



1 must be filed as a “Joint Motion for Determination of Discovery Dispute” (see Judge Skomal’s Rules on  
2 Discovery Disputes available on the Court’s website).

3 2. On or before **October 4, 2010**, all parties shall exchange with all other parties a list of all  
4 expert witnesses expected to be called at trial pursuant to Fed. R. Civ. P. 26(a)(2)(A). The list shall  
5 include the name, address, and phone number of the expert and a brief statement identifying the subject  
6 areas as to which the expert is expected to testify. The list shall also include the normal rates the expert  
7 charges for deposition and trial testimony. On or before **October 18, 2010**, any party may supplement  
8 its designation in response to any other party’s designation so long as that party has not previously  
9 retained an expert to testify on that subject.

10 3. Each expert witness designated by a party shall prepare a written report to be provided to  
11 all other parties **no later than October 22, 2010**, containing the information required by Fed. R. Civ. P.  
12 26(a)(2)(B).

13 **Except as provided in the paragraph below, any party that fails to make these disclosures**  
14 **shall not, absent substantial justification, be permitted to use evidence or testimony not disclosed**  
15 **at any hearing or at the time of trial. In addition, the Court may impose sanctions as permitted by**  
16 **Fed. R. Civ. P. 37(c).**

17 4. Any party, through any expert designated, shall in accordance with Fed. R. Civ. P.  
18 26(a)(2)(C) and Fed. R. Civ. P. 26(e), supplement any of its expert reports regarding evidence intended  
19 solely to contradict or rebut evidence on the same subject matter identified in an expert report submitted  
20 by another party. Any such supplemental reports are due on or before **November 12, 2010**.

21 5. **All expert** discovery, shall be completed on or before **December 17, 2010**. Counsel  
22 shall refer to paragraph 2 above for an explanation of “completed,” and Chambers’ Rules for handling  
23 discovery disputes.

24 6. All motions, other than motions to amend or join parties, or motions in limine, shall be  
25 **FILED** on or before **January 14, 2011**.

26 Please be advised that counsel for the moving party must obtain a motion hearing date from the  
27 law clerk of the judge who will hear the motion. Be further advised that the period of time between the  
28 date you request a motion date and the hearing date may vary from one judge to another. Please plan

1 accordingly. For example, you may need to contact the judge's law clerk in advance of the motion cut-  
2 off to assess the availability of the Court's calendar. **Failure of counsel to timely request a motion**  
3 **date may result in the motion not being heard.**

4 7. Briefs or memoranda in support of or in opposition to any pending motion shall not  
5 exceed twenty-five (25) pages in length without permission of the judge or magistrate judge who will  
6 hear the motion. No reply memorandum shall exceed ten (10) pages without leave of the judge or  
7 magistrate judge who will hear the motion.

8 8. A Mandatory Settlement Conference shall be conducted on **December 9, 2010, at 9:00**  
9 **a.m.** in the chambers of Magistrate Judge Bernard G. Skomal<sup>1</sup>. Counsel shall submit **confidential**  
10 settlement statements **directly to chambers** by courier or may e-mail statements to  
11 **efile\_Skomal@casd.uscourts.gov** no later than **December 2, 2010**. Each party's settlement statement  
12 shall set forth the party's statement of the case, identify controlling legal issues, concisely set out issues  
13 of liability and damages, and shall set forth the party's settlement position, including the last offer or  
14 demand made by that party, and a separate statement of the offer or demand the party is prepared to  
15 make at the settlement conference. **Settlement conference briefs shall not be filed with the Clerk of**  
16 **the Court, nor shall they be served on opposing counsel.**

17 9. Pursuant to Local Civil Rule 16.3, all party representatives and claims adjusters for  
18 insured defendants with full and unlimited authority<sup>2</sup> to negotiate and enter into a binding settlement, as  
19 well as the principal attorney(s) responsible for the litigation, must be present and legally and factually  
20 prepared to discuss and resolve the case at the mandatory settlement conference. Retained outside  
21 corporate counsel shall not appear on behalf of a corporation as the party who has the authority to  
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23 <sup>1</sup> The Court welcomes the parties to request additional settlement conferences at any stage in the  
24 litigation. The parties may request a settlement conference by jointly calling chambers or by filing a Joint  
25 Motion.

