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ADMITTED TO FILE
CLEVELAND OF OHIO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PROJECT VOTE, et al.,	:	CASE NO. 1:06CV1628
	:	
Plaintiff(s),	:	JUDGE O'MALLEY
	:	
v.	:	<u>CASE MANAGEMENT PLAN</u>
	:	
KENNETH BLACKWELL, et al.,	:	
	:	
Defendant(s).	:	

read

A copy of this and all other of the Court's standard orders may be found at
<http://156.125.22.228/Judges/judges.html>.

A Case Management Conference was held in this matter on AUGUST 17, 2006. The parties and counsel of record agreed to the following, and **IT IS ORDERED** that:

1. This case is assigned to the ~~expedited~~/standard/~~complex~~/~~mass tort~~ case management track.
2. This case ~~is~~ ordered into electronic filing.
3. This case ~~is~~/is not suitable for reference to an Alternative Dispute Resolution (ADR) program. The Court hereby refers this case to **Early Neutral Evaluation/Mediation/Arbitration**, to occur _____, and to be conducted by _____. Parties with full settlement authority **must attend** these proceedings.
4. The parties ~~consent~~/do not consent to the jurisdiction of a United States Magistrate Judge, pursuant to 28 U.S.C. § 636(c).

5. **Non-Expert Discovery** shall be completed on or before Jan. 2, 2007.

Discovery shall be conducted according to the guidelines set forth in Local Rule 16.2(a) for cases assigned to the case management track referred to in item no. 1 above, with the following exceptions:

The parties believe that no Rule 26 disclosures, other than those that relate to experts apply. The

Court specifically directs the parties to comply with Local Rule 37.1, including the obligation to contact the presiding judicial officer by telephone, before filing any motion under Fed. R. Civ. P. 37 seeking aid from the Court in discovery matters.

6. **Expert reports** shall be exchanged on or before October 4 /
(Plaintiff/Counterclaim Plaintiff)

November 3, 2006 and **Expert Discovery** shall be completed on or before
(Defendant/Counterclaim Defendant)

January 2, 2007. Absent leave of Court or stipulation of the parties, rebuttal or supplemental reports may only be proffered if received by opposing counsel at least forty-eight (48) hours before the proffering experts scheduled deposition or the close of expert discovery, whichever occurs earlier. Absent an unanticipated change of facts or circumstances and leave of Court, no expert will be permitted to express an opinion at trial unless that opinion has been disclosed in a written report or during the expert's deposition.

7. **Filing of Discovery Materials.** Unless otherwise ordered by the Court, initial disclosures, discovery depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Clerk's Office, except that discovery materials may be filed as evidence in support of a motion or for use at trial.

8. The **pleadings shall be amended** and new parties shall be joined on or before _____
August 31, 2006. Leave of Court is required before an amended pleading will be accepted for filing.

9. **Dispositive motions** shall be filed on or before February 5, 2007.

Motions for summary judgment may be filed at any time, authorized under Rule 56, F.R.C.P., but the filing of such motions prior to the completion of discovery relevant to the issues raised is discouraged. The requirements of Rule 56, including those under Rule 56(e) and (f) will be strictly applied.

10. **Notwithstanding Local Rule 7.1(g)**, the Court sets the following page length limitations: memoranda relating to dispositive motions shall not exceed twenty (20) pages in length for cases assigned to the expedited case management track, thirty (30) pages for standard cases, forty (40) pages for complex cases and fifty (50) pages for mass tort cases. Memoranda relating to all other motions shall not exceed fifteen (15) pages in length. For purposes of these limits, motions for class certification, briefs relating to the construction of terms in a patent and motions for the designation of a lead plaintiff under the PSLRA are considered dispositive motions. Memoranda that exceed these extended page limitations are disfavored and shall not be filed until a motion for permission to exceed page limitations is granted, and in no event shall the request to exceed page limitations extend the time for the filing of the underlying pleading.

11. A single extension of time not to exceed thirty (30) days to respond to discovery requests, and a single extension of time not to exceed twenty (20) days to file opposition and reply briefs, may be taken by stipulation of the parties, with notice to the Court, and do not require the filing of a motion. **No requests for initial or subsequent extensions of time will be entertained unless they are filed prior to the response date from which extension is sought** and they indicate whether opposing counsel consents or objects to the requested extension. Counsel are strongly encouraged to seek realistic extensions of time. Successive motions for extensions are discouraged.


12. ~~A Status Hearing~~ Settlement Conference is set for December 19, 2006 at 12:30P.m.

13. Beginning forty-five (45) days from the date of this order, counsel shall submit status reports to the Court every forty-five (45) days during the pendency of this matter. Status reports are to briefly state the following: (1) discovery that has occurred during the reporting period; (2) settlement discussions that have occurred during the reporting period; (3) motions that have been filed or remained pending during the reporting period; and (4) any developments that might give rise to a request to deviate from the schedule outlined in this Case Management Plan. These are to be procedural reports; they are not to contain substantive discussions of the merits of any claims or defenses asserted. Failure to file status reports will automatically deprive a party of the right to seek extensions of time to perform any acts required under this order or under any applicable federal or local rule of procedure. Repeated failures to file status reports could result in additional sanctions, including dismissal of claims or defenses under Rule 41(b). If any party wishes to disclose, in a status report, sensitive procedural matters (e.g., a request for a settlement conference, or personal reasons why extensions of time are required), that party may submit their status report ex parte.

14. **Counsel shall confer in person or by phone within seventy-two (72) hours of any scheduled status conference** to outline and, if possible, resolve pending matters before the status conference. Counsel shall provide to the Court (by mail, hand delivery, or fax), no later than twenty-four (24) hours before the status conference, a brief written Status Report describing the status of discovery and setting out issues to be addressed to the Court.

Counsel shall also confer with clients and with each other within seventy-two (72) hours of any status or settlement conference regarding their respective positions with regard to settlement.

While parties need not attend status conferences, they must be readily available by telephone at all times during the course of the conference if they choose not to attend. If a settlement conference is scheduled in paragraph 12 above, parties with full settlement authority must appear, without exception.


KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Time: 45 min.

Preliminary Injunction Hearing will be conducted at 9:30 A.M. on 9/1/06.

Other briefing / submission deadlines are as reflected on the record of these proceedings.