

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Lasse Norgaard-Larsen, et al.,
Plaintiffs,
v.
City of Phoenix, et al.,
Defendants.

No. CV-20-02467-PHX-GMS
**ORDER SETTING RULE 16 CASE
MANAGEMENT CONFERENCE**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a Telephonic¹ Case Management Conference is set for **September 17, 2021 at 11:30 a.m.** Defendant City of Phoenix’s counsel shall set up a call-in number and include the information in the joint report due a week before the scheduling conference. In preparation for this Case Management Conference,

IT IS HEREBY ORDERED as follows:

A. Initial Disclosures.

The parties shall provide initial disclosures in the form and on the schedule required by Federal Rule of Civil Procedure 26(a)(1). This means that the disclosure statements **must be exchanged at least one-week prior** to the Rule 16 Scheduling Conference. The parties shall file with the Clerk of Court a Notice of Initial Disclosure; copies of the actual

¹ To avoid challenges posed by the use of cell phones, headsets or other devices, the parties are directed to utilize landlines for the telephonic Case Management Conference to enable clear communication with the Court and accurate transcription by the Court Reporter.

1 disclosures need not be filed.

2 B. Relevant Considerations.

3 The parties should be familiar with amendments to the Federal Rules of Civil
4 Procedure that went into effect on December 1, 2015, and with the advisory committee
5 notes to those amendments. The parties should be aware that the Rule 26(b)(1) scope of
6 discovery has been changed, that proportionality is now part of the scope of discovery, and
7 that the “reasonably calculated to lead” language has been deleted from the rule. The intent
8 of these changes is not to deprive parties of evidence reasonably needed to prove their
9 claims or defenses, but instead to ensure that discovery is relevant and proportional to the
10 needs of the case.

11
12 C. Rule 26(f) Meeting and Case Management Report.

13 The parties are directed to meet and confer at least 21 days before the Case
14 Management Conference as required by Federal Rule of Civil Procedure 26(f)(1). At this
15 meeting the parties shall develop a joint Case Management Report which contains the
16 following information in separately numbered paragraphs:

- 17 1. The parties who attended the Rule 26(f) meeting and assisted in developing
18 the Case Management Report and the date of the meeting;
- 19 2. A list of the parties in the case, including any parent corporations or entities
20 (for recusal purposes);
- 21 3. A short statement of the nature of the case (**3 pages or less**), including a
22 description of each claim and defense;
- 23 4. The jurisdictional basis for the case, describing the basis for the jurisdiction
24 (see the accompanying footnote) and citing specific jurisdictional statutes;²

25 ² If jurisdiction is based on diversity of citizenship, the report shall include a statement of
26 the citizenship of every party and a description of the amount in dispute. See 28 U.S.C.
27 §1332. The parties are reminded that (1) a corporation is a citizen of the state where it is
28 incorporated and the state of its principal place of business and (2) partnerships and limited
liability companies are citizens of every state in which one of their members or partners
resides. See 28 U.S.C. §1332(c); *Indus. Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092 (9th
Cir. 1990); *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 692
(7th Cir. 2003). The parties are further reminded that the Federal Rules of Civil Procedure

1 5. Any parties which have not been served and an explanation of why they have
2 not been served; and any parties which have been served but have not answered or
3 otherwise appeared;

4 6. A statement of whether any party expects to add additional parties to the case
5 or otherwise to amend or supplement pleadings (the Court will set a deadline of not later
6 than 60 days after the Case Management Conference to join parties and amend or
7 supplement pleadings);

8 7. A listing of contemplated motions and a statement of the issues to be decided
9 by these motions (including motions under Federal Rules of Evidence 702, 703, 704,
10 and 705) and whether a party wishes to file a case dispositive motion prior to the initiation
11 of discovery;

12 8. Whether the case is suitable for reference to a United States Magistrate Judge
13 for a settlement conference or trial;

14 9. The status of related cases pending before other courts or other judges of this
15 Court;

16 10. A statement of when the parties exchanged Federal Rule of Civil Procedure
17 26(a) initial disclosures. The Court expects that consistent with the Rules, initial
18 disclosures will have been exchanged at least seven (7) days prior to the Rule 16 Pretrial
19 Management Conference, if not earlier. *See, e.g.,* Rule 26(a)(1)(C). A review of the
20 disclosure statements and materials provided therewith may assist in making the Rule 16
21 conference more productive. If the parties have not exchanged initial disclosures prior to
22 the Rule 16 conference, they should be prepared to explain to the Court why the mutual
23 exchange has not occurred;

24 11. Further, pursuant to Rule 26(d)(2), the parties may serve requests under Rule
25 34 any time 21 days after the parties have been served. The parties are encouraged to have

26 _____
27 do not provide for the use of fictitious parties and that the naming of a “John Doe” or “ABC
28 Corporation” party “casts no magical spell on a complaint otherwise lacking in diversity
jurisdiction.” *Fifty Assocs. v. Prudential Ins. Co. of Am.*, 446 F.2d 1187, 1191 (9th Cir.
1970) (citations omitted).

