

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Northern Division for the District of Utah

ANTHONY HESS,

Plaintiff,

vs.

SWIFT TRANSPORTATION CO.,
INC.,

Defendant.

**ORDER GRANTING STIPULATED
MOTION AND AMENDED
SCHEDULING ORDER**

Case No. 1:07-cv-00149

District Judge Dale A. Kimball

Pursuant to Fed. R. Civ. P. 16(b) and the parties Stipulated Motion to Amend Scheduling Order (docket #19), the court GRANTS motion and the following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. PRELIMINARY MATTERS | <u>DATE</u> |
|---|--------------------|
| Nature of claim(s) and any affirmative defenses: | |
| a. Was Rule 26(f)(1) Conference held? | <u>11/12/07</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>12/14/07</u> |
| c. Was 26(a)(1) initial disclosure completed? | <u>12/21/07</u> |
-
- | 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|---|----------------------|
| a. Maximum Number of Depositions by Plaintiff(s) | <u>no limit</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>no limit</u> |
| c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>no limit</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>no limit</u> |

- e. **Maximum requests for admissions by any Party to any Party** *no limit*
 - f. **Maximum requests for production by any Party to any Party** *no limit*
- DATE**
- 3. AMENDMENT OF PLEADINGS/ADDING PARTIES¹**
- a. **Last Day to File Motion to Amend Pleadings** *05/31/08*
 - b. **Last Day to File Motion to Add Parties** *05/31/08*
- 4. RULE 26(a)(2) REPORTS FROM EXPERTS²**
- a. **Plaintiff** *07/30/08*
 - b. **Defendant** *09/26/08*
 - c. **Counter Reports**
- 5. OTHER DEADLINES**
- a. **Discovery to be completed by:**
 - Fact discovery** *11/28/08*
 - Expert discovery** *12/30/08*
 - b. **(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)** *30 f/receipt*
 - c. **Deadline for filing dispositive or potentially dispositive motions** *01/16/09*
- 6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION**
- a. **Referral to Court-Annexed Mediation**
 - b. **Referral to Court-Annexed Arbitration**
 - c. **Evaluate case for Settlement/ADR on**
 - d. **Settlement probability:**
- 7. TRIAL AND PREPARATION FOR TRIAL:**
- a. **Rule 26(a)(3) Pretrial Disclosures³**
 - Plaintiffs** **04/24/09**
 - Defendants** **05/08/09**

b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

			<u>DATE</u>
c. Special Attorney Conference⁵ on or before			05/22/09
d. Settlement Conference⁶ on or before			05/22/09
e. Final Pretrial Conference		2:30 p.m.	06/09/09
f. Trial	<u>Length</u>	<u>Time</u>	<u>Date</u>
i. Bench Trial			
ii. Jury Trial	<u>Five days</u>	<u>8:30 a.m.</u>	<u>06/22/09</u>

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 12th day of September, 2008.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.
6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1.	PRELIMINARY MATTERS	DATE
a.	Has Attorney Planning Meeting Form been submitted?	Yes
b.	Was 26(a)(1) initial disclosure completed?	<u>10/1/08</u>
2.	DISCOVERY LIMITATIONS	NUMBER
a.	Maximum Number of Depositions by Plaintiff(s)	<u>10</u>
b.	Maximum Number of Depositions by Defendant(s)	<u>10</u>
c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	<u>7</u>
d.	Maximum Interrogatories by any Party to any Party	<u>25</u>
e.	Maximum requests for admissions by any Party to any Party	<u>25</u>
f.	Maximum requests for production by any Party to any Party	<u>25</u>
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES ⁱ	DATE
a.	Last Day to File Motion to Amend Pleadings	<u>09/30/08</u>
b.	Last Day to File Motion to Add Parties	<u>09/30/08</u>
4.	RULE 26(a)(2) REPORTS FROM EXPERTS ⁱⁱ	DATE
a.	Plaintiff	<u>02/28/09</u>
b.	Defendant	<u>03/31/09</u>
c.	Counter reports	<u>04/15/09</u>

5.	OTHER DEADLINES	DATE
a.	Initial Disclosures will be exchanged by completed by:	<u>10/1/08</u>
b.	Discovery to be completed by:	
	Fact discovery	<u>2/28/09</u>
	Expert discovery	<u>04/30/09</u>
c.	Deadline for filing dispositive or potentially dispositive motions	<u>05/31/09</u>
6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION	DATE
a.	Referral to Court-Annexed Mediation:	<u>No</u>
b.	Referral to Court-Annexed Arbitration	<u>No</u>
c.	Evaluate case for Settlement/ADR on	<u>06/15/09</u>
d.	Settlement probability:	<u>Unknown</u>
7.	TRIAL AND PREPARATION FOR TRIAL	TIME DATE
a.	Rule 26(a)(3) Pretrial Disclosures ⁱⁱⁱ	
	Plaintiff	<u>09/25/09</u>
	Defendant	<u>10/09/09</u>
b.	Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)	
c.	Special Attorney Conference ^{iv} on or before	<u>10/23/09</u>
d.	Settlement Conference ^v on or before	<u>10/23/09</u>
e.	Final Pretrial Conference	2:30 p.m. <u>11/09/09</u>

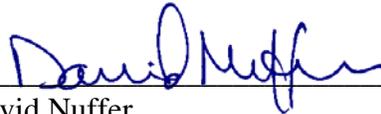
- | | | | | |
|----|----------------|---------------|-----------|-----------------|
| f. | Trial | <u>Length</u> | | |
| | i. Bench Trial | <u>3 days</u> | 8:30 a.m. | <u>11/23/09</u> |
| | ii. Jury Trial | | | |

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 12th day of September , 2008.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

APPROVED AS TO FORM

s/James Jackson (by Sherry Jackson)

James Jackson
Pro Se

Date: 9 / 08 /08

APPROVED AS TO FORM

s/Sherry Jackson

Sherry Jackson
Pro Se

Date: 9 / 08 /08

APPROVED AS TO FORM

s/Michael Jackson

Michael Jackson
Pro Se

Date: 9 / 08 /08

s/Lawrence D. Buhler

Lawrence D. Buhler
Attorney for Dolores Hansen Nelson
Darrell Carpenter

Date: 9 / 05 /08

ⁱ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

ⁱⁱ A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

ⁱⁱⁱ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

^{iv} The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

^v The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH NORTHERN DIVISION

John M. *et al.*,
Plaintiff,

v.

BlueCross of California, *et al.*,
Defendant.

SCHEDULING ORDER AND
ORDER VACATING HEARING

Case No. 1:08-CV-42

District Judge Tena Campbell

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #26). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for October 8, 2008, at 11:30 A.M. is VACATED.

ALL TIMES 4:30 PM UNLESS INDICATED

1.	PRELIMINARY MATTERS	DATE
	Nature of claims and any affirmative defenses:	
a.	Was Rule 26(f)(1) Conference held?	09/09/08
b.	Has Attorney Planning Meeting Form been submitted?	09/09/08
c.	Was 26(a)(1) initial disclosure completed?	09/19/08
2.	DISCOVERY LIMITATIONS	NUMBER
a.	Maximum Number of Depositions by Plaintiff(s)	<u>5</u>
b.	Maximum Number of Depositions by Defendant(s)	<u>5</u>
c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	<u>7</u>
d.	Maximum Interrogatories by any Party to any Party	<u>25</u>

e.	Maximum requests for admissions by any Party to any Party		<u>unlimited</u>
f.	Maximum requests for production by any Party to any Party		<u>unlimited</u>
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES ²		DATE
a.	Last Day to File Motion to Amend Pleadings	Plaintiffs	10/17/08
		Defendants	11/07/08
b.	Last Day to File Motion to Add Parties	Plaintiffs	10/17/08
		Defendants	11/07/08
4.	RULE 26(a)(2) REPORTS FROM EXPERTS ³		DATE
a.	Plaintiff		01/09/09
b.	Defendant		02/06/09
c.	Counter reports		03/13/09
5.	OTHER DEADLINES		DATE
a.	Discovery to be completed by:		
	Fact discovery		01/09/09
	Expert discovery		05/15/09
b.	(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)		<u>00/00/00</u>
c.	Deadline for filing dispositive or potentially dispositive motions		06/19/09
6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION		DATE
a.	Referral to Court-Annexed Mediation:	<u>Yes/No</u>	
b.	Referral to Court-Annexed Arbitration	<u>Yes/No</u>	

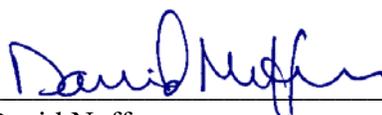
- c. Evaluate case for Settlement/ADR on 00/00/00
 - d. Settlement probability:
7. TRIAL AND PREPARATION FOR TRIAL TIME DATE
- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiff 09/18/09
 - Defendant 10/20/09
 - b. Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule) 00/00/00
 - c. Special Attorney Conference⁵ on or before 10/16/09
 - d. Settlement Conference⁶ on or before 10/16/09
 - e. Final Pretrial Conference 3:00 p.m. 11/02/09
 - f. Trial Length
 - i. Bench Trial 2 days 8:30 a.m. 11/23/09
 - ii. Jury Trial # days ____:____ .m. 00/00/00

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 12th day of September, 2008.

BY THE COURT:



 David Nuffer
 U.S. Magistrate Judge

¹ The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

² Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

³ A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

⁴ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

⁵ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁶ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

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Attorneys for Defendants American Eagle Outfitters, Inc. and
Meadwestvaco Corporation

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

PERFECTLY PRESENTED, LLC., a Utah
limited liability company,

Plaintiff,

v.

AMERICAN EAGLE OUTFITTERS, INC.,
a Delaware corporation,
MEADWESTVACO CORPORATION
/dba/ AGI MEDIA, a Delaware corporation,
and SEASTONE, L.C., a Utah limited liability
company,

Defendants.

ORDER OF DISMISSAL

Civil No.: 1:08 cv 00043 – DAK

Honorable Judge Dale A. Kimball

1.

2. BASED UPON the Joint Stipulation of the Parties and Motion for an Order of

Dismissal with Prejudice in the above-entitled action as between Plaintiff Perfectly Presented,

LLC and Defendants American Eagle Outfitters, Inc. and Meadwestvaco Corporation, and for good cause appearing thereon;

3. IT IS HEREBY ORDERED THAT any claim or counterclaims which were or could have been brought by any party against the other in the above-entitled case are hereby dismissed WITH PREJUDICE, with the parties bearing their respective attorneys' fees and costs.

4.

5. DATED this 11th day of September, 2008.

6.

7.

BY THE COURT:

8.

9.

10.



—
11.
12.

Honorable Dale A. Kimball
United States District Court Judge

FILED
U.S. DISTRICT COURT

2008 SEP 11 A 11:31 **RECEIVED**

HOLME ROBERTS & OWEN LLP
Carolyn Cox #4816
299 South Main Street, Suite 1800
Salt Lake City, Utah 84111-2263
Telephone: (801) 521-5800
Facsimile: (801) 521-9639

DISTRICT OF UTAH SEP 10 2008
BY: _____ OFFICE OF
DEPUTY CLERK JUDGE TENA CAMPBELL

Attorneys for Thermo Fisher Scientific, Inc.

IN THE UNITED STATES JUDICIAL DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

CARLOS GARRIDO,

Plaintiff,

v.

THERMO FISHER SCIENTIFIC, INC.,

Defendant.

ORDER

Case No. 1:08 CV 0088

Judge Tena Campbell

Based on the Stipulation and Motion of the parties and good cause appearing therefore:

IT IS HEREBY ORDERED that Thermo Fisher Scientific, Inc. may have a second extension of time to September 22, 2008 in which to respond to the Complaint.

DATED: September 10, 2008 BY THE COURT
Tena Campbell

Judge Tena Campbell

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

KATHLEEN EVANS,

Plaintiff,

v.

**MICHAEL J. ASTRUE, Commissioner of
Social Security,**

Defendant.

**ORDER REGARDING
ATTORNEY'S FEES**

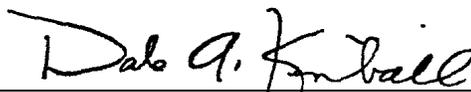
Case No. 2:03CV654 DAK

This matter is before the court on Plaintiff's Petition for Attorney's Fees Under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(1)(A). While Defendant does not concede that the Commissioner's administrative decision was not substantially justified, the parties have entered into a stipulation, whereby Defendant agrees to pay Plaintiff \$5,973.48 (36 hours at \$165.93 per hour) in attorney fees under the EAJA. This payment shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action.

Accordingly, Plaintiff's Petition for Attorney's Fees [Docket # 27] is MOOT, and pursuant to the parties' stipulation, Plaintiff is awarded \$5,93.48 in attorney's fees under the EAJA.

DATED this 12th day of September, 2008.

BY THE COURT:



DALE A. KIMBALL
United States District Judge

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT

Central

District of

Utah

2008 SEP 11 P 2:07

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

(For Revocation of Probation or Supervised Release)

V.

John Murray

BY:

DEPUTY CLERK

Case Number: DUTX 2:04-cr-000206-001

USM Number: 11393-081

Kristen R. Angelos

Defendant's Attorney

THE DEFENDANT:

admitted guilt to violation of condition(s) 1,3-7 of the term of supervision.

was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1.	Failed to Maintain Full Time Verifiable Employment	7/2/2008
3.	Failed to Notify the Probation Office of Change of Address	7/11/2008
4.	Failed to Complete Substance Abuse Assessment	8/4/2008
5.	Failed to Submit Drug/Alcohol Testing	8/1/2008

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has not violated condition(s) 2 and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's Residence Address:

N/A

Defendant's Mailing Address:

N/A

9/4/2008

Date of Imposition of Judgment

Signature of Judge

Dee Benson

Name of Judge

Title of Judge

9/11/2008

Date

DEFENDANT: John Murray
CASE NUMBER: DUTX 2:04-cr-000206-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

4 months

- The court makes the following recommendations to the Bureau of Prisons:

- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: John Murray
CASE NUMBER: DUTX 2:04-cr-000206-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
56 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: John Murray
CASE NUMBER: DUTX 2:04-cr-000206-001

SPECIAL CONDITIONS OF SUPERVISION

All previously imposed conditions are reimposed:

1. The defendant shall reside in a residential reentry center under a Public Law placement for a period of 120 days, the Court recommends that the defendant serves his supervised release in Wyoming, with release for work, education, medical, religious services, treatment, or other approved release as deemed appropriate by the probation office or residential reentry center.
2. The defendant shall not use or possess alcohol, nor frequent businesses where alcohol is the chief item of order.
3. The defendant shall participate in a mental health treatment program under a copayment plan as directed by the probation office, take an mental health medications as prescribed.
4. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the United States Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition. The

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT

CENTRAL DIVISION

District of

UTAH

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

(For Revocation of Probation or Supervised Release)

V.

DANIEL J. CHIVERS

2008 SEP 12 A 8:47

DISTRICT OF UTAH

BY: DEPUTY CLERK

Case Number: DUTX204CR000379-001

USM Number: 11558-081

Wendy Lewis

Defendant's Attorney

THE DEFENDANT:

admitted guilt to violation of condition(s) 1-5 of the Petition of the term of supervision.

was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1	Defendant failed to submit for drug testing	8/20/2008
2	Defendant committed another federal crime, to wit possession of methamphetamine	8/21/2008
3	defendant committed another federal crime, to wit possession	8/21/2008

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

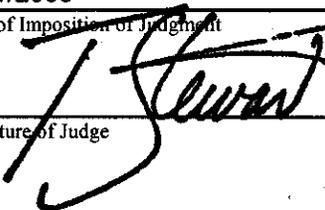
The defendant has not violated condition(s) _____ and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: 000-00-3401

9/11/2008
Date of Imposition of Judgment

Defendant's Date of Birth: /1978


Signature of Judge

Defendant's Residence Address:

The Honorable Ted Stewart U. S. District Judge
Name of Judge Title of Judge

9/11/2008
Date

Defendant's Mailing Address:

DEFENDANT: DANIEL J. CHIVERS
CASE NUMBER: DUTX204CR000379-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

1 month

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: DANIEL J. CHIVERS
CASE NUMBER: DUTX204CR000379-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
24 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: DANIEL J. CHIVERS
CASE NUMBER: DUTX204CR000379-001

ADDITIONAL SUPERVISED RELEASE TERMS

All prior terms and conditions are reimposed.