26 <sup>2</sup> "Full authority to settle" means that the individuals at the settlement conference must be authorized to  
27 fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties.  
28 Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to have  
"unfettered discretion and authority" to change the settlement position of a party. Pitman v. Brinker Intl., Inc.,  
216 F.R.D. 481, 485-486 (D. Ariz. 2003). The purpose of requiring a person with unlimited settlement authority  
to attend the conference includes that the person's view of the case may be altered during the face to face  
conference. Id. at 486. A limited or a sum certain of authority is not adequate. Nick v. Morgan's Foods, Inc.,  
270 F.3d 590 (8th Cir. 2001).

1 negotiate and enter into a settlement. Failure to attend the conference or obtain proper excuse will be  
2 considered grounds for sanctions.

3 10. Parties or their counsel shall serve on each other and file with the Clerk of the Court their  
4 Memoranda of Contentions of Fact and Law in compliance with Local Rule 16.1(f)(2) on or before  
5 **April 18, 2011**.

6 11. All parties or their counsel shall also fully comply with the Pretrial Disclosure  
7 requirements of Fed. R. Civ. P. 26(a)(3) on or before **April 18, 2011**. **Failure to comply with these**  
8 **disclosures requirements could result in evidence preclusion or other sanctions under Fed. R. Civ.**  
9 **P. 37.**

10 12. Counsel shall meet together and take the action required by Local Rule 16.1(f)(4) on or  
11 **before April 25, 2011**. At this meeting, counsel shall discuss and attempt to enter into stipulations and  
12 agreements resulting in simplification of the triable issues. Counsel shall exchange copies and/or  
13 display all exhibits other than those to be used for impeachment. The exhibits shall be prepared in  
14 accordance with Local Rule 16.1(f)(4)(c). Counsel shall note any objections they have to any other  
15 parties' Pretrial Disclosures under Fed. R. Civ. P. 26(a)(3). Counsel shall cooperate in the preparation  
16 of the proposed pretrial conference order. Counsel for the plaintiff has the duty of arranging for  
17 meetings of counsel and for preparation of the Pretrial Order mandated by Civil Local Rule  
18 16.1(f)(6)(c).

19 13. Counsel for plaintiff will be responsible for preparing the pretrial order and arranging the  
20 meetings of counsel pursuant to Civil Local Rule 16.1(f). On or before **May 2, 2011**, plaintiff's counsel  
21 must provide opposing counsel with the proposed pretrial order for review and approval. Opposing  
22 counsel must communicate promptly with plaintiff's attorney concerning any objections to form or  
23 content of the pretrial order, and both parties should attempt promptly to resolve their differences, if  
24 any, concerning the order.

25 14. The proposed final pretrial conference order, including objections counsel have to any  
26 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures, shall be prepared, served and lodged with the  
27 district judge's chambers on or before **May 9, 2011**, and shall be in the form prescribed in and in  
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1 compliance with Local Rule 16.1 (f)(6). Counsel shall also bring a court copy of the pretrial order to the  
2 pretrial conference.


3 15. The final pretrial conference shall be held before the **Honorable Irma E. Gonzalez**,  
4 United States District Court Judge, on **May 16, 2011**, at **10:30 a.m.**

5 16. The trial in this matter will be set at a later date.

6 17. The dates and times set forth herein **will not** be modified except for good cause shown.  
7 Fed. R. Civ. P. 16(b)(4). Counsel are reminded of their duty of diligence and that they must "take all  
8 steps necessary to bring an action to readiness for trial." Civil Local Rule 16.1(b). Any requests for  
9 extensions must be made by filing a Joint Motion. The motion shall include a declaration from counsel  
10 of record detailing the steps taken to comply with the dates and deadlines set in this order, and the  
11 specific reasons why deadlines cannot be met.

12 18. Plaintiff's counsel shall serve a copy of this order on all parties that enter this case  
13 hereafter.

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16 DATED: August 6, 2010

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18 Hon. Bernard G. Skomal  
19 U.S. Magistrate Judge  
20 United States District Court  
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