1 exchanged and received initial Rule 34 requests prior to the Rule 16 Scheduling
2 Conference.

3 12. A discussion of any issues relating to disclosure or discovery of
4 electronically stored information, including the form or forms in which it should be
5 produced (*see* Rules 16(b)(5), 26(f)(3));

6 13. A discussion of any issues relating to claims of privilege or work product
7 (*see* Rules 16(b)(6), 26(f)(4));

8 14. A discussion of whether an order under Federal Rule of Evidence 502(d) is
9 warranted in this case;

10 15. A discussion of necessary discovery. This discussion should take into
11 account the December 1, 2015 amendments to Rule 26(b)(1), and should include:

12 a. The extent, nature, and location of discovery anticipated by the
13 parties;

14 b. Suggested changes, if any, to the discovery limitations imposed by the
15 Federal Rules of Civil Procedure and Local Rule of Civil Procedure 16.2;

16 c. The number of hours permitted for each deposition, unless extended
17 by agreement of the parties.

18 16. Proposed specific dates for each of the following (**deadlines should fall on**
19 **a Friday unless impracticable**):

20 a. A deadline for the completion of fact discovery;³

21 b. Dates for full and complete expert disclosures under Federal Rule of
22 Civil Procedure 26(a)(2)(A)-(C);

23 c. A deadline for completion of all expert depositions;

24 d. A deadline for filing dispositive motions;

25 e. A date by which the parties shall have engaged in good faith

26
27 ³ The discovery deadline is the date by which all discovery must be completed. Discovery
28 requests must be served and depositions noticed sufficiently in advance of this date to
ensure reasonable completion by this deadline, including time to resolve discovery
disputes. Absent extraordinary circumstances, the Court will not entertain discovery
disputes after this deadline.

1 settlement talks.

2 f. Date by which initial written discovery requests and initial deposition
3 notices pursuant to Rules 33 and 34 shall be served.

4 g. A date by which initial discovery requests pursuant to Rule 30 or 31
5 shall be noticed.

6 h. A date by which any Rule 35 examination will be noticed if such an
7 examination is required by any issues in the case.

8 In proposing such deadlines, the parties should keep in mind that civil trials should
9 occur within eighteen (18) months of the filing of the complaint. 28 U.S.C. Sec.
10 473(a)(2)(B) (2006). The Case Management Order will specify trial scheduling up to the
11 final pretrial conference. The Court anticipates setting trial shortly after the final pretrial
12 conference. **Thus, once the dates have been set in the Case Management Order the
13 Court will not vary them in the absence of good cause, even should the parties
14 stipulate to do so. The Court does not consider settlement talks or the scheduling of
15 mediations to constitute good cause for an extension.** Parties need not file requests for
16 extensions on dates by which the parties will initially serve written discovery requests and
17 notices of depositions, so long as they are within the other discovery deadlines in this case.
18 Nevertheless, should the parties seek an extension of other discovery deadlines, the Court
19 shall consider compliance with these deadlines to determine whether the parties have been
20 diligent in discovery pursuant to *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,
21 607-08 (9th Cir. 1992).

22 17. Whether a jury trial has been requested and whether the request for a jury
23 trial is contested (if the request is contested, briefly set forth the reasons);

24 18. The estimated length of trial and any suggestions for shortening the trial;

25 19. The prospects for settlement, including any request of the Court for
26 assistance in settlement efforts; and

27 20. Any other matters that will aid the Court and parties in resolving this case in
28 a just, speedy, and inexpensive manner as required by Federal Rule of Civil Procedure 1.

1 The parties shall jointly file the Case Management Report with the Clerk **not less than**
2 **seven (7) days** before the Case Management Conference. It is the responsibility of
3 Plaintiff(s) to initiate the Rule 26(f) meeting and preparation of the joint Case Management
4 Report. Defendant(s) shall promptly and cooperatively participate in the Rule 26(f)
5 meeting and assist in preparation of the Case Management Report.

6
7 D. Case Management Conference and Order.

8 The Court directs counsel to Federal Rule of Civil Procedure 16 for the objectives
9 of the Case Management Conference. Counsel who will be responsible for trial of the
10 lawsuit for each party shall appear and participate in the Case Management Conference
11 and shall have authority to enter into stipulations regarding all matters that may be
12 discussed. A continuance of the Case Management Conference will be granted only for
13 good cause and will not be granted beyond the time limit set forth in Federal Rule of Civil
14 Procedure 16(b).

15 During or after the Case Management Conference the Court will enter a Case
16 Management Order. The form of the Court's standard Case Management Order can be
17 found on the Court's website at www.azd.uscourts.gov under Judges and Courtrooms and
18 Orders, Forms and Procedures. The Court fully intends to enforce the deadlines in the Case
19 Management Order. The parties should plan their litigation activities accordingly.

20
21 E. Other Matters.

22 Counsel for all parties are expected to comply fully with the Federal and Local Rules
23 of Civil Procedure and to minimize the expense of discovery. Counsel should ensure that
24 all pleadings comply with Local Rules of Civil Procedure 7.1 and 7.2.

25
26 / / /

27 / / /

28 / / /

