it usually
15 permits parties to present opinions of their experts that were elicited by opposing counsel
16 during depositions of the experts. Counsel should depose experts with this fact in mind.

17 g. Each side shall be limited to one retained or specifically employed
18 expert witness per issue.

19 6. Discovery Disputes.

20 a. If a discovery dispute arises, the parties promptly shall call the Court
21 to request a telephone conference concerning the dispute. The Court will seek to resolve
22 the dispute during the telephone conference, and may enter appropriate orders on the
23 basis of the telephone conference. The Court may order written briefing if it does not
24 resolve the dispute during the telephone conference. The parties shall not file written

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26 ² In *Goodman v. Staples The Office Superstore, LLC*, 644 F.3d 817 (9th Cir.
27 2011), the Ninth Circuit held that “a treating physician is only exempt from Rule
28 26(a)(2)(B)’s written report requirement to the extent that his opinions were formed
during the course of treatment.” *Id.* at 826. Thus, for opinions formed outside the course
of treatment, Rule 26(a)(2)(B) written reports are required. *Id.* For opinions formed
during the course of treatment, Rule 26(a)(2)(C) disclosures will suffice.

1 discovery motions without leave of Court.³

2 b. Parties shall not contact the Court concerning a discovery dispute
3 without first seeking to resolve the matter through personal consultation and sincere
4 effort as required by Local Rule of Civil Procedure 7.2(j). Any briefing ordered by the
5 Court shall also comply with Local Rule of Civil Procedure 7.2(j).

6 c. Absent extraordinary circumstances, the Court will not entertain fact
7 discovery disputes after the deadline for completion of fact discovery, and will not
8 entertain expert discovery disputes after the deadline for completion of expert discovery.

9 7. Dispositive Motions.

10 a. Dispositive motions shall be filed no later than _____.

11 b. No party shall file more than one motion for summary judgment
12 under Rule 56 of the Federal Rules of Civil Procedure without leave of court.

13 c. Statements of fact required by Local Rule of Civil Procedure 56.1
14 shall not exceed ten pages in length, exclusive of exhibits.

15 d. The parties shall not notice oral argument on any motion. Instead, a
16 party desiring oral argument shall place the words "Oral Argument Requested"
17 immediately below the title of the motion pursuant to Local Rule of Civil Procedure
18 7.2(f). The Court will issue an order scheduling oral argument as it deems appropriate.

19 8. Good Faith Settlement Talks. All parties and their counsel shall meet in
20 person and engage in good faith settlement talks no later than _____. Upon
21 completion of such settlement talks, and in no event later than five working days after the
22 deadline set forth in the preceding sentence, the parties shall file with the Court a joint
23 report on settlement talks executed by or on behalf of all counsel. The report shall inform
24 the Court that good faith settlement talks have been held and shall report on the outcome
25 of such talks. The parties shall indicate whether assistance from the Court is needed in
26 _____

27 ³ The prohibition on "written discovery motions" includes any written materials
28 delivered or faxed to the Court, including hand-delivered correspondence with
attachments.

1 seeking settlement of the case. The parties shall promptly notify the Court at any time
2 when settlement is reached during the course of this litigation.

3 9. The Deadlines Are Real. The parties are advised that the Court intends to
4 enforce the deadlines set forth in this Order, and should plan their litigation activities
5 accordingly. The parties are specifically informed that the Court will not, absent truly
6 unusual circumstances, extend the schedule in this case to accommodate settlement talks.

7 10. Briefing Requirements.

8 a. All memoranda filed with the Court shall comply with Local Rule of
9 Civil Procedure 7.1(b) requiring 13 point font in text and footnotes.

10 b. Citations in support of any assertion in the text shall be included in
11 the text, not in footnotes.

12 11. **A Joint Proposed Pretrial Order** shall be lodged by _____.
13 The content of the Proposed Pretrial Order shall include, but not be limited to, that
14 prescribed in the Form of Joint Proposed Pretrial Order. Statements made shall not be in
15 the form of a question, but should be a concise narrative statement of each party's
16 contention regarding each uncontested and contested issue. The parties shall e-mail the
17 Joint Proposed Pretrial Order to the Chambers mailbox at
18 bolton_chambers@azd.uscourts.gov, in either WordPerfect or Word format.

19 12. 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 also submit Proposed Findings
21 of Fact and Conclusions of Law on the same date the **Joint Proposed Pretrial Order** is
22 due.

23 13. The attorneys for each party who will be responsible for trial of the lawsuit
24 shall appear and participate in a **Pretrial Conference** on _____. At the
25 **Pretrial Conference** this Court will establish a firm trial date and will issue the **Final**
26 **Pretrial Order** with any additional instructions for trial preparation.

27 14. The parties are advised that they will be required to file with the **Joint**
28 **Proposed Pretrial Order** the following:

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

6 (2) A joint stipulated set of voir dire questions to be added to the Court's
7 standard questionnaire and/or to be given by the Court. The voir dire questions shall be
8 drafted in a neutral manner. If the parties have any disagreement about a particular
9 question, the party proposing the question will set it forth in the joint pleading and the
10 party objecting shall set forth the reason for their objection below the question and offer
11 alternative questions.

12 (3) Joint stipulated jury instructions. The instructions shall be
13 accompanied by citations to legal authority. If the parties have any disagreement about
14 any particular instruction, the party proposing the instruction will set it forth in the joint
15 pleading and the party objecting shall set forth the reason for the objection and offer an
16 alternate instruction.

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

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

24 (6) Any final pretrial matters required under Federal Rule of Civil
25 Procedure 26(a)(3) are due prior to the preparation and submission of the **Joint Proposed**
26 **Pretrial Order**.

27 (7) The parties shall submit their proposed voir dire questions, statement of
28 the case, jury instructions, in .pdf format, and form of verdict in WordPerfect or Word

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format, to the Chambers mailbox, at **bolton_chambers@azd.uscourts.gov**.

15. Motions in Limine shall be filed no later than _____. Responses due _____, No Replies. The attorneys for all parties shall come to the final **Pretrial Conference** prepared to address the merits of all motions.

IT IS ORDERED setting _____ Trial on _____ **at 9:00 a.m.**