Defendant shall successfully complete the RISE Program.

FILED
U.S. DISTRICT COURT
2008 SEP 12 A 8:47

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

<p>UNITED STATES OF AMERICA</p> <p style="text-align: center;">Plaintiff(s),</p> <p style="text-align: center;">vs.</p> <p>Daniel J. Chivers</p> <p style="text-align: center;">Defendant(s).</p>	<p style="text-align: right;">DISTRICT OF UTAH</p> <p style="text-align: right;">BY: _____ DEPUTY CLERK</p> <p>Case No. 2:04-cr-00379-TS</p> <p style="text-align: center;">RISE PROGRAM ORDER</p>
--	---

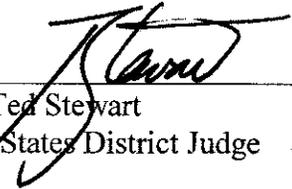
Upon recommendation of the RISE screening committee and the execution of the Rise Program Agreement by the defendant,

It is hereby ordered that Daniel J. Chivers be admitted to the RISE program. Further proceedings in this matter will be governed by the RISE program protocol. The management of this defendant is referred to the RISE Program Magistrate Judge for all further hearings. The RISE Program Judge may order sanctions which are outlined in the RISE program.

Upon notification by the RISE Program Judge that Daniel J. Chivers has failed to meet his/her responsibilities under the program, the defendant will be removed from the program and subject to possible additional sanctions.

DATED this 11th day of September, 2008.

BY THE COURT:



Judge Ted Stewart
United States District Judge

FILED
U.S. DISTRICT COURT
DISTRICT COURT

Central

District of

Utah

2008 SEP 11 A 11:48

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

DISTRICT OF UTAH (For Revocation of Probation or Supervised Release)

Jaime De Luna

BY: DEPUTY CLERK

Case Number:

DUTX 2:04CR00689-001 TC

USM Number:

12275-081

Audrey James

Defendant's Attorney

THE DEFENDANT:

- admitted guilt to violation of condition(s) #2 and #3 of the Petition of the term of supervision.
- was found in violation of condition(s) after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
2.	The defendant failed to notify his probation officer 10 days prior to a change in residence. The defendant moved from his former address on 5/30/08 and as of 6/12/08 has failed to provide the USPO with a valid address. His whereabouts are currently unknown.	
3.	On or about June 11, 2008, the defendant failed to follow the instruction of his assigned USPO by failing to report by telephone on a daily basis as instructed on 6/10/2008.	

The defendant is sentenced as provided in pages 1 through 2 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has not violated condition(s) Allegation #1 and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: _____

09/09/2008

Defendant's Date of Birth: _____

Date of Imposition of Judgment

Tena Campbell

Defendant's Residence Address: _____

Signature of Judge

Tena Campbell

Chief, United States District Court Judge

Name and Title of Judge

9-10-2008

Defendant's Mailing Address: _____

Date

DEFENDANT: Jaime De Luna
CASE NUMBER: 2:04Cr00689-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

6 Months

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

2008 SEP 11 11:53

DISTRICT OF UTAH

JIM JOHNSTON,	)	BY: DEPUTY CLERK
Petitioner,	)	Case No. 2:04-CV-1120 DB
v.	)	District Judge Dee Benson
STATE OF UTAH et al.,	)	O R D E R
Respondents.	)	Magistrate Judge Samuel Alba

IT IS HEREBY ORDERED that Petitioner's motion to reply to the State's response is GRANTED. (See Docket Entry # 24).
Petitioner has thirty days in which to file his reply.

DATED this 11th day of September, 2008.

BY THE COURT:



SAMUEL ALBA
United States Chief Magistrate Judge

United States Probation Office
for the District of Utah

Report on Offender Under Supervision

FILED
U.S. DISTRICT COURT

Name of Offender: **Donna Parvanae Pentico**

Docket Number: **2:05-CR-00073-004-TS**
2008 SEP 11 P 1:28

Name of Sentencing Judicial Officer: **Honorable Ted Stewart**
United States District Judge

DISTRICT OF UTAH

Date of Original Sentence: **December 12, 2005**

BY: _____
DEPUTY CLERK

Original Offense: **Identity Fraud/Bank Fraud**

Original Sentence: **14 Months Bureau of Prisons Custody/60 Months Supervised Release**

Type of Supervision: **Supervised Release**

Supervision Began: **August 11, 2006**

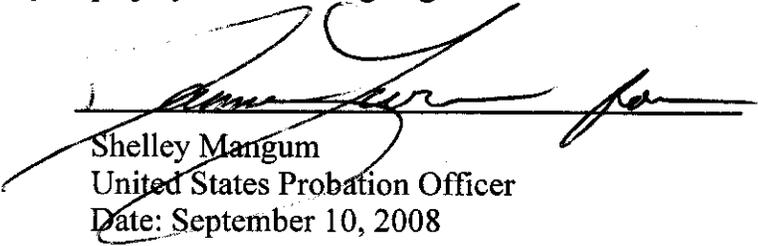
SUPERVISION SUMMARY

On August 30, 2008, the defendant was arrested by Kamas City Police for Driving Under the Influence of Alcohol. The defendant was booked into the Summit County Jail and was subsequently released on bail. Charges have been filed and the defendant is scheduled to appear in state court on September 15, 2008.

On September 2, 2008, the next business day after her arrest, the defendant reported the incident to the United States Probation Office. She took full responsibility for her actions and is prepared for whatever consequences may result in state court. The defendant has been on supervised release for nearly 25 months and has been cooperative and compliant. She makes monthly restitution payments, attends therapy, submits to drug/alcohol testing as directed, maintains full-time employment and a stable residence.

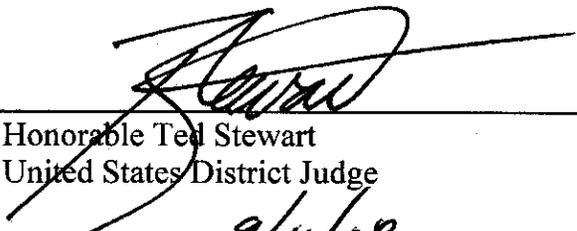
It is respectfully recommended that no adverse action be taken and that the matter be adjudicated in state court. If the Court desires more information or another course of action, please contact me at 535-2764.

I declare under penalty of perjury that the foregoing is true and correct.


Shelley Mangum
United States Probation Officer
Date: September 10, 2008

THE COURT:

- Approves the request noted above
 Denies the request noted above
 Other


Honorable Ted Stewart
United States District Judge

Date: 9/11/08

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**JUAN CARLOS GONZALES, aka
EDGAR FERNANDO BELTRAN-
GARCIA, aka JORGE A. ARREOLA-
GARA,**

Defendant.

ORDER

Case No. 2:05CR692 DAK

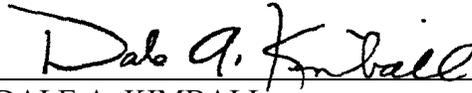
This matter is before the court on Mr. Beltran-Garcia's motion to return seized property. In his motion, he requests return of currency in the amount of \$2,251.00, which he claims was taken during his arrest. For the reasons stated by the Government in its Reply and Objection to Defendant's Request for Return of Seized Property, the court DENIES Defendant's motion [docket # 255].

In addition, Defendant has recently written to the court, asking the court to order Mr. Edward Brass (Defendant's attorney at the District Court) and/or Jill L. Wichlins (Defendant's attorney on appeal) to cause all material (i.e., pretrial discovery) to be mailed to Defendant or to a family member. The court declines to do so. Defendant's counsel on appeal will obtain any pretrial discovery information that might be pertinent to Defendant's appeal, and Defendant has not demonstrated why the court should order Defendant's counsel to obtain this information for

Defendant.

DATED this 12th day of September, 2008.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive style with a large initial "D".

DALE A. KIMBALL

United States District Judge

Dale J. Lambert, 1871
Karra J. Porter, 5223
Scot A. Boyd, 9503
CHRISTENSEN & JENSEN, P.C.
50 South Main Street, Suite 1500
Salt Lake City, Utah 84144
Telephone: (801) 323-5000
Facsimile: (801) 355-3472

Samuel T. Rees
DAAR & NEWMAN
865 South Figueroa Street, Suite 2300
Los Angeles, California 90027-2565
Telephone: (213) 220-9988
Facsimile: (213) 892-1066

Attorneys for Defendants and Counterclaimant

IN THE UNITED STATES DISTRICT COURT IN AND FOR
THE DISTRICT OF UTAH, CENTRAL DIVISION

WESTERN MUTUAL INSURANCE
COMPANY, a Utah corporation,

Plaintiff/Counterclaim Defendant,

vs.

WESTERN MUTUAL INSURANCE
COMPANY, a California corporation,

Defendant/Counterclaimant,

and RESIDENCE MUTUAL INSURANCE
COMPANY, a California corporation,

Defendant.

ORDER GRANTING STIPULATED
MOTION TO AMEND AND AMENDED
SCHEDULING ORDER

Case No. 2:05CV00283 DB

Judge Dee Benson

Based on the Stipulated Motion to Amend Scheduling Order submitted by counsel for the plaintiff, defendants and counterclaimant (docket #80), the court GRANTS motion and the

following matters are scheduled.

****ALL TIMES 4:30 P.M. UNLESS INDICATED****

- | | |
|--|-----------------|
| 1. RULE 26(a)(2) REPORTS FROM EXPERTS ¹ | <u>DATE</u> |
| a. Plaintiff (if bearing the burden of proof at trial) | <u>10/31/08</u> |
| b. Defendant (if bearing the burden of proof at trial) | <u>10/31/08</u> |
| c. Counter Reports/Rebuttal Reports | <u>12/05/08</u> |
| 2. OTHER DEADLINES | |
| a. Discovery to be completed by: | |
| Fact Discovery | <u>9/29/08</u> |
| Expert discovery | <u>1/2/09</u> |
| b. Deadline for filing dispositive or potentially dispositive motions | <u>2/6/09</u> |
| 3. SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | |
| a. Referral to Court-Annexed Mediation | <u>No</u> |
| b. Referral to Court-Annexed Arbitration | <u>No</u> |
| c. Settlement probability: | <u>Fair</u> |
| 4. TRIAL AND PREPARATION FOR TRIAL | |
| a. Rule 26(a)(3) Pretrial Disclosures ² | |
| Plaintiffs | <u>05/22/09</u> |
| Defendants | <u>06/05/09</u> |
| b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule) | |

¹ The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.

² Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

c.	Special Attorney Conference ³ on or before		<u>Date</u>	06/19/09
d.	Settlement Conference ⁴ on or before			06/19/09
e.	Final Pretrial Conference		2:30 p.m.	07/07/09
f.	Trial	<u>Length</u>	<u>Time</u>	<u>Date</u>
	i. Bench Trial	5 days	8:30 a.m.	7/27/09
	ii. Jury Trial			

5. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

DATED this 10th day of September, 2008.

BY THE COURT:

David Nuffer
U.S. Magistrate Judge

³ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁴ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

APPROVED AS TO FORM:

/s/ John E. Delaney

JOHN E. DELANEY

(permission to sign given by Mr. Delaney to Mr. Boyd)

Attorney for Plaintiff/Counterclaim Defendant

Western Mutual Insurance Company,

a Utah corporation

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

LUCIANO LOPEZ,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

**ORDER TO TRANSPORT
PETITIONER TO UTAH FOR
PROCEEDINGS IN THIS CASE**

Case No. 2:05-CV-537-DAK

IT IS HEREBY ORDERED that Petitioner Luciano Lopez, now confined at the Florence Federal Correctional Institution in Florence, Colorado, Reg. No. #07726081, be transported to Utah to enable him to appear before this court on November 12, 2008, for proceedings in this case. **IT IS FURTHER ORDERED** that Petitioner remain in Utah for the duration of the proceedings in this case or until the court orders that he be returned to the Florence Federal Correctional Institution.

DATED this 12th day of September, 2008.

BY THE COURT:



Samuel Alba
United States Chief Magistrate Judge

Gregory D. Phillips (4645)
Kevin A. Howard (4343)
Cody W. Zumwalt (7197)
HOWARD PHILLIPS &
ANDERSEN, P.C.
560 East 200 South, Suite 300
Salt Lake City, UT 84102
Telephone: (801) 366-7471
Facsimile: (801) 366-7706

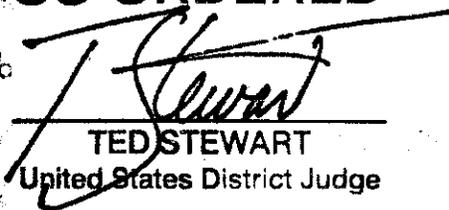
FILED
U.S. DISTRICT COURT

SO ORDERED

2008 SEP 11 A 8: 06

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK


TED STEWART
United States District Judge

Date September 11, 2008

Steven J. Toll (admitted *pro hac vice*)
Daniel S. Sommers (admitted *pro hac vice*)
Elizabeth S. Finberg (admitted *pro hac vice*)
COHEN, MILSTEIN, HAUSFELD & TOLL, P.L.L.C.
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, D.C. 20005-3964
Tel: 202/408-4600
Fax: 202/408-4699

Attorneys for Consol Plaintiff Toshihiko Sanada

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

IN RE NATURE'S SUNSHINE
PRODUCTS SECURITIES LITIGATION,

Master File No. 2:06cv00267 TS

This Document Relates To:
All Actions

(Consolidated with 2:06cv00287 DB,
2:06cv00311 DAK, 2:06cv00350 BSJ and
2:06cv00442 DB)

MOTION FOR WITHDRAWAL

Elizabeth S. Finberg respectfully moves the Court for an order permitting her withdrawal as counsel, *pro hac vice*, for Consol Plaintiff Toshihiko Sanada. As of September 12, 2008, Ms. Finberg will no longer be employed with Cohen, Milstein, Hausfeld & Toll, P.L.L.C.

("Cohen Milstein"). Cohen Milstein will continue to be counsel of record for Consol Plaintiff Toshihiko Sanada in this matter.

WHEREFORE, Elizabeth S. Finberg respectfully requests that the Court grant her motion to withdraw.

Dated: September 10, 2008

Respectfully submitted,

/s/Gregory D. Phillips

Gregory D. Phillips (4645)
Kevin A. Howard (4343)
Cody W. Zumwalt (7197)
HOWARD PHILLIPS &
ANDERSEN, P.C.
560 East 200 South, Suite 300
Salt Lake City, UT 84102
Telephone: (801) 366-7471
Facsimile: (801) 366-7706

Steven J. Toll (admitted *pro hac vice*)
Daniel S. Sommers (admitted *pro hac vice*)
Elizabeth S. Finberg (admitted *pro hac vice*)
COHEN, MILSTEIN, HAUSFELD & TOLL, P.L.L.C.
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, D.C. 20005-3964
Tel: 202/408-4600
Fax: 202/408-4699

Attorneys for Consol Plaintiff Toshihiko Sanada

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2008 copies of the foregoing Motion for Withdrawal were served on counsel of record in this matter who are registered with the Court's ECF filing system through ECF notification and on all counsel who have appeared and are not registered in the Court's ECF system via United States First Class Mail.

/s/ Elizabeth S. Finberg
Elizabeth S. Finberg

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central Division for the District of Utah

BOUCHER et al,

Plaintiff,

vs.

ZIMMER,

Defendant.

**ORDER GRANTING MOTION FOR
SCHEDULING CONFERENCE AND
AMENDED SCHEDULING ORDER**

Case No. 2:06-CV-380

District Judge Dale A. Kimball

Magistrate Judge David Nuffer

The court received a stipulated motion for a scheduling order. The court GRANTS motion (docket #39). On 09/09/08 @ 11:00 a.m., the court held a scheduling conference in this case. Mr. S. Brooke Millard, Esq. appeared for plaintiff and Mr. Rick Rose, Esq. appeared for defendant (docket # 41). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1. PRELIMINARY MATTERS	<u>DATE</u>
Nature of claim(s) and any affirmative defenses:	
a. Was Rule 26(f)(1) Conference held?	<u>Yes</u>
b. Has Attorney Planning Meeting Form been submitted?	<u>Yes</u>
c. Was 26(a)(1) initial disclosure completed?	<u>Completed</u> <u>07/07/06</u>

2. DISCOVERY LIMITATIONS	<u>NUMBER</u>
a. Maximum Number of Depositions by Plaintiff(s)	<u>15</u>
b. Maximum Number of Depositions by Defendant(s)	<u>15</u>
c. Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	<u>7</u>
d. Maximum Interrogatories by any Party to any Party	<u>25</u>

- e. **Maximum requests for admissions by any Party to any Party** 25
- f. **Maximum requests for production by any Party to any Party** 30

DATE

3. AMENDMENT OF PLEADINGS/ADDING PARTIES¹

- a. **Last Day to File Motion to Amend Pleadings**
- b. **Last Day to File Motion to Add Parties**

4. RULE 26(a)(2) REPORTS FROM EXPERTS²

- a. **Plaintiff** 02/13/09
- b. **Defendant** 03/27/09
- c. **Counter Reports**

5. OTHER DEADLINES

- a. **Discovery to be completed by:**
 - Fact discovery**
 - Expert discovery** 04/24/09
- b. **(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)**
- c. **Deadline for filing dispositive or potentially dispositive motions** 5/22/09

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

- a. **Referral to Court-Annexed Mediation**
- b. **Referral to Court-Annexed Arbitration**
- c. **Evaluate case for Settlement/ADR on**
- d. **Settlement probability:**

7. TRIAL AND PREPARATION FOR TRIAL:

- a. **Rule 26(a)(3) Pretrial Disclosures³**
 - Plaintiffs** **08/28/09**
 - Defendants** **09/11/09**

b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

DATE

c. Special Attorney Conference⁵ on or before **09/25/09**

d. Settlement Conference⁶ on or before **09/25/09**

e. Final Pretrial Conference **2:30 p.m.** **10/14/09**

f. Trial Length Time Date

i. Bench Trial

ii. Jury Trial Ten days 8:30 a.m. 10/26/09

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 12 day of September, 2008.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.
6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

FILED
U.S. DISTRICT COURT **RECEIVED**

2008 SEP 12 A 10: 26

SEP 11 2008

DISTRICT OF UTAH

OFFICE OF
JUDGE TENA CAMPBELL

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNION PACIFIC RAILROAD COMPANY,)

Plaintiff,)

vs.)

UTAH STATE TAX COMMISSION; PAM)
HENDRICKSON, Commissioner and)
Chairperson of the Utah State Tax)
Commission; and THE STATE OF UTAH,)

Defendants.)

ORDER OF DISMISSAL WITH
PREJUDICE

Case No. 2:06CV00500TC

This matter having come before the Court on the parties' Stipulation for Dismissal With Prejudice, and good cause appearing therefor;

IT IS HEREBY ORDERED that this action is DISMISSED WITH PREJUDICE, each party to bear its or his own costs and attorneys' fees.

DATED this 11th day of September, 2008

BY THE COURT:

Tena Campbell

The Honorable Tena Campbell
U.S. District Court Judge

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

2008 SEP 11 P 4: 53

DISTRICT OF UTAH

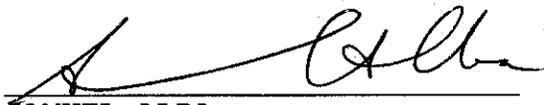
STEPHEN RAY CRAWFORD,	)	BY: _____
	)	DEPUTY CLERK
Petitioner,	)	Case No. 2:06-CV-814 DB
)	
v.	)	District Judge Dee Benson
)	
MARIO ORTIZ et al.,	)	O R D E R
)	
Respondents.	)	Magistrate Judge Samuel Alba

The Court has not heard from Petitioner since his attorney withdrew from this case on February 27, 2007. At that time, it appeared from the Motion to Withdraw as Counsel that the case had essentially been resolved between the parties, except that Petitioner was "considering seeking EAJA fees." The Court has not since heard from Petitioner.

IT IS THEREFORE ORDERED that, within thirty days, Petitioner must show cause why this case should not be dismissed for failure to prosecute.¹

DATED this 11th day of September, 2008.

BY THE COURT:



SAMUEL ALBA
United States Chief Magistrate Judge

¹See Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31, 82 S. Ct. 1386, 1388-89 (1962); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003).

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

TALISKER CORPORATION, a Canadian
corporation and TALISKER DEER VALLEY
CORPORATION, a Delaware corporation,

Plaintiffs,

vs.

PRIME WEST JORDANELLE, LLC, et al.,

Defendants.

ORDER and MEMORANDUM
DECISION

Case No. 2:06-CV-1034 TC

This case involves a dispute involving United States Trademarks 3,096,055, 3,012,537, 3,200,170 and 3,195,527 (collectively, the “Talisker Trademarks”) and United States Trademark 3,314,705 (the “Talisman Trademark”). Plaintiffs Talisker Corporation and Talisker Deer Valley Corporation (collectively, “Talisker”) own and use the Talisker Trademarks in connection with real estate marketing, recreational activities, and other purposes in the area around Park City, Utah. Defendants Prime West Jordanelle, LLC and Prime West Jordanelle II, LLC (collectively “Prime West”) use the Talisman Trademark in connection with real estate marketing in the same area: Park City, Utah

Talisker alleges that Prime West’s use of the Talisman Trademark infringes the Talisker Trademarks. Talisker is a real estate developer. Talisker is developing and marketing three residential communities in the area around Park City. Prime West is also a real estate developer

and is also developing and marketing a residential community named Talisman near Park City. In short, Talisker asserts that potential customers for its real estate developments and others are confused because they associate Prime West's Talisman development with Talisker. Talisker argues that its concern is particularly strong for one of its developments called Tuhaye, which is located close to Prime West's Talisman development. Tuhaye and Talisman are both intended to contain luxury homes and a golf course.

Before the court is Talisker's motion for a preliminary injunction barring Prime West from continuing to use the Talisman Trademark in marketing its development. Because Talisker has requested a disfavored injunction, its motion is treated with heightened scrutiny. Even under this standard, however, Talisker has established the elements of a preliminary injunction. Accordingly, Talisker's motion is GRANTED.

BACKGROUND

Talisker's Use of the Talisker Trademarks

Talisker is a real estate development company. In 2000, Talisker started planning a residential and golf course development named Tuhaye. Tuhaye was designed to appeal to upper income buyers and its lots range in price from about \$300,000 to \$3,000,000. Tuhaye is located on land east of the Jordanelle Reservoir in Wasatch County, Utah. In addition to Tuhaye, Talisker is developing and marketing two other residential communities in the Park City area. Those communities are called Empire Pass and Red Cloud, and Talisker started development on both in 2003. In about 2005, Talisker began to sell lots in Tuhaye. Talisker's offices for managing its developments are located in Park City. Those offices have signs that include the Talisker Trademarks. Park City is in Summit County, Utah, which borders Wasatch County, Utah, and is relatively close to the Tuhaye site.

In addition to the residential developments, Talisker also operates several recreational facilities in the Park City area, many of which include the word Talisker in their names. Purchasing homes in any of Talisker's residential developments entitles buyers to belong to the Talisker Club. Membership in that club gives people access to the various amenities offered at Talisker's facilities. Talisker has invested millions of dollars in its efforts to promote its developments and facilities in Wasatch and Summit Counties.

Starting in 2005, Talisker has marketed all three of its residential communities using the Talisker Trademarks, that is, "based on the brand Talisker." (Testimony of Ed Rehill, Prelim. Inj. Hr'g Tr. 50, Aug. 29, 2008.) All of the Talisker Trademarks include the word Talisker in them. The main difference between them is that some of the marks also include different graphics and other words, such as "Talisker Club" and "Talisker Deer Valley." One of the trademarks is the word Talisker alone. Talisker has submitted evidence confirming its practice of using the Talisker Trademarks to promote its developments and facilities. In terms of printed materials, most of Talisker's advertisements contain the names of the developments along with one or more of the Talisker Trademarks, sometimes near each other. It appears to be the exception, not the rule, when one of Talisker's developments is mentioned in print without some reference to a Talisker Trademark. On the internet, Talisker promotes the Tuhaye, Empire Pass and Red Cloud developments on the same website, www.taliskerclub.com. That website features the Talisker Trademarks more often and more prominently than any of the names of the developments. And in terms of in-person marketing, Talisker's sales force appears to refer to Tuhaye in conversation as "the Talisker Club at Tuhaye" as a Talisker sales representative testified at the August 29, 2008 preliminary injunction hearing. (See also Barber Dep. at 10-12, attached as Ex. B to Talisker's Memo. in Support of Prelim. Inj.)

Prime West's Use of the Talisman Trademark

In January 2006, Prime West purchased a property in Summit County on which a residential community had been planned. The property is located south of the Jordanelle Reservoir. At the time Prime West bought the property, the development was named Aspens at Jordanelle. The development was planned to include luxury homes and a golf course. Steve Patterson and Nathan Welch were the principals of Prime West at the time of the purchase.

Prime West decided soon after it purchased the property that it would change the name. To help it decide on a new name, Prime West hired Catapult Strategic Design (“Catapult”), which was based in Arizona. Tim Lewis, a Park City-based consultant who was involved in the general marketing strategy for the development, also took part in the decision-making process. The process began in March 2006, when Catapult suggested about 300 possible names at an initial meeting. A second meeting took place a few weeks after the first meeting, but no final decision was made during either meeting. The Talisker name was not brought up in these two meetings.

Mr. Patterson and Mr. Welch stated that after these meetings, they came to an agreement that they liked the name Talisman. That name had not been on the original list of possible names, but the list did include the names Talisman Canyon and Talisman Ridge. Both Mr. Patterson and Mr. Welch denied that they considered the name Talisker when they expressed their preferences for the name Talisman. The record is clear, however, that around the time of the meetings both of them were aware of Talisker's existence and that both knew about Talisker by no later than early April 2006. Specifically, in late March 2006, Mr. Patterson received an email from Leeroy Farrell, who was associated with Talisker. Mr. Farrell's signature block in that email contained the name Talisker. (See Patterson Aff. at ¶ 21.) Mr. Welch also got an

email from Mr. Farrell in early April 2006. (See Email with Bates number PWJ 687, submitted at Prelim. Inj. Hr'g.) In the body of that email, which included the Talisker name and trademark in the address and signature areas, Mr. Farrell discussed the Tuhaye development and also referred to Talisker. (See id.)

In May 2006 another meeting occurred in which the Talisman name was discussed again. That meeting was attended by Mr. Patterson, Mr. Welch, Mr. Lewis, Beth Moon and others. Ms. Moon was a consultant hired by Mr. Lewis in May 2006, to assist him with his marketing of Prime West's development. According to Ms. Moon, she knew that Talisker was developing Tuhaye, and the plan for Tuhaye was similar to Prime West's planned development. Ms. Moon "thought that the similarity between the two names [Talisman and Talisker] would be confusing to potential customers and others in the community." (Moon Decl. ¶ 5.) As a result, Ms. Moon raised a concern about the name Talisman during the meeting. Mr. Lewis described what Ms. Moon said as follows: "she said something about, in talking around town about Talisman, that it was causing confusion between Talisker and Talisman." (Lewis Dep. at 51, attached as Ex. C to Memo. in Support of Prelim. Inj.) According to Mr. Lewis, Mr. Patterson dismissed Ms. Moon's concern, indicated that Talisman was going to be the name and said that the topic was closed for any future discussion. (See id.)

Either before or after the May meeting, Mr. Lewis also had a telephone discussion with Mr. Patterson about possible confusion between the names Talisman and Talisker. During that conversation, Mr. Lewis told Mr. Patterson that he felt that Tuhaye was an inferior development to Talisman and that "I felt like I didn't want the confusion to take our status to a lower level." (Id. at 54.) Mr. Lewis indicated that Mr. Patterson did not share Mr. Lewis' concern about confusion during that call.

Prime West is unsure of the exact date that a final decision was made to use the name Talisman, but estimates that the decision was made by late April 2006. The record indicates that the name was decided upon before any development or marketing had occurred on the planned development. Once the final decision was made, Prime West hired an attorney to assist them with registering Talisman as a federal trademark. The application for the name was filed in June 2006. In the fall of 2006, the Talisman name was first released to the public in connection with Prime West's residential and golf community.

Confusion between the Talisker Trademarks and the Talisman Trademark

Talisker points to various instances in which there was actual confusion between the Talisker Trademarks and the Talisman Trademark. Mr. Lewis testified in his deposition that some of his sales forces' acquaintances were confused about the names and "that the confusion lies in the fact that when our people would start talking about Talisman, whoever they were talking to had some confusion as to Talisker, Talisman, which one is it. They weren't really sure who they were talking about." (Lewis Dep. at 62.) Kristen Barber, a real estate agent who sells homes for Tuhaye, explained that potential customers of Tuhaye and others have confused Talisman and Talisker. (See Barber Dep. at 11-29.) Mr. Farrell, a Talisker representative, indicated that he was introduced at a meeting by a Wasatch County planner as being affiliated with Talisman. (See Farrell Decl. at ¶ 3.)

The Present Action

On December 13, 2006, Talisker brought the present action against Prime West. Talisker asserts various infringement-related claims under 15 U.S.C.A. § 1051 *et seq.*, the Lanham Act, as well as claims for unfair competition and deceptive practices under Utah state law. Talisker requested both monetary and injunctive relief in its complaint.

Talisker filed this motion for a preliminary injunction on July 18, 2008. According to Talisker, it brought its motion for an injunction when it learned of two lawsuits: one brought by one Prime West entity against another Prime West entity, and one brought against Prime West by a buyer in the Talisman development. Talisker views these suits as indicative of financial troubles for Prime West. Talisker bases its motion on the asserted likelihood of success of its trademark infringement claim.

ANALYSIS

To obtain a preliminary injunction, Talisker must establish that: (1) it will suffer irreparable injury unless the injunction issues; (2) the threatened injury to it outweighs whatever damage the proposed injunction may cause Prime West; (3) its proposed injunction would not be adverse to the public interest if issued; and (4) it has a substantial likelihood of success on the merits of its claims. See Schrier v. University of Colo., 427 F.3d 1253, 1258 (10th Cir. 2005). “As a preliminary injunction is an extraordinary remedy, the right to relief must be clear and unequivocal.” Id. (citation and internal quotation marks omitted). Mandatory or status quo-altering injunctions are specifically disfavored and they ““must be more closely scrutinized to assure that the exigencies of the case support the granting of a remedy that is extraordinary even in the normal course.”” Id. at 1259 (quoting O Centro Espirita Beneficiente Uniao Do Vegetal v. Ashcroft, 389 F.3d 973, 975 (10th Cir. 2004) (en banc)).

Talisker has moved for an injunction that changes the status quo, that is, one which alters “the last uncontested status between the parties which preceded the controversy until the outcome of the final hearing.” Schrier, 427 F.3d at 1260 (citations and internal quotation marks omitted). Here, before Talisker brought this action, Prime West had begun marketing real estate under the Talisman Trademark.

Moreover, the proposed injunction is mandatory in nature, since there is real possibility that the court would have to supervise Prime West's compliance with an order to change all of its marketing materials. See id. at 1260 (injunctions which affirmatively require a party to act in a certain way and may require court supervision are mandatory).

Given that Talisker's injunction is disfavored, it must "make a strong showing both with regard to the likelihood of success on the merits and with regard to the balance of harms, and may not rely on [the Tenth Circuit's] modified likelihood-of-success-on-the-merits standard." O Centro, 389 F.3d at 976.

