

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-003883

12/05/2006

HONORABLE BARRY C. SCHNEIDER

CLERK OF THE COURT
W. Yank
Deputy

CLIFF BENDAU, et al.

J GREGORY OSBORNE

v.

MAXWELL BUCHANAN

PETER A BOYLE

MINUTE ENTRY

The court has received and reviewed Plaintiffs' Motion to Set and Certificate of Readiness.

IT IS ORDERED that the parties shall submit a Joint Pretrial Memorandum as set forth below.

The court will review the Joint Pretrial Memorandum and proposed discovery and disclosure order, required below. If the dates are mutually agreeable to all parties, then the parties may incorporate the order by reference. The court may set a trial date and a trial management conference date upon receipt of the Joint Pretrial Memorandum. The court may also adopt the discovery and disclosure schedule order and set a scheduling conference after the completion of the disclosures. Or the court may place the matter back on the Inactive Calendar for a period of time for counsel to complete the requirements under Rule 38.1¹. If counsel feel a pretrial conference is still necessary at this stage of the litigation, they should address the reasons for the need for a pretrial conference in the first paragraph of the Joint Pretrial Memorandum.

IT IS FURTHER ORDERED:

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All counsel are directed to meet personally to discuss all of the matters set forth in Rule 16(b). Counsel shall prepare and file with the court by **5:00 p.m. on January 3, 2007**, a **Joint Pretrial Memorandum**, and prepare a **proposed order for Discovery and Disclosure deadlines**. The memorandum shall address all the matters listed in Rule 16(b) and additional items set forth below. The proposed order shall include specific dates for the following items and conform substantially with the attached sample order.

1. The nature of the case; the issues, and each party's position with respect to the issues.
2. **An agreed upon schedule and date for completion of non-expert depositions.** As far as can reasonably be anticipated, each party shall set forth the depositions they anticipate taking and the approximate time required for each; any and all medical examinations which may be required of any of the parties; the person or persons to conduct such examinations; all requests for production; and all tangible evidence to be disclosed or exchanged.
3. **A date for the final disclosure of the identities, subject matters, and reports of expert witnesses,** and/or to supplement disclosures made to date.
4. **A date or dates for the initial and final disclosure of all non-expert witnesses,** and/or to supplement disclosures made to date.
5. **A date by which all written discovery will be propounded and concluded.** Further, counsel shall set forth any written discovery outstanding and a date when it will be complete.
6. The position of each counsel on whether the Rule 38.1 time limits should be waived.
7. The court shall order the parties to participate either in a settlement conference with a judge pro tem or a mediation with a private mediator. An agreement of all parties is required for private mediation. The parties are to advise if such an agreement is reached. The parties are also to advise a **proposed date for the completion of the settlement conference or mediation.**
8. Set forth any discovery disputes to date or Rule 26.1 compliance issues.
9. **A date for completion of all discovery,** including expert discovery.

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10. **A date by which all dispositive or partially-dispositive motions shall be filed.**
11. **A proposed trial date** agreed upon by all counsel and anticipated length of trial.

If the parties agree as to the dates, they need to only prepare the proposed order, and incorporate it by reference. If counsel are unable to agree on any of the items of the Pretrial Memorandum, the reasons for their inability to agree shall be set forth in the Pretrial Memorandum and each shall prepare a separate proposed order. **All proposed deadlines shall be set forth as calendar dates, and not in the form “XX days before trial.”**

IT IS FURTHER ORDERED that counsel shall notify the court of any agreed-upon extension of any time period provided by the Rules of Civil Procedure. The purpose of this order is not to discourage extensions as a matter of professionalism, but to ensure that no party suffers summary disposition of any issue by virtue of an extension of which the court is not aware.

Counsel are reminded that the court may impose sanctions, pursuant to Rule 16(f), against counsel and/or their clients for failure to participate in good faith in the preparation or timely filing of the memorandum.

¹ The court will strictly enforce Rule 38.1(a)(3)(1) and Local Rule 3.4.

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The Court having received the parties' Joint Comprehensive Pretrial Conference Memorandum,

IT IS ORDERED entering the following schedule for disclosure as set forth unless the parties obtain written modifications by the Court:

- (1) Initial disclosures shall be exchanged by: **(MM/DD/YYYY)**
- (2) The identities and subject areas of all expert testimony shall be disclosed by: **(MM/DD/YYYY)**
- (3) Plaintiff's final expert testimony shall be disclosed by: **(MM/DD/YYYY)**
Defendant's final expert testimony shall be disclosed by: **(MM/DD/YYYY)**
Rebuttal expert testimony shall be disclosed by: **(MM/DD/YYYY)**

OR

The parties' simultaneous final expert opinions shall be disclosed by: **(MM/DD/YYYY)**

The parties' simultaneous rebuttal expert opinions shall be disclosed by: **(MM/DD/YYYY)**

- (4) Final Non-expert disclosures shall be exchanged by: **(MM/DD/YYYY)**
- (5) Written discovery shall be propounded by: **(MM/DD/YYYY)**
- (6) Dispositive Motions shall be filed by: **(MM/DD/YYYY)**
- (7) Depositions shall be completed by: **(MM/DD/YYYY)**
- (8) Discovery shall be completed by: **(MM/DD/YYYY)**
- (9) Any motions to amend pleadings shall be filed by: **(MM/DD/YYYY)**
- (10) The parties remaining in this action shall complete mediation or a settlement conference by **(MM/DD/YYYY)**.

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IT IS ORDERED setting Status Conference in this matter on [counsel to leave this date blank], **2007 at * a.m.** (time allotted: 15 minutes), in this Division.

HON. BARRY C. SCHNEIDER
Judge of Superior Court of Arizona
125 W. Washington - OCH
Courtroom 103 – 1st Floor
Phoenix, Arizona 85003
(602) 506-3351

IT IS FURTHER ORDERED that in no less than **five days** prior to the Status Conference set herein, the parties shall submit a joint memorandum supplementing the previous joint memorandum and reporting the history and status of the efforts at Alternative Dispute Resolution pursuant to ARCP Rule 16(g).