

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-050963

11/21/2006

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
M. L. Smith
Deputy

TROON NORTH ASSOCIATION

FREDERICK E DAVIDSON

v.

STEPHEN WILSON, et al.

STANLEY R LERNER

JOINT PRETRIAL MEMORANDUM ORDER

IT IS 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, by 5:00 p.m. on January 9, 2007, a Joint Pretrial Memorandum, and **prepare a proposed order for Discovery and Disclosure deadlines**, together with copies and postage-paid envelopes for each appearing counsel. The proposed order shall include 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.

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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.
6. A proposed completion date for a Mandatory Settlement Conference pursuant to Rule 16.1 A.R.C.P.
7. An agreed-upon date for compliance with Rule 16(D) A.R.C.P.
8. Set forth any discovery disputes to date or Rule 26.1 compliance issues.

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

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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, 2007” 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.

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.

PROPOSED ORDER LANGUAGE:

The Court has received and reviewed the parties’ Joint Pretrial Memorandum and proposed Scheduling Order.

In accordance therewith,

IT IS ORDERED as follows:

1. The parties shall mutually and simultaneously disclose areas of expert testimony by 5:00 p.m. on _____, 2007. [or]
2. Plaintiffs shall disclose areas of expert testimony by 5:00 p.m. on _____, 2007.
3. Defendants shall disclose areas of expert testimony by 5:00 p.m. on _____, 2007.
4. The parties shall mutually and simultaneously disclose the identity and opinions of their expert witnesses by 5:00 p.m. on _____, 2007. [or]
5. Plaintiffs shall disclose the identity and opinions of their expert witnesses by 5:00 p.m. on _____, 2007.
6. Defendants shall disclose the identity and opinions of their expert witnesses by 5:00 p.m. on _____, 2007.
7. Any and all discovery requests shall be served by 5:00 p.m. on _____, 2007.

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8. The parties shall disclose all non-expert witnesses by 5:00 p.m. on _____, 2007.
[or]

8. Plaintiffs shall disclose areas of non-expert testimony by 5:00 p.m. on _____,
2007.

9. Defendants shall disclose areas of non-expert testimony by 5:00 p.m. on _____,
2007.

10. The parties shall mutually and simultaneously disclose their rebuttal expert witnesses
and opinions by 5:00 p.m. on _____, 2007.

11. All discovery shall be concluded by 5:00 p.m. on _____, 2007.

12. The parties shall have exchanged up-to-date final Rule 26.1 Supplemental Disclosure
Statements by 5:00 p.m. on _____, 2007. This Order does not replace the parties' obligation
to seasonably disclose on an on-going basis under Rule 26.1 as information becomes available.

13. Settlement conference (choose one):

The parties shall participate in private mediation by 5:00 p.m. on _____, 2007;

OR

The parties shall participate in a mandatory Settlement Conference and this matter is
referred to the court's Alternative Dispute Resolution for the appointment of a judge pro tempore
to conduct a settlement conference. Counsel and any "pro per" parties will contact the appointed
judge pro tempore to arrange the time and location for the settlement conference. The judge pro
tempore is requested to conduct a settlement conference not later than _____, 2007. The
Office of Alternative Dispute Resolution will not do the scheduling of the settlement conference
so please do not contact that office. If counsel prefer to use a private mediator to conduct the
Settlement Conference, a Stipulation and Order re: Alternative to ADR must be presented to the
Court by 5:00 p.m. on _____, 2007.

14. No expert witnesses, expert opinions, lay witnesses, or exhibits shall be used at trial
other than those disclosed in a timely manner, except for good cause shown or written agreement
of the parties.

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15. All pretrial motions, other than motions in limine, must be filed by 5:00 p.m. on _____, 2007.

16. A status conference is set for _____, 2007 at _____ .m. for the purpose of assigning a trial date if the case has not settled. Counsel are to bring their trial calendars and the parties must appear in person and cannot appear telephonically for the status conference.

17. Should any discovery disputes arise, counsel, prior to filing discovery motions, shall meet and confer pursuant to Rule 37, Ariz.R.Civ.P., then telephonically contact the Court to set up a telephonic conference to discuss any remaining issues.

18. The dates set forth in this Order are FIRM dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.

19. This case is continued on the inactive calendar for dismissal until _____.