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DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

HONORABLE KATHLEEN CARDONE	§	ALL CIVIL CASES

ORDER ON PRETRIAL DEADLINES

1. The following Order shall control the course of any civil action commenced in this Court, except those types of cases specifically exempted under Local Rule CV-16(b) until a further Scheduling Order is issued pursuant to FED. R. CIV. P. 16(b) and Local Rule CV-16(c). Pursuant to Local Rule 1(e), the parties' compliance with Local Rule 16(c) is hereby waived to the extent the parties are required to submit a Scheduling Order of the form prescribed in Appendix B to the Local Rules. The parties shall instead submit a joint memorandum in the form prescribed by Appendix A to this Order, thereby satisfying the requirements of FED. R. CIV. P. 26(f).

2. Unless otherwise ordered by this Court, the parties shall adhere to the following deadlines:

(a) In accordance with Local Rule 16, within sixty days after the appearance of a defendant, the parties shall confer for the purposes described in FED. R. CIV. P. 26(f). Within ten days thereafter, the parties shall jointly file the joint memorandum of the form prescribed by Appendix A to this Order.

(b) All motions relating to joinder of parties, claims or remedies, class certification, and amendment of the pleadings shall be filed within 60 days after the filing of the complaint, the filing of a petition for removal, or the transfer of an action from another District, except that a defendant may file a third-party complaint within 10 days of serving an answer, as permitted by FED. R. CIV. P. 14(a).

(c) All motions to dismiss based on the pleadings shall be filed within 90 days after the filing of the complaint, the filing of a petition for removal, or the transfer of an action from another District. The filing of a motion to dismiss will not result in an automatic stay of discovery or extend the time for completing discovery.

(d) Formal discovery pursuant to the Federal Rules of Civil Procedure may not commence until the parties have conferred as required by FED. R. CIV. P. 26(f) and Local Rule 16 but the parties may commence formal discovery immediately thereafter without awaiting entry of a scheduling order pursuant to FED. R. CIV. P. 16(b). Informal discovery by agreement of the parties is encouraged and may commence at anytime. Unless otherwise ordered, discovery shall be completed within 6 months after the filing of the complaint, the filing of a petition for removal, or the transfer of an action from another District.

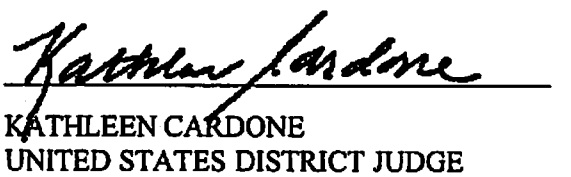
(e) Unless otherwise ordered, all motions for summary judgment shall be filed within 7 months after the filing of the complaint, the filing of a petition for removal, or the transfer of an action from another District.

3. Modification. This Order may be modified pursuant to a stipulation signed by all parties and approved by the presiding Judge, or on motion by any party for good cause shown or by the presiding Judge acting *sua sponte*. The good cause standard requires a particularized showing that the schedule established by this order cannot reasonably be met despite the diligence of the party seeking the extension. Unless specifically ordered by this Court, an extension of time to comply with any one of the time limits in this Order does not automatically extend the time to comply with subsequent time limits.

4. Status and Settlement Conferences. The Court may schedule the case for a status conference or a settlement conference at any time.

SO ORDERED.

Dated at El Paso, Texas, October 23, 2006.



KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE

Appendix A

REPORT OF PARTIES' PLANNING MEETING

Caption of Case

[List all parties]

Date Complaint Filed:

Date Complaint Served:

Date of Defendant's Appearance:

Pursuant to Fed. R. Civ. P. 16(b), 26(f) and Local Rule 16, a conference was held on [date]. The participants were:
_____ for plaintiff [party name]
_____ for defendant [party name]

I. Certification

Undersigned counsel certify that, after consultation with their clients, they have discussed the nature and basis of the parties' claims and defenses and any possibilities for achieving a prompt settlement or other resolution of the case and, in consultation with their clients, have developed the following proposed case management plan. Counsel further certify that they have forwarded a copy of this report to their clients.

II. Jurisdiction

A. Subject matter Jurisdiction

[Provide a statement of the basis for subject matter jurisdiction with appropriate statutory citations. If plaintiff's allegation of subject matter jurisdiction is denied, specify the basis for the denial.]