I. Likelihood of Success on the Merits

Talisker is substantially likely to succeed on the merits of its trademark infringement claim against Prime West. To prove its claim of trademark infringement, Talisker must show that Prime West's use of the Talisman Trademark is "likely to cause confusion in the marketplace concerning the source of the different products." Sally Beauty Co., Inc. v. Beautyco, Inc., 304 F.3d 964, 972 (10th Cir. 2002) (citing 15 U.S.C. § 1114(1)(a)). The Tenth Circuit recognizes three types of confusion: direct confusion, indirect confusion, and initial interest confusion. See Australian Gold, Inc. v. Hatfield, 436 F.3d 1228, 1238 (10th Cir. 2006). Direct confusion occurs when "a defendant's use of the trademark is likely to cause consumers to believe . . . that the plaintiff is the source of the defendant's products or services." Id. Indirect confusion is present when "the defendant's use of the trademark is likely to cause consumer to believe . . . that the defendant is the source of the plaintiff's products or services." Id. Meanwhile, initial interest confusion happens "when a consumer seeks a particular trademark holder's product and instead is lured to the product of a competitor by the competitor's use of the same or a similar mark." Id. at 1238-39.

The Tenth Circuit uses a six factor test to determine the likelihood of confusion:

(1) the degree of similarity between the marks; (2) the intent of the alleged infringer in adopting the mark; (3) evidence of actual confusion; (4) similarity of products and manner of marketing; (5) the degree of care likely to be exercised by purchasers; and (6) the strength or weakness of the marks.

Id. at 1239-40 (citing Sally Beauty, 304 F.3d at 972).

A. Talisker’s Use of the Talisker Trademarks as House Marks

Initially, there is no dispute that Talisker uses the Talisker Trademarks as house marks.

A house mark is used to identify a company or the general product line, while the product mark refers to a particular product. See McCarthy on Trademarks and Unfair Competition § 7:5 (4th ed). “Familiar examples are SONY WALKMAN audio equipment, . . . FORD MUSTANG auto and VASELINE INTENSIVE CARE hand lotion.” Id. Here, the names Tuhaye, Empire Pass, and Red Cloud are product marks to the Talisker house marks.

Prime West argues that Talisker’s use of the Talisker Trademarks as house marks lessens or eliminates any confusion with the Talisman Trademark. Prime West reasons that the Talisman Trademark identifies a single development in Wasatch County, while the Talisman Trademarks are used promote various developments and facilities in Summit and Wasatch Counties, which Prime West sees as dispelling confusion. The proper comparison in assessing possible confusion, Prime West concludes, is between the names Talisman and Tuhaye, which are both communities, rather than between Talisman and Talisker.

The court disagrees with Prime West. First, Talisker uses the Talisker Trademarks in close conjunction with its marketing efforts for Tuhaye. Even if Prime West were correct that the only marks for the developments should be compared here, then, the court would have to consider the similarities between “Talisker Club at Tuhaye” and “Talisman.” The more fundamental problem with Prime West’s position, however, is that the Talisker Trademarks and

the Talisman Trademark are both being used to promote luxury communities and amenities in the same geographical area. Consequently, the court will consider the potential for confusion between the Talisker Trademarks and the Talisman Trademark, keeping in mind the particular ways the parties use them and how the relevant market experiences them. See e.g., Heartsprings, Inc. v. Heartspring, Inc., 143 F.3d 550, 556 (10th Cir. 1998) (“The marketing practices of the parties are particularly relevant in a trademark infringement case because these practices directly impact the way in which consumers experience the parties’ respective marks.”)

B. Initial Interest Confusion

The type of confusion Talisker claims here is initial interest confusion. A plaintiff alleging such confusion can be damaged in three ways:

(1) the original diversion of the prospective customer’s interest to a source that he or she erroneously believes is authorized; (2) the potential consequent effect of that diversion on the customer’s ultimate decision whether to purchase caused by an erroneous impression that two sources of a product may be associated; and (3) the initial credibility that the would-be buyer may accord to the infringer’s products - customer consideration that otherwise may be unwarranted and that may be built on the strength of the protected mark, reputation and goodwill.

Australian Gold, 436 F.3d at 1239.

Here, Talisker has shown that Prime West is going through legal troubles, and that if consumers confuse Talisman with Talisker, Talisker could suffer as a result. That is, if a potential home purchaser hears that the Talisman developers are being sued and/or suing each other, and the same buyer is confused about the competing trademarks, that buyer may decide to avoid having anything to do with Talisker as a result. The same negative impact on Talisker would loom for any other potential problem that the Talisman development might face in the future. In this type of scenario, the potential buyer’s initial interest would be called to Talisman,

and what the buyer learned could negatively affect the buyer's decision to buy a Talisker home in any of Talisker's developments.

It is likewise possible that a potential buyer might look into Talisman because he or she had heard good things about Talisker and decide to purchase a Talisman home. In that case, Talisker would argue that its reputation and goodwill was used by Talisman in getting that buyer's initial interest.

Based on the fact that Talisman is a real estate development in Wasatch County, and that Talisker uses the Talisker Trademarks in connection with marketing similar real estate developments in Wasatch and Summit Counties, the court agrees that initial interest confusion is possible in this case.

With these initial issues resolved, the court will move on to assess the likelihood of confusion between the Talisker Trademarks and the Talisman Trademark.

C. Likelihood of Confusion Factors

1. Degree of Similarity Between the Marks

“[S]imilarity of marks is tested on three levels: sight, sound and meaning.” Beer Nuts, Inc. v. Clover Club Foods Co., 805 F.2d 920, 925 (10th Cir. 1986). These factors must be considered together, as observed by consumers in the marketplace. A court must not compare the marks side- by-side. “[S]imilarities are weighed more heavily than differences, particularly when competing marks are used in virtually identical products packaged in a similar manner.” Sally Beauty, 304 F.3d at 972 (citation omitted).

In this case, it is clear to the court that the visual trappings around the words Talisman and Talisker differ in the competing trademarks. For example, while all the Talisker Trademarks contain the word Talisker, some iterations also contain leaves and skiers, some include the words

Deer Valley and Club, and so on. Meanwhile, the Talisman Trademark seems most often to appear as the word Talisman accompanied by a bear. The font in which the words are used in the competing trademarks also does not appear to be identical, though the fonts are not vastly different. On the other hand, the appearance of the words Talisman and Talisker are quite similar: both begin with the letters T-A-L-I-S. And these words always appear in each mark. In the end, the question of how the trademarks look on paper favors neither party.

The sound of the trademarks is strikingly similar. Talisker and Talisman are both two-syllable words that share the sound “talis” as their first syllable. Moreover, it seems that most speakers would place the emphasis on the first syllable when pronouncing either word (“TALIS-man” or “TALIS-ker”). Talisker established that it uses sales events other face-to-face encounters with potential customers and others to market the Talisker developments and facilities. Accordingly, speaking the word Talisker to consumers is one of Talisker’s common marketing practices, and the court sees a real possibility for confusion between the words Talisker and Talisman when sales people speak to potential buyers, and potential buyers speak to each other. See e.g., Heartsprings, Inc. v. Heartspring, Inc., 143 F.3d 550, 556 (10th Cir. 1998) (“The marketing practices of the parties are particularly relevant in a trademark infringement case because these practices directly impact the way in which consumers experience the parties’ respective marks.”) Accordingly, this part of the analysis heavily favors Talisker.

Finally, the court is unaware of any meaning of the word Talisker. And while a talisman is a good luck charm, there is no evidence that anyone would give that word such a meaning when it is used as the name of a real estate development. In other words, Talisman has no established meaning in the context in which Prime West is using it. As both words are fanciful as used, the meaning issue is neutral.

In sum, the similarity prong favors Talisker. This conclusion is particularly true because both the Talisker Trademarks and Talisman Trademark are used to market upper end real estate developments in the Park City area.

2. Prime West's Intent in Adopting the Talisman Name

Prime West argues that it decided on the name Talisman early in the marketing process because of the name's various qualities and without knowing about the existence of the Talisker Trademarks. Though its principals were informed at some point that there might be confusion between Talisman and Talisker, Prime West argues, they did not believe that confusion between the two was likely. Prime West concludes that it did not intend to derive benefit from the Talisker Trademarks by adopting the Talisman Trademark.

Prime West's arguments are unconvincing. The court will take at face value Prime West's principals' assertions that they were personally convinced that Talisman and Talisker could not be possibly be confused. Even if this is so, before Prime West used the Talisman Trademark in its marketing efforts, Ms. Moon, one of its own local marketing consultants suggested that, based on "talking around town about Talisman, that it was causing confusion between Talisker and Talisman." (Lewis Dep. at 51.) Mr. Lewis also expressed concern to Mr. Patterson that possible confusion between Talisker and Talisman might hurt Prime West. Prime West kept the Talisman name nonetheless, and the record shows that neither Mr. Patterson or Mr. Welch expressed any concern about the possible confusion to their marketing consultants.

That Prime West kept the Talisman name in the face of Ms. Moon's and Mr. Lewis' warnings is revealing. Prime West's principals appear quite knowledgeable about real estate. And based on the emails from Mr. Farrell, it is clear that both Mr. Patterson and Mr. Welch were aware that Talisker existed and that Mr. Welch knew that Talisker was developing a residential

community. At a minimum, it seems that Prime West must have believed that Talisker did not have a bad reputation, because no reasonable developer would want its project accidentally associated with a bad competitor. But it seems more likely that Prime West believed that Talisker had a good reputation and- at the least- did not mind the potential that Talisman would be mistakenly associated with Talisker.

In sum, the record clearly supports the inference that, despite their protestations otherwise, Prime West intended to benefit from the Talisker Trademarks. See, e.g., Star Indus., Inc. v. Bacardi & Co. Ltd., 412 F.3d 373, 389 (2nd Cir. 2005) (“Bad faith may be inferred from the junior user’s actual or constructive knowledge of the senior user’s mark.”). The intent prong therefore favors Talisker.

3. Evidence of Actual Confusion

“Actual confusion in the marketplace is often considered the best evidence of likelihood of confusion.” Universal Money Centers, Inc. v. American Tel. & Tel. Co., 22 F.3d 1527, 1534 (10th Cir. 1994). Here, Talisker has pointed to several anecdotal instances of actual confusion of Talisker and Talisman by people in the Wasatch and Summit County areas. Those confused include acquaintances of people selling Talisman homes, potential Talisker clients, a Wasatch County planner and others. The court sees these examples as convincing evidence of actual confusion, and gives them weight despite the fact that they would be considered hearsay under the Federal Rules of Evidence. See Heideman v. South Salt Lake City, 348 F.3d 1182, 1188 (10th Cir. 2003) (“The Federal Rules of Evidence do not apply to preliminary injunction hearings.”) See also Houdini Inc. v. Goody Baskets LLC, 166 Fed. Appx. 946, 947 (9th Cir. 2006) (holding in trademark case that “the district court did not abuse its discretion in considering hearsay and biased evidence of actual confusion because the rules of evidence do not

strictly apply to preliminary injunction proceedings”). Given the actual confusion involved here, this prong weighs heavily in Talisker’s favor.

4. Similarity of Products and Manner of Marketing

Talisman is a real estate development, and Talisker is a real estate developer. But there is strong evidence that Talisker regularly associates its marks with each of its developments and facilities, including the Tuhaye project. Moreover, there is no reason to believe that Prime West’s marketing efforts for Talisman would be radically different than those used by Talisker for its developments. This factor accordingly weighs in Talisker’s favor.

5. The Degree of Care Likely to be Exercised by Purchasers

If this case involved anything other than initial interest confusion, this prong could have been a problem to Talisker’s case. The court highly doubts that someone buying a luxury home would do so before finding out the actual identity of the developer. And it would not take much asking to figure out that Talisman was not being developed and marketed by Talisker. But when the type of confusion being considered by the court is initial interest, this factor is little or no weight in the court’s analysis. See Vail Assocs., Inc. v. Vend-Tel-Co., Ltd., 516 F.3d 853, 872 (10th Cir. 2008) (noting that if party had proven initial interest confusion, fact that consumers exercised high degree of care would be less important). Accordingly, this factor is neutral here.

6. The Strength or Weakness of the Marks

The record shows that the Talisker Trademarks are quite strong. There are, of course, the millions of dollars in advertisements including the Talisker Trademarks. But more indicative of the marks’ strength to the court is the fact that as soon as Ms. Moon was hired by Mr. Lewis to help market the Prime West development with the name Talisman, she saw a possibility for confusion with Talisker. Ms. Moon has years of experience in the local real estate market. This

fact, along with Talisker's undisputed extensive presence in Wasatch and Summit Counties, convinces the court that Talisker is a well established and well known name, at least in the relevant geographical area. Meanwhile, the strength or weakness of the Talisman Trademark is unclear to the court. Consequently, this factor goes to Talisker.

Based on the above analysis, it the court believes that Talisker has a strong and substantial likelihood of success of winning its infringement case against Prime West.¹ The court addresses the remaining injunction factors below.

II. Other Preliminary Injunction Factors

A. Irreparable Harm

Prime West contends that Talisker's waiting for two years after filing its complaint to file for a preliminary injunction undercuts Talisker's current claim of irreparable harm. But the court agrees with Talisker, who argues that new possible harm has become imminent because of the recent actions filed against Prime West and the signal of possible financial troubles these suits send the public. At the hearing on this matter, Prime West also acknowledged a recent steep downturn in the housing market, which intensifies potential problems for any real estate developer.

Prime West further maintains that Talisker is not entitled to a presumption of irreparable harm based on a likelihood of success on the merits, citing eBay, Inc. v. MercExchange LLC, 547 U.S. 338 (2006). While this may be true, Talisker has shown irreparable harm here in the form of potential loss of reputation and goodwill by being confused with the Talisman

¹Prime West points out that its successful registration of the Talisman Trademark makes the mark presumptively valid. Talisker, however, has rebutted that presumption. See Educational Dev. Corp. v. Economy Co., 562 F.2d 26, 28 (10th Cir. 1977) (presumption of validity from trademark registration may be rebutted).

development. See GTE Corp. v. Williams, 731 F.2d 676, 679 (10th Cir.1984) (noting that damage to reputation can support a claim of irreparable harm). The court does not mean to imply, of course, that Prime West is has a bad reputation, and Talisker did not present any evidence supporting such a conclusion. But lawsuits, no matter what their underlying facts or merits, can undeniably “spook” potential buyers, and Prime West does not deny that it is being sued.

B. Balance of Injuries to the Parties

The next prong requires the court to weigh the balance of the injury that the granting or denial of an injunction will cause to the parties. Talisker has the potential injury of losing interested customers to Prime West and faces a loss of good will and reputation by being associated with a competitor. Meanwhile, Prime West would have to go back to square one on its marketing campaign and recall all materials using the Talisman Trademark, undoing a large investment and incurring a new one. Prime West will certainly have to spend money, perhaps a great deal of money, if this injunction issues.

While the court is not unsympathetic to difficulties Prime West will face in complying with an injunction, it must be noted that Prime West was well aware of possibility for confusion before it used the Talisman Trademark in public. And as explained by the Tenth Circuit, “when the case for infringement is clear, a defendant cannot avoid a preliminary injunction by claiming harm to a business built upon that infringement.” General Motors Corp. v. Urban Gorilla, LLC, 500 F.3d 1222, 1229 (10th Cir. 2007). So too here.

C. Public Interest

An injunction will eliminate any confusion between the Talisman development and Talisker’s developments and facilities. Consumers will accordingly be better informed about

who is developing and marketing which communities in the Park City area. Such an injunction will also enforce the Talisker Trademarks.

ORDER

For the foregoing reasons, Talisker's motion for a preliminary injunction is GRANTED. The court therefore ORDERS that the following injunction shall be effective immediately upon the posting of a bond by Talisker Corporation and Talisker Deer Valley Corporation:

Prime West Jordanelle, LLC, Prime West Jordanelle II, LLC and their officers, agents and employees are ENJOINED from using the Talisman Trademark in connection with the advertising, marketing or sale of real estate in Wasatch County or Summit County, Utah.

