

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2007-052952
CV 2008-000971

07/09/2009

HONORABLE ROBERT BUDOFF

CLERK OF THE COURT
L. Carlson
Deputy

HERBERT ANDERSON, et al.

CHAD ROBERT KAFFER

v.

DESERT MOUNTAIN MASTER
ASSOCIATION, THE, et al.

JONATHAN D SCHNEIDER

P DOUGLAS FOLK
JOHN R JEFFERIES
JAN-GEORG ROESCH
MICHAEL FREEMAN TAMM
DENISE J WACHHOLZ
JOEL E SANNES
DALE W ROBINSON
LYNN M KRUPNIK
JUDGE MANGUM

RULE 16 SCHEDULING CONFERENCE SET

In light of the consolidation ordered by the Court this date by separate minute entry order,

IT IS ORDERED setting a Rule 16 Scheduling Conference pursuant to Rule 16(b), Rules of Civil Procedure, in this division to establish a appropriate discovery/disclosure deadlines and other further necessary proceedings on **August 12, 2009, at 9:00 a.m. for one hour. (A conference was already scheduled for this date in CV2007-052952)**

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Plaintiffs Anderson and SC34, LLC, as well as Defendants, shall appear in person for the scheduling conference.

Counsel shall advise the Court in a pleading filed no later than **August 7, 2009**, of their recommendations for new scheduling orders and advise the Court as to any pending existing matters that are in need of resolution.

If the parties fail to file a timely memorandum, sanctions may issue pursuant to Rule 16(f).

IT IS FURTHER ORDERED:

All counsel are directed to meet personally to discuss all of the matters set forth in Rule 16(b) A.R.C.P. Counsel shall prepare and file with the Court a Joint Pretrial Memorandum, and **prepare a proposed order for Discovery and Disclosure deadlines**. The proposed order shall include details and dates for the following items:

1. An agreed-upon schedule for completion of discovery. 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.

2. A date for the final disclosure of expert witnesses, and/or to supplement disclosures made to date.

3. A date or dates for the final disclosure of all non-expert witnesses, and/or to supplement disclosures made to date.

4. The number of additional non-uniform interrogatories requested by each party and the reasons for the requests. Further, counsel shall set forth any written discovery outstanding and a date when it will be complete.

5. The position of each counsel on whether the Rule 38.1 A.R.C.P. time limits should be waived.

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6. A proposed completion date for a Mandatory Settlement Conference pursuant to Rule 16.1 A.R.C.P. or for Mediation or Arbitration; and a Certificate of Compliance by counsel and all parties of the provisions of Rule 16(g)(2) A.R.C.P.

7. Set forth any discovery disputes to date or Rule 26.1 compliance issues.
8. The position of each counsel on the medium and manner of recording a verbatim record of future proceedings.
9. A date by which all dispositive or partially dispositive motions shall be filed.
10. A proposed trial date.

IF THE PARTIES AGREE AS TO THE DATES, THEY NEED ONLY PREPARE THE PROPOSED ORDER AND INCORPORATE IT BY REFERENCE. If counsel are unable to agree on any of the items of the Pretrial Statement, the reasons for their inability to agree shall be set forth in the Pretrial Memorandum and each shall prepare a separate proposed order.

IT IS ORDERED that should any discovery disputes arise, prior to filing discovery motions, counsel shall MEET AND CONFER FACE TO FACE. If counsel are not able to resolve the dispute,

IT IS FURTHER ORDERED that any discovery motion must be accompanied by a Rule 37(2)(C) certification, to include that counsel have met face to face.

JOINT PRETRIAL MEMORANDUM AND PROPOSED ORDER

If the parties agree to the dates, they should prepare an Order in the form set forth below, containing the provisions which are applicable to their case. For example, paragraph 1 of the Order set forth below need not be included in the parties' proposed Order if the parties intend to disclose their experts' identity and opinions at the same time they disclose their experts' areas of testimony. Similarly, if the parties agree to simultaneously disclose the identity and opinions of their expert witnesses, they need not include in their proposed Order the language set forth in paragraph 2a. and b., below.

The proposed Order shall include specific dates ("December 5, 2008" is a specific date. "90 days prior to trial" is a date in reference to a trial date and is not a specific date). Do not incorporate a firm trial date in the proposed Order.

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If counsel are unable to agree on any of the items that are to be included in the Order, the reasons for their inability to agree shall be set forth in their Pretrial Memorandum and each shall prepare a separate proposed Order.

The Court will review the Joint Pretrial Memorandum and proposed Scheduling Orders prescribed herein. The Court may adopt or modify the discovery and disclosure schedule order and set a scheduling conference for purposes of setting a trial date. If counsel believe that an additional 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.

PROPOSED SCHEDULING ORDER LANGUAGE:

The Court having received the parties' Joint Pretrial Conference Memorandum and proposed Scheduling Order,

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

1. Initial disclosures shall be exchanged by:_____.
2. The identities and subject areas of expert testimony shall be disclosed by:_____.
3. Plaintiff's final expert disclosures shall be served by:_____.
- Defendant's final expert disclosures shall be exchanged by:_____.
- Rebuttal expert disclosures shall be exchanged by:_____.
4. Final non-expert disclosures shall be exchanged by:_____.
5. Written discovery requests shall be propounded by:_____.
6. Depositions shall be completed by:_____.
7. Discovery shall be completed by:_____.
8. Any motions to amend pleadings shall be filed by:_____.

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9. The parties remaining in this action shall participate in comprehensive mediation by:_____.
10. The date by which all dispositive or partially dispositive motions shall be filed:_____.

DISCOVERY DISPUTES: In the event of any dispute concerning discovery, counsel are directed to confer pursuant to ARCP 26(g). If such conference is unsuccessful, counsel are directed to initiate a conference call with this division before filing a motion to compel or motion for protective order.