B. Personal Jurisdiction

[State whether personal jurisdiction is contested and, if it is, summarize the parties' competing positions].

III. Brief Description of Case

[Briefly summarize the claims and defenses of all parties and describe the relief sought. If agreement cannot be reached on a joint statement, each party must provide a short separate statement. The requirement that the parties briefly summarize their claims and defenses is not intended to be unduly burdensome. The parties are obliged to discuss and consider the nature of their claims and defenses at the planning conference in order to formulate a meaningful case management plan. Moreover, the presiding judge needs to be informed of the nature of the claims and defenses in order to evaluate the reasonableness of the parties' proposed plan. The statement of the parties' claims and defenses, whether set forth jointly or separately, does not preclude any party from raising new claims and defenses as permitted by other applicable law.

A. Claims of Plaintiff/s:

B. Defenses and Claims (Counterclaims, Third Party Claims, Cross Claims) of Defendant/s:

C. Defenses and Claims of Third Party Defendant/s:

IV. Statement of Undisputed Facts:

Counsel certify that they have made a good faith attempt to determine whether there are any material facts that are not in dispute. The parties state that the following material facts are undisputed:

V. Case Management Plan:

A. Standing Order on Pretrial Deadlines

The parties [request] [do not request] modification of the deadlines in the Standing Order on Pretrial Deadlines [as follows]:

B. Scheduling Conference with the Court

The parties [request] [do not request] a pretrial conference with the Court before entry of a scheduling order pursuant to FED. R. CIV. P. 16(b). The parties prefer a conference [in person] [by telephone].

C. Early Settlement Conference

1. The parties certify that they have considered the desirability of attempting to settle the case before undertaking significant discovery or motion practice. Settlement [is likely] [is unlikely at this time] [may be enhanced by use of the following procedure]:_____.

2. The parties [request] [do not request] an early settlement conference.

3. The parties prefer a settlement conference with [the presiding judge] [a magistrate judge] [special masters].

D. Joinder of Parties and Amendment of Pleadings

1. Plaintiff(s) should be allowed until [date] to file motions to join additional parties and until [date] to file motions to amend the pleadings.

2. Defendant(s) should be allowed until [date] to file motions to join additional parties and until [date] to file a response to the complaint.

E. Discovery

1. The parties anticipate that discovery will be needed on the following subjects: [list each of the principal issues of fact on which discovery will be needed; a statement that "discovery will be needed on liability and damages" is insufficient].

2. All discovery, including depositions of expert witnesses pursuant to FED. R. CIV. P. 26(b)(4), will be commenced by [date] and completed (not propounded) by [date].

3. Discovery [will] [will not] be conducted in phases.

4. Discovery on will be completed by [date].

5. The parties anticipate that the plaintiff(s) will require a total of ____ depositions of fact witnesses and that the defendant(s) will require a total of ____ depositions of fact witnesses. The depositions will commence by [date] and be completed by [date].

6. The parties [will] [will not] request permission to serve more than 25 interrogatories.

7. Plaintiff/s [intend] [do not intend] to call expert witnesses at trial. Plaintiff/s will designate all trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) by [a date not later than 3 months before the deadline for completing all discovery]. Depositions of any such experts will be completed by [a date not later than 2 months before the deadline for completing all discovery].

8. Defendant/s [intend] [do not intend] to call expert witnesses at trial. Defendant/s will designate all trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) by [a date not later than 1 month before the deadline for completing all discovery]. Depositions of such experts will be completed by [a date not later than the discovery cutoff date].

9. A damages analysis will be provided by any party who has a claim or counterclaim for damages by [date].

F. Dispositive Motions:

Dispositive motions will be filed on or before [date].

VI. TRIAL READINESS

The case will be ready for trial by [date].

As officers of the Court, undersigned counsel agree to cooperate with each other and the Court to promote the just, speedy and inexpensive determination of this action.

Plaintiff
By _____ Date:
Defendant
By _____ Date:
The undersigned pro se parties certify that they will cooperate with all other parties, counsel of record and the Court to promote the just, speedy and inexpensive determination of this action.
Plaintiff _____ Date:
Defendant _____ Date: