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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

MARIA M. GONZALEZ, et al.,	)	CV 06-1268-PHX-ROS (Lead)
	)	CV 06-1362-PHX-ROS
Plaintiffs,	)	CV 06-1575-PHX-ROS
	)	
vs.	)	<b>(CONSOLIDATED)</b>
	)	
STATE OF ARIZONA, et al.,	)	PROPOSED SCHEDULING
	)	ORDER
Defendants.	)	
	)	
	)	

Pursuant to the terms of the Case Management Plan, all parties shall comply with the deadlines established in this Order.

A. All proceedings concerning this case shall be in accordance with the Federal Rules of Civil Procedure.

B. All Initial Disclosures as defined in FRCP 26(a)(1), if not already disclosed prior to the Scheduling Conference, shall be made not later than August 8, 2007.

C. To satisfy the requirements of FRCP 26(a)(1), the parties shall file with the Clerk of the Court a Notice of Initial Disclosure, rather than copies of the actual disclosures.

D. *Procedural* motions including Motions to Amend the Complaint or Answer, and Motions to Join Additional Parties shall be filed no later than November 16, 2007. All Motions to Amend shall attach a copy of the proposed complaint or answer.

1 E. Plaintiffs shall disclose the identity of all persons who may be used at  
2 trial to present evidence under Federal Rules of Evidence (FRE) 701, 702, 703, 704,  
3 and 705 no later than December 5, 2007. The Defendants shall disclose the identity  
4 of all persons who may be used at trial to present evidence under FRE 701, 702, 703,  
5 704, or 705 no later than January 18, 2008. The Plaintiffs shall disclose any rebuttal  
6 expert testimony by February 8, 2008. No deposition of any expert witness shall  
7 occur before the disclosures concerning that expert witness, mandated by this Order,  
8 have been made.

9 The disclosures of the identities of all persons who may be used at trial to  
10 present evidence under FRE 701, 702, 703, 704, or 705 shall also include all of the  
11 disclosures required by FRCP 26(a)(2)(B) if the witness is either (1) retained or  
12 specifically employed to provide expert testimony in the case, or (2) is an agent or  
13 employee of the party offering the testimony whose duties regularly involve giving  
14 expert testimony.<sup>1</sup>

15 F. All fact discovery, including answers to interrogatories, production of  
16 documents, depositions and requests to admit shall be completed by January 18, 2008.  
17 All expert discovery shall be completed by February 22, 2008.

18 G. The parties shall finally supplement all discovery, including material  
19 changes to expert witness opinions and material disclosures, pursuant to FRCP  
20 26(a)(3), of all exhibits to be used and all witnesses to be called at trial, on or before  
21 February 29, 2008.<sup>2</sup>

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23 <sup>1</sup> The parties are on notice that this Order requires disclosures different than  
24 that required by FRCP 26(a)(2).

25 <sup>2</sup> The parties are on notice that this order supersedes the "30 days before trial"  
26 disclosure deadline contained in FRCP 26(a)(3). Therefore, failure to timely  
27 supplement pursuant to Rule 26(e), including attempts to include witnesses and  
28 exhibits in the Proposed Final Pretrial Order or at trial that were not previously  
disclosed in a timely manner may result in the exclusion of such evidence at trial or  
the imposition of other sanctions including dismissal and the imposition of default

1 H. Discovery by interrogatory shall be governed by the national uniform  
2 requirements set forth in FRCP 33.

3 I. Depositions shall be limited by the national uniform requirements set  
4 forth in Rules 30, 31, and 32 of the FRCP.

5 J. Motions on discovery matters are strongly discouraged. Parties are  
6 directed to Local Rule of Civil Procedure (LRCiv) 7.2(j), which prohibits filing  
7 discovery motions unless parties have first met to resolve any discovery difficulties.  
8 If the parties cannot reach a resolution, they are directed to jointly arrange with the  
9 Court a conference call to resolve the matter orally in court in lieu of filing a formal  
10 motion. Once the call is made, the Court will provide further directions concerning  
11 preparations for the conference call.

12 K. This Order contemplates that each party will conduct discovery to  
13 permit completion within the deadline. Any discovery which results in insufficient  
14 time to undertake necessary additional discovery and which requires an extension of  
15 the discovery deadline will be met with disfavor, will only be granted for good cause  
16 or only to prevent manifest injustice pursuant to FRCP 16(b) and (e), and may result  
17 in denial of an extension, exclusion of evidence, or the imposition of other serious  
18 sanctions pursuant to FRCP 37(b), (c), (d).

19 L. All dispositive motions shall be filed no later than March 14, 2008.  
20 Unless permitted by Order of the Court, only **one** dispositive motion is allowed to be  
21 filed by each party. Oppositions to dispositive motions shall be filed by no later than  
22 April 14, 2008, and reply briefs shall be filed no later than April 28, 2008.

23 M. All parties are specifically admonished that pursuant to LRCiv 7.2(i),  
24 "[i]f a motion does not conform in all substantial respects with the requirements of  
25 this Rule, or **if the opposing party does not serve and file the required answering**  
26 **memoranda, or if counsel for any party fails to appear at the time and place for**

27 \_\_\_\_\_  
28 pursuant to FRCP 37, the Local Rules of Civil Procedure of the District Court, and the  
inherent power of the Court.

1 **oral argument, such non-compliance may be deemed a consent to the denial or**  
2 **granting of the motion and the Court may dispose of the motion summarily."**

3 N. The parties shall keep the Court apprised of settlement negotiations and  
4 the progress of discovery. A joint letter to the Court concerning the status of  
5 settlement discussions (containing no specific settlement terms or offers) and the  
6 progress of discovery shall be submitted by March 7, 2008, and initially labeled  
7 "FIRST NOTICE OF DISCOVERY AND SETTLEMENT," and shall be  
8 subsequently submitted every FOUR (4) months thereafter. If settlement is reached  
9 the parties shall file a Notice of Settlement with the Clerk of the Court with a copy to  
10 Judge Silver's Chambers.

11 O. A Joint Proposed Pretrial Order, all Motions in Limine and a Joint  
12 Statement of the Case shall be lodged and filed by May 16, 2008. If dispositive  
13 motions have been filed, the Joint Proposed Pretrial Order and Motions in Limine and  
14 other pretrial documents shall be due either on the above date or 30 days following  
15 resolution of the dispositive motions, whichever is later. The content of the Joint  
16 Proposed Pretrial Order is that prescribed in the Court's form of Joint Proposed  
17 Pretrial Order. [See Court's website: [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under "Judges and  
18 Courtrooms/Orders, Forms & Procedures"]. Responses to Motions in Limine are due  
19 15 days after the Motions are filed, and no Replies are permitted unless specifically  
20 ordered by the Court.

21 P. Because the case will be tried to the Court, rather than to a jury, in  
22 addition to filing a **Joint Proposed Pretrial Order**, each party shall file **Proposed**  
23 **Findings of Fact and Conclusions of Law** on the same date the Joint Proposed  
24 Pretrial Order is due.

25 Q. The attorneys who will be trying the case for each of the parties shall  
26 appear at the **Final Pretrial Conference**, that will be scheduled as promptly as  
27 possible after the filing of the Joint Proposed Pretrial Order. The attorneys appearing  
28 at the conferences shall be prepared to address the merits of all issues raised in the

1 Joint Proposed Pretrial Order and fully briefed Motions in Limine. Unless one has  
2 already been established, the Court will set a firm trial date at the **Pretrial**  
3 **Conference**, and will sign the **Final Pretrial Order** with any additional instructions  
4 for trial preparation.

5 R. Any other final pretrial matters required pursuant to FRCP 26(a)(3) are  
6 due in accordance with this Order prior to the preparation and filing of the **Joint**  
7 **Proposed Pretrial Order**.

8 S. An Interim Rule 16 Status Hearing is scheduled for \_\_\_\_\_.  
9 Seven (7) days prior to the Interim Hearing counsel are to prepare and file a Joint  
10 Status Report.

11 This Court views compliance with the provisions of this Order as critical to its  
12 case management responsibilities and the responsibilities of the parties under FRCP 1.

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