The parties are further ORDERED to submit simultaneous briefs on September 26, 2008 regarding the amount of the bond that Talisker Corporation and Talisker Deer Valley Corporation must post. Talisker Corporation and Talisker Deer Valley will be allowed to post the bond upon the order of the court determining the appropriate amount.

DATED this 12 day of September, 2008.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
Chief District Judge

2008 SEP 11 P 2:07

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

DISTRICT OF UTAH, CENTRAL DIVISION BY:

DEPUTY CLERK

UNITED STATES OF AMERICA,

: 2:07 CR 294 DB

Plaintiff,

vs.

: ORDER CONTINUING
SENTENCING HEARINGS

LORI LYNN ROCK,

and

PATRICIA ANN REED,

Defendant.

On the motion of the United States of America, with no objection from the defendants, and good cause appearing, it hereby is ORDERED that the sentencing hearings in the above-captioned case set for October 7, 2008 hereby are continued to 10/23/08, 2008 at 2:00 a.m./p.m.

2:30

DATED this 11 day of Sept, 2008.

Dee Benson
DEE BENSON
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**HIKIAU, INC., a Utah corporation,
GERALD PETERSON, and MAX
PETERSON,**

Defendants.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:07CR792 DAK

This matter is before the court on Gerald Peterson's Motion to Sever and Continue Trial Indefinitely, Defendants' Motion to Exclude the Government's Experts, and Defendants' Motion to Strike Government's Opposition Memorandum. A hearing on the motions was held on September 2, 2008. At the hearing, Michael P. Kennedy represented the United States, Max D. Wheeler represented Mr. Gerald Peterson and Hikiau, Inc., and Rodney G. Snow represented Max Peterson.

Before the hearing, the court carefully considered the memoranda and other materials submitted by the parties. Since taking the matter under advisement, the court has further considered the law and facts relating to these motions. Now being fully advised, the court renders the following Memorandum Decision and Order.

At the hearing, the court declined to sever Mr. Gerald Peterson at this time, but the trial date was continued until December 8, 2008 and was set for eight days. The court noted that it

would reconsider severing Mr. Gerald Peterson from this trial if he was not able to proceed at that time.

Next, the court declines to strike the Government's opposition brief. While it was filed a few days late, and the United States ideally would have sought an extension of time, there were justifiable reasons for the delay, and it has caused no prejudice to Defendants.

Finally, having considered the briefs and arguments of counsel regarding the Government's experts, the court declines to strike the experts. The court finds that the testimony of Mr. Bloschock, Mr. Schulte, and Mr. Leonard, who have extensive relevant experience in areas pertinent to this case, will assist the jury in understanding the facts at issue and that their purported testimony meets the admissibility threshold for expert testimony under FRE 702 and *Kumho Tire Co., Ltd., v. Carmichael*, 526 U.S. 137 (1999). The Government recognizes—as it must— that these experts may not testify as to the ultimate issues in the case.

Defendants also argue that the Government's summary of witness testimony is not sufficient. The court finds that the summary is sufficient at this point. The court notes, however, that it does not appear that the curriculum vitae of Mr. Leonard or Mr. Schulte have been provided to Defendants. The Government is directed to provide these items by no later than September 19, 2008.

Defendants also point out that the Government was ordered to provide Defendants with a chart delineating which contract specifications the Defendants allegedly failed to comply with relative to each count. The Government was to do so by August 11, 2008, but, according to Defendants, the Government had not done so as of the date of their motion. The Government is

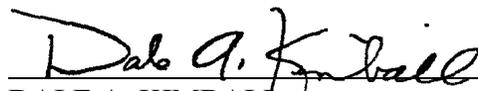
directed to provide this chart by September 17, 2008 if it has not already done so. If, after the Government provides the chart, Defendants have remaining questions about the nature of the experts' testimony, they may file a motion with the court.

In addition, there was a discussion about whether these experts could testify as to certain vehicle accidents that might relate to the highway safety systems at issue in this case. If the Government intends to introduce such testimony, the court directs the Government to file a motion in limine on this issue by no later than November 17, 2008. Defendants are directed to respond to the motion by no later than November 25, 2008. After having been fully informed of the testimony, its relevance, and its potential prejudicial effect, the court will rule on the issue.

Accordingly, IT IS HEREBY ORDERED that Defendants' Motion to Exclude Government's Expert Testimony [docket #76] is DENIED; Defendants' Motion to Strike As Untimely the Government's Memorandum in Opposition [docket # 84] is DENIED; Defendant Gerald Peterson's Motions to Sever [docket #88] and to Continue Trial Indefinitely [docket #92] are DENIED without prejudice to renew at a later date.

DATED this 12th day of September, 2008.

BY THE COURT:



DALE A. KIMBALL
United States District Judge

plea negotiations, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, and therefore the time shall be excluded from the time allowed for the trial under the Speedy Trial Act, 18 USC § 3161.

Dated this 10 day of September, 2008.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
Chief Judge

TODD UTZINGER (6047)
Attorney for Defendant
144 North 100 West
Bountiful, Utah 84010
Telephone: (801) 397-3131
Facsimile: (801) 397-3139

FILED
U.S. DISTRICT COURT

2008 SEP 11 A 11: **RECEIVED**

DISTRICT OF UTAH

AUG 25 2008

BY: DEPUTY CLERK

OFFICE OF
JUDGE TENA CAMPBELL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,	)	ORDER STRIKING TRIAL
	)	DATE AND EXCLUDING TIME
Plaintiff,	)	FROM SPEEDY TRIAL ACT
	)	CALCULATION
v.)	
)	
DON BRENT DALLEY,	)	Case No. 2:07-CR-00863 TC
)	
Defendant.	)	Judge Tena Campbell

This matter is before the Court on defendant's motion to continue the trial now set for September 2, 2008, and to have the time between September 2, 2008, and any new trial date excluded from the speedy trial act calculation.

For good cause shown, I find and order the following:

1. I find that a continuance is necessary to allow defense counsel adequate time to pursue plea negotiations.
2. I find that the continuance serves the ends of justice and that the benefits gained by the continuance outweigh the interests of the public and defendant in a speedy trial.
3. Pursuant to Title 18 sec. 3161 (h)(8)(a) and upon defendant's motion, I order that the time between September 2, 2008, and the ~~new trial~~ ^{Change of Plea} date of 10/3/08 @ 1:30 pm be excluded from the computation of time required under the Speedy Trial Act for the reasons stated above.

SIGNED AND DATED this 26th day of August, 2008.

Tena Campbell

THE HONORABLE TENA CAMPBELL
Federal District Court Judge, District of Utah

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

**EXECUTIVE BOAT & YACHT
BROKERAGE,**

Plaintiff,

vs.

**ARAMARK SPORTS and
ENTERTAINMENT SERVICES, INC.,
et al.,**

Defendants.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:07CV69DAK

This matter is before the court on Defendant Aramark Sports and Entertainment Services, Inc.'s Motion for Summary Judgment and Plaintiff Executive Boat & Yacht Brokerage's Motion to Strike. The court held a hearing on the motions on September 10, 2008. At the hearing, Plaintiff was represented by Budge Call, and Defendant was represented by Anthony Kaye. The court has carefully considered the memoranda, exhibits, declarations, and other materials submitted by the parties, as well as the facts and law relevant to the motion. Now being fully advised, the court renders the following Order.

I. BACKGROUND

Plaintiff has been providing boat brokering services for clients for fifteen years. It provided services at the Glen Canyon National Recreational Area ("the Park") until 1997 when the National Park Service ("NPS") adopted a Commercial Services Plan requiring a license. Plaintiff requested an application from the NPS for an Incidental Business Permit for boat

brokering inside the Park. In response, on March 25, 2003, the NPS notified Plaintiff that boat brokering was a service that only an authorized concessioner could do and a permit would not be granted. The letter states that “effective June 1, 2003, [Plaintiff] must cease brokering any vessels that are slipped, moored or in dry storage within Glen Canyon NRA. Continuation of current business practices after that date will be in violation of 36 C.F.R. 5.3 ‘Commercial Operations.’” On that same day, NPS directed Aramark, an authorized concessioner in the Park, to act as follows: “we are directing you to notify your customers that they may not use any other brokers in the sale of their vessel while moored or stored within the boundaries of Glen Canyon [NRA].”

Again, on April 17, 2003, the NPS notified Plaintiff that “[i]n the past, brokering of vessels within Glen Canyon NRA was provided without authorization and in violation of 36 C.F.R. § 5.3 by a number of entities. This practice must stop and we are taking the necessary steps to notify unauthorized providers to cease and desist.” On April 24, 2003, Aramark followed the directions of the NPS and sent out letters to the boat owners in the Park indicating that Plaintiff was not authorized to do business for vessels located inside the Park.

On June 5, 2003, NPS published the Glen Canyon National Recreation Area Policy for Boat Brokering (“2003 Policy”). The 2003 Policy was provided to Plaintiff the day it was published. The policy stated that the NPS’s “objective is to have [its] concessioners provide boat-brokering services to manage all transfers of boats and/or slips and buoys within Glen Canyon NRA to ensure compliance with laws, regulations, policies and guidelines. If the vessel is removed from the recreation area prior to advertising or selling, no brokering services are required by the NPS concessioner(s).” The policy also identified several benefits to the Park as a result of the new policy and made the unauthorized brokering of boats illegal.

Plaintiff brought a previous action in this court, naming Aramark and the NPS as defendants. The case was nearly identical to the present case. In that case, the NPS was dismissed as a defendant and the case was eventually dismissed in January of 2007 for failure to prosecute.

On April 27, 2004, NPS issued a second Glen Canyon National Recreation Area Policy for Boat Brokering (“2004 Policy”). The 2004 Policy provides that boat brokering within the recreation area is only provided through authorized concessioners. It also states that the “policy applies to all personal property advertised for sale or sold within the boundaries of Glen Canyon NRA, most specifically vessels.”

A few weeks before the previous lawsuit was dismissed, on January 1, 2007, Aramark sent out another letter to boat owners stating that it was the only authorized boat broker for vessels located inside the Park. Based on this January 1, 2007 letter, Plaintiff brought this action seeking injunctive relief for its intentional interference with economic relations cause of action. This court denied Plaintiff’s motion for preliminary injunction.

II. DISCUSSION

Defendant’s Motion for Summary Judgment

Defendant moves for summary judgment on Plaintiff’s claims for declaratory relief that it is in compliance with NPS regulations and intentional interference with economic relations. Plaintiff claims that NPS regulations allow it or should allow it to advertise and sell boats that are located in the Park as long as it does not physically enter the Park.

A. Declaratory and Injunctive Relief Claims

Congress has given the Secretary of the Interior the power to contract with corporations to provide services necessary to maintain recreational facilities in park areas. *See* 16 U.S.C. §§ 1,

3. Section 3 broadly states that the Secretary shall make “rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service.” *Id.* §3. And, more specifically, “the Secretary shall utilize concessions contracts to authorize a person, corporation, or other entity to provide accommodations, facilities, or services to visitors to units of the National Park System.” 16 U.S.C. § 5952. Congress has recognized that “[n]othing in this subchapter shall be construed as limiting the authority of the Secretary to determine whether to issue a concessions contract or to establish its terms and conditions in furtherance of the policies expressed in this subchapter.” *Id.* § 5952(10).

Based on its statutory charge, the NPS promulgated regulations regarding commercial operations in national parks. Under 36 C.F.R. § 5.3, “[e]ngaging in or soliciting any business in park areas, except in accordance with the provisions of a permit, contract, or other written agreement with the United States, except as such may be specifically authorized under special regulations applicable to a park area, is prohibited.” The NPS also published the 2003 Policy and 2004 Policy with respect to boat brokerage in the Park. The policy prohibits unauthorized or uncontrolled boat brokering services for vessels located in permanent storage in slips, buoys, or dry storage within the Park. In addition, the NPS identified several benefits to the Park that would be served by the new policies.

Plaintiff argues that the NPS does not have the authority to prohibit advertising outside the Park. In essence, Plaintiff’s position is that it should be allowed to advertise the sale of a boat located within the Park if it does the advertisements outside of the Park. Plaintiff contends that its advertisements outside the Park cannot be a violation of 36 C.F.R. § 5.3 because that regulation pertains to “engaging in or soliciting any business in park areas.” Furthermore,

Plaintiff argues that the court is not bound by the NPS's interpretation of 36 C.F.R. § 5.3 or its boat brokering policies because this court can make its own determination of federal law.

Both parties contend that *United States v. Carter*, 339 F. Supp. 1394 (D. Ariz. 1972), supports their position. In *Carter*, the court enjoined a boat rental company from engaging in or soliciting business within the Park because “[t]he management controls given the Secretary over the recreation area and the effectiveness of his power to give contract preference to concessioners in the recreation area would be substantially diminished if an individual were allowed to perform a commercial service in the recreation area merely because the service contract was entered into outside the recreation area.” *Id.* at 1399. In *Carter*, the defendant had a rental business that included bringing rental boats into the Park for his customers and providing guide services within the Park.

Because the *Carter* court only enjoined the Defendant from conducting activities within the Park, Plaintiff asserts that the NPS cannot prohibit its advertising which occurs outside the Park. But it is the location of the boat, not the location of the advertisement, that is relevant. The NPS has determined that selling boats that are located in the Park is doing business in the Park. The NPS encountered several problems with unauthorized sales and it promulgated policies in an effort to better manage the Park resources. The court finds that such policies are within the NPS's statutory charge and are reasonable in scope. Plaintiff's advertising activities occur outside the Park but its subsequent sales activities that would be attendant with its outside advertising occurs within the Park. The advertisement and sale of these boats, therefore, affect NPS and its authorized concessioner. Accordingly, the NPS can properly regulate such conduct. Plaintiff is free to advertise and sell boats if its customers remove their boats from the Park.

The court concludes that the NPS's policy that boats located in the Glen Canyon NRA

must be sold through the authorized concessionaire whether the advertisement of the boat takes place inside or outside the Park is reasonable. The court, therefore, grants Defendant's motion for summary judgment on Plaintiff's declaratory relief claim. And, to the extent that the court's conclusion on the declaratory relief issue controls the injunctive relief claim, the court similarly finds the injunctive relief claim without merit.

B. Intentional Interference

Defendant also argues that it is entitled to summary judgment on Plaintiff's claim for intentional interference with economic relations. To succeed on a claim for intentional interference with economic relations, "[a] plaintiff must prove (1) that the defendant intentionally interfered with the plaintiff's existing or potential economic relations, (2) for an improper purpose or by improper means, (3) causing injury to the Plaintiff." *St. Benedict's Development Co. v. St. Benedict's Hospital*, 811 P.2d 194, 200 (Utah 1991).

Plaintiff argues that this claim cannot be dismissed when all facts and inferences are viewed in favor of Plaintiff. Defendant intentionally sent the letters to boat owners knowing that some of them were Plaintiff's customers and with the intent of preventing them from using Plaintiff's services. The court, however, finds that there are no facts to support a finding that Defendant has interfered with Plaintiff's business for an improper purpose or through improper means because Defendant is merely enforcing the NPS's policies. Defendant sent the letters at the NPS's request. And the representations in the letters merely restate NPS policy. Plaintiff has not demonstrated an issue of fact on this cause of action. Because there is no evidence to support a finding that Defendant's letters are improper or made for an improper purpose, Defendant is entitled to summary judgment on Plaintiff's claim for intentional interference with economic relations.

Plaintiff's Motion to Strike

Plaintiff moves to strike several exhibits attached to the Affidavit of Angela Adams and filed in support of Defendant's Motion for Summary Judgment. However, the exhibits consist of NPS policies and statements of which this court can take judicial notice, materials that were attached to Plaintiff's Verified Complaint, letters that were produced in discovery, and other letters that are business records. The court also concludes that it can take judicial notice of the information contained on the NPS's website. The court, therefore, concludes that there is no basis for the motion to strike. Accordingly, Plaintiff's Motion to Strike is denied.

III. CONCLUSION

For the foregoing reasons, Defendant's Motion for Summary Judgment is GRANTED and Plaintiff's Motion to Strike is DENIED. Accordingly, the court instructs the Clerk of Court to enter judgment in favor of Defendant. This case is closed, each party to bear its own costs and fees.

DATED this 12th day of September, 2008.

BY THE COURT:



DALE A. KIMBALL
United States District Judge

John C. Heath Attorney at Law, P.L.L.C.
Eric Stephenson #9779
Attorney for Plaintiff
P.O. Box 1173
Salt Lake City, Utah 84151
Telephone: (801) 297-2494
Facsimile: (801) 297-2511
Email: eric@utahjustice.com

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

Kelvin L. Carvana

Plaintiff,

v.

MFG Financial, Inc. an Arizona
Corporation; Mark F. Gasser; Nancy D.
Gasser; and John Does 1-5,

Defendants.

ORDER GRANTING STIPULATED
MOTION TO AMEND AND
AMENDED SCHEDULING ORDER

Case Number: 2: 07CV00128 DAK

District Judge: Dale A. Kimball
Magistrate Judge: David Nuffer

Pursuant to Fed.R. Civ P. 16(b) parties' Stipulated Motion to Amend Scheduling Order (docket #58), the court GRANTS motion and the following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

	PRELIMINARY MATTERS	DATE
1.	Nature of claims and any affirmative defenses:	
a.	Was Rule 26(f)(1) Conference held?	08/15/2007

	b.	Has Attorney Planning Meeting Form been submitted?	08/30/2007
	c.	Date to complete Rule 26(a)(1) initial disclosures?	09/09/2007
2.		DISCOVERY LIMITATIONS	NUMBER
	a.	Maximum Number of Depositions by Plaintiff(s)	10
	b.	Maximum Number of Depositions by Defendant(s)	10
	c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	7
	d.	Maximum Interrogatories by any Party to any Party	25
	e.	Maximum requests for admissions by any Party to any Party	
	f.	Maximum requests for production by any Party to any Party	25
3.		AMENDMENT OF PLEADINGS/ADDING PARTIES¹	DATE
	a.	Last Day to File Motion to Amend Pleadings	03/19/2009
	b.	Last Day to File Motion to Add Parties	01/26/2009
4.		RULE 26(a)(2) REPORTS FROM EXPERTS²	DATE
	a.	Plaintiff	04/07/2009
	b.	Defendant	04/07/2009
	c.	Counter reports	04/14/2009
5.		OTHER DEADLINES	DATE
	a.	Discovery to be completed by:	
		Fact discovery	03/09/2009
		Expert discovery	04/30/08
	b.	(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)	
	c.	Deadline for filing dispositive or potentially dispositive motions	03/09/2009
6.		SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION	DATE
	a.	Referral to Court-Annexed Mediation:	<u>Yes/No</u>
	b.	Referral to Court-Annexed Arbitration	<u>Yes/No</u>

- c. Evaluate case for Settlement/ADR on
 - d. Settlement probability: *Unknown*
7. TRIAL AND PREPARATION FOR TRIAL TIME DATE
- a. Rule 26(a)(3) Pretrial Disclosures³
 - Plaintiff *06/19/09*
 - Defendant *07/02/09*
 - b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)
 - c. *07/17/09*
 - d. Special Attorney Conference⁴ on or before *07/17/09*
 - e. Settlement Conference⁵ on or before *08/03/09*
 - f. Final Pretrial Conference 2:30 p.m.
- | | <u>Length</u> | | |
|----------------|---------------|-------------|-----------------|
| i. Bench Trial | NA | ___:___ .m. | |
| ii. Jury Trial | 3 days | 8:30 a.m. | <i>08/17/09</i> |

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 11th day of September, 2008.

BY THE COURT:

David Nuffer
U. S. Magistrate Judge

¹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

² A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

³ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

⁴ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁵ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

FILED
U.S. DISTRICT COURT

2008 SEP 12 P 1:30

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

FILED
U.S. DISTRICT COURT

2007 SEP 17 A 10:10

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

<p>In re:</p> <p>KENT W. CHRISTENSEN & SANDRA LEE CHRISTENSEN</p> <p>Debtors</p>	<p>Bankruptcy Case No.: 06-24987 Chapter: 7 Judge: Judith A. Boulden Trustee: Duane H. Gillman FILED ELECTRONICALLY</p>
<p>KENT W. CHRISTENSEN</p> <p>Appellant</p> <p>Vs.</p> <p>DUANE GILLMAN Chapter 7 Trustee</p> <p>Appellee</p>	<p>District Court Appeal No. 2:07 CV 0362 Chief Judge: Tina Campbell</p> <p style="text-align: center; font-size: 2em;">ORDER</p>

APPELLANT'S AND APPELLEE'S STIPULATION TO DISMISS APPEAL WITH
PREJUDICE

Appellants, by and through their counsel of record, and Appellee, by and through his counsel of record, hereby stipulate to the dismissal with prejudice of the above the above-captioned appeal.

so ordered
9-19-2008
Tina Campbell

September 11, 2007

[Signature]

Paul Toscano, Appellant's counsel

[Signature]

Duane H. Gillman, Appellee's counsel

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

TRACI ANN LINDGREN,

Plaintiff,

v.

**UTAH DEPARTMENT OF
CORRECTIONS, et al.,**

Defendants.

ORDER

Case No. 2:07-cv-572-DAK-PMW

District Judge Dale A. Kimball

Magistrate Judge Paul M. Warner

This case was referred to Magistrate Judge Paul M. Warner by District Judge Dale A. Kimball pursuant to 28 U.S.C. § 636(b)(1)(A).¹ Before the court is the parties' stipulated motion to enlarge the time to complete expert discovery.²

For the reasons set forth in the motion, and based upon good cause appearing, the motion is **GRANTED**. Accordingly, **IT IS HEREBY ORDERED** that expert discovery shall be completed within fifteen (15) days after service of Defendant's expert report.

IT IS SO ORDERED.

DATED this 12th day of September, 2008.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge

¹ See docket nos. 18, 25.

² See docket no. 26.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MATTHEW CLINE,

Plaintiff,

v.

**CHASE MANHATTAN BANK USA,
NATIONAL ASSOCIATION,**

Defendant.

**CHASE MANHATTAN BANK USA,
NATIONAL ASSOCIATION,**

Counterclaimant,

v.

MATTHEW CLINE,

Counter-Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:07CV650 DAK

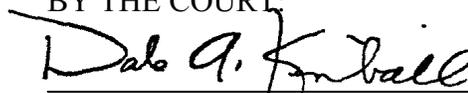
On August 19, 2008, the Magistrate Judge assigned to this case issued a Report and Recommendation, recommending that (1) Defendant's motion to strike Plaintiff's affidavits be granted; (2) Defendant's motion for summary judgment be granted; and (3) Defendant's motion to confirm the arbitration award be granted. No objection to the Report and Recommendation has been received, and the time for objecting has now expired.

The court has reviewed the file *de novo*, and hereby APPROVES AND ADOPTS the

Magistrate Judge's Report and Recommendation in its entirety. Defendant's motion to strike Plaintiff's affidavits [docket # 43] is GRANTED; (2) Defendant's motion for summary judgment [docket #29] is GRANTED; and (3) Defendant's motion to confirm the arbitration award [docket # 30] is GRANTED. Accordingly, this action is dismissed with prejudice, and the Clerk of Court is directed to enter judgment against Matthew Cline and in favor of Chase Bank USA, N.A. in the amount of \$7,053.65, plus interest, costs, and attorneys fees, as provided by law.

DATED this 11th day of September, 2008.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive style and is positioned above a horizontal line.

DALE A. KIMBALL

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

LAURA MACGREGOR,

Plaintiff,

v.

LEHI CITY et al.,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

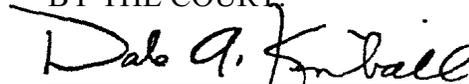
Case No. 2:07CV684 DAK

On July 2, 2008, the Magistrate Judge assigned to this case issued an Order to Show Cause why Plaintiff's Complaint should not be dismissed for failure to serve process and to prosecute. Plaintiff had thirty days to respond to that Order, but she failed to respond.

On August 19, 2008, the Magistrate Judge issued a Report and Recommendation, recommending that the action be dismissed for failure to serve process and prosecute. No objection to the Report and Recommendation has been received, and the time for objecting has now expired. The court has reviewed the file *de novo*, and hereby APPROVES AND ADOPTS the Magistrate Judge's Report and Recommendation in its entirety. This action is hereby DISMISSED without prejudice.

DATED this 10th day of September, 2008.

BY THE COURT:



DALE A. KIMBALL

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION

KEN RALSTON,

Plaintiff,

vs.

**REED DATA, INC., n/k/a e DOC
INNOVATIONS, and CU
ANSWERS**

Defendants.

SCHEDULING ORDER

Case No.2:07-CV-00717

District Judge_Deer Benson

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #30). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. PRELIMINARY MATTERS | <u>DATE</u> |
|---|--------------------|
| Nature of claim(s) and any affirmative defenses: Breach of Employment Agreement | |
| a. Was Rule 26(f)(1) Conference held? | <u>09/03/08</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>09/10/08</u> |
| c. Was 26(a)(1) initial disclosure completed? No - completed by: | <u>09/30/08</u> |
-
- | 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|---|----------------------|
| a. Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>25</u> |
| e. Maximum requests for admissions by any Party to any Party | <u>25</u> |
| f. Maximum requests for production by any Party to any Party | <u>50</u> |

	<u>DATE</u>
3. AMENDMENT OF PLEADINGS/ADDING PARTIES²	
a. Last Day to File Motion to Amend Pleadings	<u>09/30/08</u> <u>for plaintiff</u> <u>11/30/08</u> <u>for</u> <u>defendants</u>
b. Last Day to File Motion to Add Parties	<u>same as for</u> <u>amending</u> <u>pleadings</u>
4. RULE 26(a)(2) REPORTS FROM EXPERTS³	
a. Plaintiff	<u>02/27/09</u>
b. Defendant	<u>03/27/09</u>
c. Counter reports	<u>03/31/09</u>
5. OTHER DEADLINES	
a. Discovery to be completed by:	
Fact discovery	<u>03/31/09</u>
Expert discovery	<u>05/31/09</u>
b. <i>(optional)</i> Final date for supplementation of disclosures and discovery under Rule 26 (e)	<u>03/31/09</u>
c. Deadline for filing dispositive or potentially dispositive motions	<u>06/30/09</u>
6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION	
a. Referral to Court-Annexed Mediation	<u>Yes/No</u>
	<u>Has</u> <u>already</u> <u>occurred</u>
b. Referral to Court-Annexed Arbitration	<u>Yes/No</u>
	<u>No</u>
c. Evaluate case for Settlement/ADR on	<u>05/05/09</u>
d. Settlement probability:	<u>Fair</u>

7. TRIAL AND PREPARATION FOR TRIAL:

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiff **10/09/09**
 - Defendant **10/23/09**
- b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule) **DATE**
- c. Special Attorney Conference⁵ on or before **11/06/09**
- d. Settlement Conference⁶ on or before 11/06/09
- e. Final Pretrial Conference 2:30 p.m. 11/17/09
- f. Trial

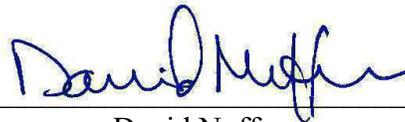
	<u>Length</u>	<u>Time</u>	<u>Date</u>
i. Bench Trial	<u># days</u>	_____	_____
ii. Jury Trial	<u>4 days</u>	<u>8:30 a.m.</u>	<u>12/01/09</u>

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 11th day of September, 2008.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

S:\IPT\2008\Ralston v. Reed Data 207cv717DB 0911 tb.wpd

Edwin C. Barnes (Bar No. 0217)
Christopher B. Snow (Bar No. 8858)
CLYDE SNOW SESSIONS & SWENSON
201 South Main, 13th Floor
Salt Lake City, Utah 84111
Telephone: 801-322-2516
Fax: 801-521-6280

Attorneys for Defendants

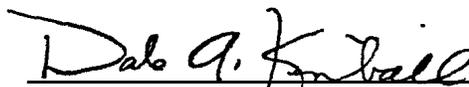
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

EULOGIO HINOJOS,	:	
	:	ORDER GRANTING MOTION FOR
Plaintiff,	:	ENLARGEMENT OF TIME FOR
	:	DEFENDANT TO RESPOND TO
-vs-	:	PLAINTIFF'S FIRST AND SECOND
	:	SET OF INTERROGATORIES,
PARK CITY MUNICIPAL	:	DOCUMENT REQUESTS, AND
CORPORATION, a municipal	:	REQUESTS FOR ADMISSION
corporation, and Does I through X,	:	
	:	Case No. 2:07-CV-00750
Defendants.	:	
	:	Judge: Dale A. Kimball

Pursuant to the stipulation of the parties, it is hereby ordered that Defendant, Park City Municipal Corporation, shall have up to and including September 17, 2008 in which to respond to Plaintiff's First and Second Set of Discovery Requests.

Dated this 12th day of September, 2008.

BY THE COURT



DALE A. KIMBALL
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

TIME CRITICAL SOLUTIONS, LLC, a
Utah limited liability company,

Plaintiff,

v.

ACOMM, INC., a Delaware corporation,
BENJAMIN EGG, an individual,
FREDRIC J. HARRIS, an individual,
JOHN J. WALSH, an individual,
THOMAS M. MILLARD, an individual,
and DOES 1 through 10, inclusive,

Defendants.

BENJAMIN EGG, an individual, JOHN J.
WALSH, an individual, THOMAS M.
MILLARD, an individual,

Third-Party Plaintiffs,

v.

MANTFORD VENTURES L.L.C., a Utah
limited liability company; DOES 1-XX,

Third-Party Defendant.

Case No. 2:07-cv-00957-DAK

SCHEDULING ORDER AND
ORDER VACATING HEARING

Hon. Dale A. Kimball, U.S. District Judge
Hon. David Nuffer, U.S. Magistrate Judge

Pursuant to Fed. R. Civ. P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #51). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for October 8, 2008 at 11:00 a.m. is VACATED.

1.	<p>PRELIMINARY MATTERS</p> <p>Nature of claims and any affirmative defenses: Plaintiff's Complaint lists causes of action for: (i) Breach of Contract, (ii) Unjust Enrichment, (iii) Fraud, (iv) Self-Dealing and Breach of Fiduciary Duty, (v) Civil Conspiracy, and (vi) Unlawful Interference with Prospective Economic Advantage. Defendants Benjamin Egg, John J. Walsh and Thomas M. Millard have a counterclaim against Plaintiff for: (i) Breach of Contract, (ii) Breach of Implied Contract, (iii) Negligent Misrepresentation, and (iv) Breach of the Duties of Good Faith and Fair Dealing and a third party complaint against the Third-Party Defendant for (i) Breach of Fiduciary Duty, (ii) Alternative Breach of Contract for Membership Interest, (iii) Breach of Contract, (iv) Negligent Misrepresentation, and (v) Breach of the Duties of Good Faith and Fair Dealing</p>	DATE
a.	Was Rule 26(f)(1) Conference held?	Yes 09/03/08
b.	Has Attorney Planning Meeting Form been submitted?	Yes 09/09/08
c.	Was 26(a)(1) initial disclosure completed?	No due 9/19/08
2.	<p>DISCOVERY LIMITATIONS</p>	NUMBER
a.	Maximum Number of Depositions by Plaintiff and Third Party Defendants (not including experts)	10
b.	Maximum Number of Depositions by Defendants (not including experts)	10
c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	7
d.	Maximum Interrogatories by any Party to any Party	25, including subparts
e.	Maximum requests for admissions by any Party to any Party	unlimited
f.	Maximum requests for production by any Party to any	unlimited

Party

- | | | | |
|----|---|------|---------|
| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIES ² | | DATE |
| a. | Last Day to File Motion to Amend Pleadings | | 1/30/09 |
| b. | Last Day to File Motion to Add Parties | | 1/30/09 |
| 4. | RULE 26(a)(2) REPORTS FROM EXPERTS | | DATE |
| a. | On any issue of which a party bears the burden of proof (whether Plaintiff/Third-Party Defendant, or Defendant) | | 4/24/09 |
| | | | 5/22/09 |
| b. | Rebuttal or Counter reports | | |
| 5. | OTHER DEADLINES | | DATE |
| a. | Discovery to be completed by: | | |
| | Fact discovery | | 4/3/09 |
| | Expert discovery | | 6/19/09 |
| b. | (optional) Final date for supplementation of disclosures and discovery under Rule 26 (e) | | 4/3/09 |
| c. | Deadline for filing dispositive or potentially dispositive motions | | 7/1/09 |
| 6. | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | | DATE |
| a. | Referral to Court-Annexed Mediation: | No | |
| b. | Referral to Court-Annexed Arbitration | No | |
| c. | Evaluate case for Settlement/ADR on | | 1/30/09 |
| d. | Settlement probability: | low | |
| 7. | TRIAL AND PREPARATION FOR TRIAL | TIME | DATE |
| a. | Rule 26(a)(3) Pretrial Disclosures ³ | | |

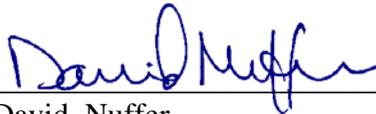
Plaintiff			<u>10/09/09</u>
Defendant			<u>10/23/09</u>
b.	Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)		<u>00/00/00</u>
c.	Special Attorney Conference ⁴ on or before		<u>11/06/09</u>
d.	Settlement Conference ⁵ on or before		<u>11/06/09</u>
e.	Final Pretrial Conference	2:30 p.m.	<u>11/24/09</u>
f.	Trial	<u>Length</u>	
i.	Bench Trial	___:___ .m.	<u>00/00/00</u>
ii.	Jury Trial	<u>7 days</u>	8:30 a.m. <u>12/07/09</u>

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 11th_ day of September, 2008

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

¹ The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

² Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

³ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

⁴ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁵ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

ALBION INTERNATIONAL, INC.,

Plaintiff,

-vs-

AMERICAN INTERNATIONAL
CHEMICAL, INC., a Massachusetts
corporation, AMT LAB, INC., a Utah
corporation, and GLOBAL CALCIUM
PRIVATE LIMITED, an Indian private
limited company,

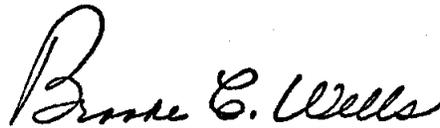
Defendants,

**ORDER GRANTING MOTION FOR PRO
HAC VICE ADMISSION AND CONSENT
OF LOCAL COUNSEL**

Civil No. 2:07-CV-994-DB

It appearing to the Court that Petitioner meets the *pro hac vice* admission requirements of DUCiv R 83-1.1(d), the motion for the admission *pro hac vice* of Brendan P. Mitchell in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 12th day of September, 2008.



U.S. Magistrate Judge

FILED
U.S. DISTRICT COURT

2008 SEP 11 P 2:07

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RONALD J. YENGICH (#3580)
YENGICH, RICH & XAIZ
Attorneys for Defendant
175 East 400 South, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 355-0320

**IN THE UNITED STATES DISTRICT COURT, CENTRAL DIVISION
DISTRICT OF UTAH**

<p>UNITED STATES OF AMERICA, Plaintiff, vs. SHAUN GREGORY MORGAN, Defendant.</p>	<p>ORDER TO CONTINUE Case No. 2:08-CR-00164 Judge Dee Benson</p>
--	---

Based upon the motion and stipulation of counsel and for good cause shown;

THIS COURT HEREBY FINDS that the ends of justice served in granting a
continuance in the above-entitled matter outweigh the best interests of the public and the
defendants in a speedy trial.

Pursuant to Title 18, § 3161(8)(A) and (B)(iv) of the Speedy Trial Act, the Jury
Trial date in this matter, currently set for October 14th, 2008, is hereby continued. The period of
delay resulting from this continuance is hereby ordered excludable pursuant to the Act.

IT IS FURTHER ORDERED that the Jury Trial be continued to the 15 day of Dec
, 2008, at the hour of 8:30 a.m./p.m., before Judge Benson.

SIGNED BY MY HAND this 11 day of September, 2008.

BY THE COURT:

A handwritten signature in cursive script that reads "Dee Benson".

HONORABLE DEE BENSON
United States District Court Judge

RECEIVED

FILED

SEP 12 2008

U.S. DISTRICT COURT

OFFICE OF 2008 SEP 12 P 1:30

JUDGE TENA CAMPBELL

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RICHARD A. VAN WAGONER (4690)
SAMUEL S. HARKNESS (9448)
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, Eleventh Floor
Post Office Box 45000
Salt Lake City, Utah 84145
Telephone: (801) 521-9000

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 STEFAAN C. SMITH,)
)
 Defendant.)
 _____)

**ORDER GRANTING STIPULATED
MOTION FOR CONTINUANCE OF
CHANGE OF PLEA**

No. 2:08-CR-00179

Judge Tena Campbell

Based upon Defendant Smith's and the Government's Stipulated Motion and for good cause shown, the Court sets the change of plea hearing for September 23, 2008 at 2:00 p.m.

For the above mentioned reasons, the Court finds that "the ends of justice served by [granting a continuance and excluding the time from calculation] outweigh the best interest of the public and the defendant[s] in a speedy trial." 18 U.S.C. § 3161(h)(8)(A). Accordingly, the delay from September 12, 2008 through September 23, 2008 is excluded from calculation under the Speedy Trial Act, 18 U.S.C. § 3161 et seq.

DATED this 12th day of September, 2008.

BY THE COURT

Tena Campbell

Honorable Tena Campbell

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA

Plaintiff,

Michelle Rae Chapman

Defendant

FILED
U.S. DISTRICT COURT

2008 SEP 11 P 2:28

DISTRICT OF UTAH

BY: DEPUTY CLERK

Docket No.: 2:08-CR-00231-003 TC

CONSENT TO MODIFY CONDITIONS OF RELEASE

I, Michelle Chapman, have discussed with Pretrial Services Officer, modification of my release conditions as follows:

Reside at the Cornell Residential Reentry Center with work release upon approval of the pretrial officer.

The defendant shall remain on all other previously set conditions of release.

I consent to this modification of my release conditions and agree to abide by this modification.

Michelle Chapman
Defendant

[Signature]
Pretrial Services Officer

9-10-08
Date

9/10/08
Date

I have reviewed the conditions with my client and concur that this modification is appropriate.

Defense Counsel

Date

ORDER OF THE COURT

The above modification of conditions of release is ordered, to be effective on 9/10/2008, 2008.

The above modification of conditions of release is **not** ordered.

David O. Nuffer
Honorable David O. Nuffer
United States Magistrate Judge

9-10-2008
Date

United States District Court

CENTRAL DISTRICT OF UTAH

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
SEP 10 2008
BY D. MARK JONES, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

ORDER SETTING CONDITIONS OF RELEASE

Chad Jay Butler

Case Number: 2:08cr237 DAK

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed

as directed. The defendant shall next appear at (if blank, to be notified)

PLACE

on

DATE AND TIME

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

dollars (\$)

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- (6) The defendant is placed in the custody of:
 (Name of person or organization)
 (Address)
 (City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Custodian or Proxy

- (7) The defendant shall:
- (a) maintain or actively seek employment.
 - (b) maintain or commence an educational program.
 - (c) abide by the following restrictions on his personal associations, place of abode, or travel:
 Dft to reside at the halfway house full-time and abide by all conditions.
 - (d) avoid all contact with the following named persons, who are considered either alleged victims or potential witnesses:
 - (e) report on a regular basis to the supervising officer as directed.
 - (f) comply with the following curfew:
 - (g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
 - (h) refrain from excessive use of alcohol.
 - (i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner.
 - (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
 - (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
 - (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
 - (m) execute a bail bond with solvent sureties in the amount of \$
 - (n) return to custody each (week)day as of _____ o'clock after being released each (week)day as of _____ o'clock for employment, schooling or the following limited purpose(s):
 - (o) surrender any passport to
 - (p) obtain no passport
 - (q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. Upon the first test revealing illegal drug use, the pretrial office will notify the court immediately. Upon notification, a warrant for the defendant's arrest will issue. Dft to be randomly tested at the halfway house.
 - (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
 - (s) submit to an electronic monitoring program as directed by the supervising officer.
 - (t)

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a tem of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release , to appear as directed , and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

Signature of Defendant

Address

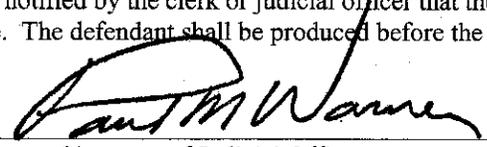
City and State

Telephone

Directions to the United States Marshal

- () The defendant is ORDERED released after processing.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: 6/2/2008


Signature of Judicial Officer

Magistrate Judge Paul M. Warner

Name and Title of Judicial Officer

FILED
UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT

Central

District of

Utah

2009 SEP 11 A 11:48
UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

DISTRICT OF UTAH

Miguel Eusevio Garcia-Pinon
aka Miguel Garcia- Flores
aka Miguel Flores-Garcia
aka Miguel Vega- Flores
aka Chevo Tapia- Pinon
aka Chier Tapia-Pinon
aka Eusevio Pinon-Tapia
aka Eusevio Tapia

BY: _____
DEPUTY CLERK

Case Number: DUTX 2:08CR00400-001 TC

USM Number: 15498-081

Kris Angelos
Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) One of the Indictment

pleaded nolo contendere to count(s) _____
which was accepted by the court.

was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 USC § 1326	Reentry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

09/09/2008

Date of Imposition of Judgment

Tena Campbell
Signature of Judge

Tena Campbell
Name and Title of Judge

Chief, United States District Court Judge

9-10-2008
Date

DEFENDANT: Miguel Eusevio Garcia-Pinon
CASE NUMBER: 2:08CR00400-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

TIME SERVED

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Miguel Eusevio Garcia-Pinon
CASE NUMBER: 2:08CR00400-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

12 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Miguel Eusevio Garcia-Pinon
CASE NUMBER: 2:08CR00400-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not illegally reenter the United States.

DEFENDANT: Miguel Eusevio Garcia-Pinon
CASE NUMBER: 2:08CR00400-001 TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A Lump sum payment of \$ 100.00 due immediately, balance due
- not later than _____, or
 in accordance C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 16

are the
Statement of Reasons,
which will be docketed
separately as a sealed
document

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DISTRICT

UNITED STATES OF AMERICA,
Plaintiff,

vs.

HECTOR SANTANA-ILLAN,
Defendant.

ORDER EXTENDING TIME FOR
FILING POSITIONS ON
SENTENCING FACTORS

Case No. 2:08-CR-422 TS

Defendant Santana-Illan's sentencing has been rescheduled to October 2, 2008,
at 10:00 a.m. It is

ORDERED that the parties shall file Positions on Sentencing Factors no later than
Thursday, September 25, 2008.

DATED September 12, 2008.

BY THE COURT:



TED STEWART
United States District Judge

RECEIVED

FILED
U.S. DISTRICT COURT

SEP 05 2008

2008 SEP 11 P 5:07 IN THE UNITED STATES DISTRICT COURT OFFICE OF JUDGE TENA CAMPBELL

DISTRICT OF UTAH

DISTRICT OF UTAH, CENTRAL DIVISION

BY: _____
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VILIAMI LOUMOLI,

Defendant.

:

:

:

:

:

ORDER TO REASSIGN CASE
2:08-CR-499

Judge Tena Campbell

Based on a motion by the United States of America, and for good cause appearing,

IT IS HEREBY ORDERED that case number 2:08-CR-499 is reassigned to Judge
Tena Campbell.

DATED this 9 day of September, 2008.

BY THE COURT:



TENA CAMPBELL
United States District Court Judge

United States District Court

U.S. DISTRICT COURT
CENTRAL DISTRICT OF UTAH

2008 SEP 11 A 10:29

UNITED STATES OF AMERICA
V.

DISTRICT OF UTAH
ORDER SETTING
BY: **CONDITIONS OF RELEASE**
DEPUTY CLERK

Mark Infanger

Case Number: 2:08cr556 TC

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed

as directed. The defendant shall next appear at (if blank, to be notified)

_____ PLACE
on _____
DATE AND TIME

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- () (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

_____ dollars (\$) _____

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- () (6) The defendant is placed in the custody of:
 (Name of person or organization)
 (Address)
 (City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____
 Custodian or Proxy

- (X) (7) The defendant shall:
- (X) (a) maintain or actively seek employment.
 - () (b) maintain or commence an educational program.
 - (X) (c) abide by the following restrictions on his personal associations, place of abode, or travel:
 - dft to maintain residence and not change residences without prior permission from USPO
 - dft to not leave the state of UT without prior permission from USPO
 - dft will not travel outside the continental U.S. without prior permission from the court
 - dft to not start any new businesses without prior permission from USPO
 - no new lines of credit
 - to not solicit loans from anyone
 - Buy or sale real estate
 - (X) (d) avoid all contact with the following named persons, who are considered either alleged victims or potential witnesses:
 - (X) (e) report on a regular basis to the supervising officer as directed. With at least one face to face appointment a month.
 - () (f) comply with the following curfew:
 - () (g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
 - () (h) refrain from excessive use of alcohol.
 - () (i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner.
 - () (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
 - () (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
 - () (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
 - () (m) execute a bail bond with solvent sureties in the amount of \$
 - () (n) return to custody each (week)day as of _____ o'clock after being released each (week)day as of _____ o'clock for employment, schooling or the following limited purpose(s):
 - (X) (o) surrender any passport to Clerk of Court within 72 hours
 - () (p) obtain no passport
 - () (q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. Upon the first test revealing illegal drug use, the pretrial office will notify the court immediately. Upon notification, a warrant for the defendant's arrest will issue.
 - () (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
 - () (s) submit to an electronic monitoring program as directed by the supervising officer.
 - () (t)

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

Mark
Signature of Defendant

2470 Goodnight
Address

Springville vt 801473561
City and State Telephone

Directions to the United States Marshal

- () The defendant is ORDERED released after processing.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: 11 Sept 2008

Paul M Warner
Signature of Judicial Officer

Magistrate Judge Paul M. Warner

Name and Title of Judicial Officer

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Petitioner,

v.

LINDA STAMM,

Respondent.

ORDER TO SHOW CAUSE RE:
CRIMINAL CONTEMPT SANCTIONS
AGAINST KIM BELL AND ORDER
SETTING A STATUS CONFERENCE

Case No. 2:08cv25

District Judge Ted Stewart

Magistrate Judge Paul M. Warner

Before the court is the United States of America's (the "United States") motion for an order to show cause¹ why Kim Bell ("Ms. Bell") should not be held in criminal contempt based on her actions before the court.

Rule 42 of the Federal Rules of Criminal Procedure provides that "[a]ny person who commits criminal contempt may be punished for that contempt after prosecution on notice." Fed. R. Crim. P. 42(a). The rule further states that notice may be provided in, inter alia, an order to show cause and that the notice must "state the time and place of the trial; . . . allow the defendant a reasonable time to prepare a defense; and . . . state the essential facts constituting the charged criminal contempt and describe it as such." Fed. R. Crim P. 42(a)(1). Contempt is

¹ See docket no. 20.

defined as the “[m]isbehavior of any person in [a court’s] presence or so near thereto as to obstruct the administration of justice.” 18 U.S.C. § 401(1).

To place Ms. Bell on notice of the essential facts constituting the alleged contemptuous conduct, the court recites them below. On January 10, 2008, District Judge Ted Stewart issued an order to show cause that required Linda Stamm (“Respondent Stamm”) to appear at a hearing before Magistrate Judge Paul M. Warner on March 5, 2008, at 10:00 a.m. to show cause why she should not be compelled to produce information required by two Internal Revenue Service Summonses (the “Summonses”).² An Internal Revenue Service (“IRS”) Revenue Officer personally served a copy of the order to show cause on a woman who claimed to be Respondent Stamm on January 25, 2008.³

A woman who identified herself as Respondent Stamm appeared pro se at the March 5, 2008 hearing and agreed to cooperate with the IRS by providing the information requested.⁴ After the hearing, this court issued a report and recommendation finding that the United States had carried its burden to enforce the Summonses and that Respondent Stamm had agreed to comply with them.⁵ The court also recommended that Respondent Stamm have forty-five days to comply with the Summonses.⁶

² See docket no. 2.

³ See docket no. 3.

⁴ See docket nos. 4, 5.

⁵ See docket no. 5.

⁶ See *id.*

Respondent Stamm did not file objections to the report and recommendation. Accordingly, on March 27, 2008, Judge Stewart issued an order adopting this court's report and recommendation.⁷ Judge Stewart ordered Respondent Stamm to comply with the Summonses "no later than 45 days from the date of this Order."⁸

Respondent Stamm failed to comply with the Summonses within forty-five days. On June 3, 2008, the United States filed a motion for contempt sanctions against Respondent Stamm for this violation.⁹ On the United States's motion, Judge Stewart set a hearing for July 31, 2008.¹⁰ Respondent Stamm failed to appear at the hearing, and Judge Stewart issued a bench warrant to arrest her for her failure to appear.¹¹

The United States Marshals Service ("Marshals Service") attempted to execute the warrant.¹² On August 14, 2008, Deputy United States Marshal Brian Young ("Deputy Young") and approximately eight members of the Joint Criminal Apprehension Team, a task force for apprehending fugitives, prepared to execute the warrant at Respondent Stamm's home.¹³ As Deputy Young approached Respondent Stamm's house, a man came out of the house and

⁷ *See* docket no. 6.

⁸ Docket no. 6 at 2.

⁹ *See* docket no. 7.

¹⁰ *See* docket no. 9.

¹¹ *See* docket no. 12.

¹² *See* docket no. 21, Exhibit B.

¹³ *See id.*

identified himself as Leonard Stamm (“Mr. Stamm”), Respondent Stamm’s husband.¹⁴ Deputy Young explained the situation to Mr. Stamm, who stated that Respondent Stamm was out of town but agreed to have her contact Deputy Young to self-surrender.¹⁵

On or about Wednesday, August 20, 2008, Assistant United States Attorney Jared Bennet (“Mr. Bennett”) received a telephone message from a woman who identified herself as “Kim,” a daughter of Respondent Stamm.¹⁶ Mr. Bennett returned her call in the afternoon of August 20, 2008, and during the ensuing conversation, “Kim” admitted to Mr. Bennett that she had appeared at the March 5, 2008 hearing before this court in place of Respondent Stamm.¹⁷

Between August 14, when Deputy Young met with Mr. Stamm, and August 29, 2008, Ms. Bell communicated numerous times with Deputy Young by telephone and via cell phone text messages, identifying herself as Respondent Stamm’s daughter.¹⁸ Ms. Bell represented to Deputy Young that she was unable to contact Respondent Stamm and/or that Respondent Stamm was unable to self-surrender for various reasons, including: she was at a friend’s cabin with no cell phone reception; her cell phone had run out of pre-paid minutes of service; and she was

¹⁴ *See id.*

¹⁵ *See id.*

¹⁶ *See id.*, Exhibit A.

¹⁷ *See id.*

¹⁸ *See id.*, Exhibit B.

unable to return to Salt Lake City because of (a) trouble with a friend's car battery, (b) trouble with a friend's car alternator, and (c) her inability to get a seat on a plane to fly stand-by.¹⁹

On August 25, 2008, the United States moved the court to withdraw the bench warrant and schedule a status conference in this matter.²⁰ Judge Stewart granted the motion, and the warrant was returned to the court unexecuted on August 29, 2008.²¹

On September 8, 2008, Judge Stewart held a status conference regarding Respondent Stamm's failure to comply with the Summonses.²² Respondent Stamm appeared pro se at the hearing.²³ Judge Stewart ordered Respondent Stamm to comply with the court's March 27, 2008 order by September 15, 2008, or be assessed a daily fine of \$300.00 until full compliance.²⁴ During that hearing, the United States asked for sanctions to be imposed against Ms. Bell.²⁵ Judge Stewart instructed the United States to seek sanctions against Ms. Bell before this court.²⁶ Accordingly, the United States filed the instant motion.²⁷

¹⁹ *See id.*, Exhibit B.

²⁰ *See* docket no. 15.

²¹ *See* docket no 17.

²² *See* docket no. 18.

²³ *See id.*

²⁴ *See* docket nos. 18, 19.

²⁵ *See* docket no. 18.

²⁶ *See id.*

²⁷ *See* docket no. 20.

Based on the foregoing, the court GRANTS the United States's motion for an order to show cause why Ms. Bell should not be held in criminal contempt based on her actions before this court. Accordingly, an order to show cause hearing is set for October 30, 2008, at 2:00 p.m. in courtroom 102. Because this is a criminal contempt matter, and to alleviate any potential conflicts of interest with the underlying IRS summons enforcement proceeding, the court requests that the United States appoint a criminal Assistant United States Attorney to prosecute this matter. Lastly, a status conference in this matter is set for September 25, 2008, at 2:00 p.m. in courtroom 102, to address the issue of counsel for Ms. Bell.

While the court has added Ms. Bell as an interested party in this case, the court ORDERS the Marshals Service to personally serve Ms. Bell with a copy of this order to ensure that she receive notice of the order to show cause hearing and status conference.

IT IS SO ORDERED.

DATED this 11th day of September, 2008.

BY THE COURT:

A handwritten signature in cursive script that reads "Paul M. Warner". The signature is written in black ink and is positioned above a horizontal line.

PAUL M. WARNER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

**THE UNITED STATES OF AMERICA,
though its agency, THE SMALL
BUSINESS ADMINISTRATION,**

Plaintiff,

vs.

**KAROL S. GLEAVE and MICHAEL C.
GLEAVE,**

Defendants.

ORDER

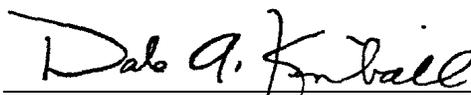
Case No. 2:08CV138 DAK

This matter is before the court on Plaintiff's Motion for Partial Summary Judgment, which was filed on July 15, 2008. In the motion, Plaintiffs seek summary judgment as to its First Cause of Action against Ms. Karol S. Gleave. The undisputed material facts set forth by Plaintiff establish a valid cause of action for a suit on a guaranty, and Ms. Gleave has admitted in her answer that she is liable to SBA for the full outstanding balance of the Note. Moreover, Ms. Gleave has failed to respond to Plaintiff's motion for summary judgment, and the time for doing so has expired.

Accordingly, Plaintiff's Motion for Partial Summary Judgment against Ms. Karol S. Gleave on the First Cause of Action [docket # 11] is GRANTED.

DATED this 12th day of September, 2008.

BY THE COURT:



DALE A. KIMBALL

United States District Judge

United States District Court
for the
District of Utah
September 12, 2008

*****MAILING CERTIFICATE OF THE CLERK*****

RE: Losee v. Turley
2:08-CV-00188 TC

Karl Grant Losee #41156
UTAH STATE PRISON
PO BOX 250
DRAPER, UT 84020-0250

Steven Turley
C/O UTAH ATTORNEY GENERAL
CRIMINAL APPEALS
160 E 300 S 6TH FL
PO BOX 140854
SALT LAKE CITY UT 84114-0854

Aimee Trujillo

David E. Ross II (2803)
Attorney for Plaintiffs
1912 Sidewinder Dr. # 209
Park City, UT 84060
T 435-602-9869
F 435-615-7225
e-mail: deross2@msn.com

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

ARLIN GEOPHYSICAL COMPANY, a Utah corporation and LAURA OLSON, an Individual,	:	
Plaintiffs,	:	SCHEDULING ORDER AND ORDER TO VACATE INITIAL PRETRIAL CONFERENCE
vs.	:	
UNITED STATES,	:	Case No. 2:08-cv-414 Judge: Kimball
Defendant.	:	
	:	

The Magistrate Judge received the Attorneys' Planning Report filed by counsel for the parties pursuant to Rule 16(b) *FRCP* (docket #13). The following matters are hereby scheduled and may not be changed without Court approval.

IT IS HEREBY ORDERED that the Initial Pretrial Hearing set for October 8, 2008 @ 11:00 a.m. is vacated.

1. PRELIMINARY MATTERS:

Nature of claims and any affirmative defenses:

Plaintiffs are seeking declaratory relief in order to quiet title to real estate owned by the Plaintiffs that the Internal Revenue Service has filed a Federal Tax Lien against. The Plaintiffs are not the taxpayer owing monies to the Internal Revenue

Service and the lien encumbrance is preventing the Plaintiffs from being able to sell and/or refinance their properties.

The United States is alleging that the Plaintiffs are the alter ego or transferee or nominee of the taxpayer, John Worthen and therefore have a valid and enforceable Federal Tax Lien.

		DATE
	a. Was Rule 26(f)(1) Conference held?	Yes 09/05/08
	b. Has Attorney Planning Meeting Form been submitted?	Yes 09/08/08
	c. Was Initial Disclosure completed?	Due 10/15/08
2.	DISCOVERY LIMITATIONS	NUMBER
	a. Maximum depositions by Plaintiff.	20
	b. Maximum depositions by Defendant.	20
	c. Maximum hours per deposition. (Except if parties agree)	7
	d. Maximum interrogatories by a party to a party.	50
	e. Maximum requests for admissions by a party to a party.	25
	f. Maximum requests for production of documents.	25
3.	ADMENDMENT OF PLEADINGS/ADDING PARTIES	DATE
	a. Last day to file motion to amend pleadings.	01/05/09
	b. Last day to file motion to add parties.	01/05/09
4.	RULE 26(a)(2) REPORTS FROM EXPERTS	DATE
	a. Plaintiff	03/02/09
	b. Defendant	03/02/09
	c. Counter reports	03/20/09

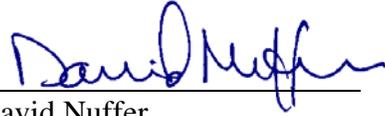
5.	OTHER DEADLINES		DATE
	a. Discovery to be completed:		
	i. Fact discovery		02/02/09
	ii. Expert discovery		03/31/09
	b. Dispositive or potentially dispositive motions		04/15/09
6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION		DATE
	a. Referral to Court-Annexed Mediation	No	
	b. Referral to Court-Annexed Arbitration	No	
	c. Evaluate case for Settlement.ADR on		01/16/09
	d. Settlement probability	Fair	
7.	TRIAL AND PREPARATION FOR TRIAL	TIME	DATE
	a. Rule 26(a)(3) Pretrial Disclosure		
	Plaintiff		08/07/09
	Defendant		08/21/09
	b. Objections to Rule 26(a)(3) Disclosures		
	Defendant		
	Plaintiff		
	c. Special Attorney Conference on or before		09/04/09
	d. Settlement conference on or before		09/04/09
	e. Final Pretrial Conference	2:30 p.m.	09/22/09
	f. Trial	Length	
	i. Bench Trial	3 days	8:30 A.M. 10/05/09
	II. Jury Trial	--	-- --

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding filing a Daubert motion to determine the desired process and hearing of such motion. Such motion, including motions in limine should be filed well in advance of the Final Pretrial Conference. Unless otherwise directed by the Court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the Final Pretrial Conference.

DATED this 12th day of September, 2008.

BY THE COURT



David Nuffer
U.S. Magistrate Judge

David E. Ross II (2803)
Attorney for Plaintiff
1912 Sidewinder Dr. # 209
Park City, UT 84060
T 435-602-9869
E-mail: deross2@msn.com

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

COLT TECHNOLOGIES, LLC, a Utah limited liability company,	:	
	:	SCHEDULING ORDER AND ORDER VACATING HEARING
Plaintiff,	:	
	:	
vs.	:	Case No. 2:08-cv-00449
	:	
TEKVET TECHNOLOGIES CO., a Nevada corporation and DAVID ROBBINS, an individual,	:	Judge: Dale A. Kimball
	:	
Defendants.	:	
	:	
<hr/>		
TEKVET TECHNOLOGIES CO., a Nevada corporation, DAVID ROBBINS, an individual,	:	
	:	
Counterclaimants,	:	
	:	
v.	:	
	:	
COLT TECHNOLOGIES, LLC, a Utah limited liability company, TALI HALEUA, an individual and DARIN SMITH, an individual,	:	
	:	
Counterdefendants.	:	
	:	

The Magistrate Judge received the Attorneys' Planning Report filed by counsel

for the parties pursuant to Rule 16(b) *FRCP* (docket #7). The following matters are hereby scheduled and may not be changed without Court approval.

IT IS HEREBY ORDERED that the Initial Pretrial Hearing set for October 8, 2008 @ 11:00 a.m. is vacated.

1. PRELIMINARY MATTERS:

Nature of claims and any affirmative defenses:

Plaintiff and Counterdefendant, Colt Technologies, LLC (“Colt”) claim lies in contract law, alleging breach of contract against Defendant TekVet Technologies Co. (“TekVet”) for failure to pay the agreed to price under the contract.

TekVet affirmative defenses include payment, offset, alleged wrongful conduct of Plaintiff or others and other defenses alleged.

TekVet counterclaim alleges breach of contract on part of Colt; breach of covenant of good faith and fair dealing on part of Colt and two of its managers; and allegations of breaches of non-competition agreements by two of Colt’s managers.

Colt affirmative defenses against TekVet counterclaim include lack of consideration, failure to mitigate, breach of contract, breach of implied covenant of good faith and fair dealing and other defenses.

		DATE
a. Was Rule 26(f)(1) Conference held?	Yes	09/05/08
b. Has Attorney Planning Meeting Form been submitted?	Yes	09/06/08
c. Was Initial Disclosure completed?	Due	10/15/08
2. DISCOVERY LIMITATIONS		NUMBER
a. Maximum depositions by Plaintiff.		20

b.	Maximum depositions by Defendant.	20
c.	Maximum hours per deposition. (Except if parties agree)	7
d.	Maximum interrogatories by a party to a party.	50
e.	Maximum requests for admissions by a party to a party.	20
f.	Maximum requests for production of documents.	20
3.	ADMENDMENT OF PLEADINGS/ADDING PARTIES	DATE
a.	Last day to file motion to amend pleadings.	01/05/09
b.	Last day to file motion to add parties.	01/05/09
4.	RULE 26(a)(2) REPORTS FROM EXPERTS	DATE
a.	Plaintiff	04/30/09
b.	Defendant	04/30/09
c.	Counter reports	05/15/09
5.	OTHER DEADLINES	DATE
a.	Discovery to be completed:	
i.	Fact discovery	03/31/09
ii.	Expert discovery	05/29/09
b.	Dispositive or potentially dispositive motions	06/19/09
6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION	DATE
a.	Referral to Court-Annexed Mediation	No
b.	Referral to Court-Annexed Arbitration	No
c.	Evaluate case for Settlement.ADR on	02/28/09
d.	Settlement probability	Fair

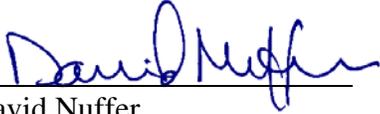
7.	TRIAL AND PREPARATION FOR TRIAL	TIME	DATE
	a. Rule 26(a)(3) Pretrial Disclosures		
	Plaintiff		10/09/09
	Defendant		10/23/09
	b. Objections to Rule 26(a)(3) Disclosures		
	Defendant		
	Plaintiff		
	c. Special Attorney Conference on or before		11/06/09
	d. Settlement conference on or before		11/06/09
	e. Final Pretrial Conference	2:30 p.m.	11/23/09
	f. Trial	Length	
	i. Bench Trial	---	
	II. Jury Trial	3 days	8:30 A.M. 12/07/09

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding filing a Daubert motion to determine the desired process and hearing of such motion. Such motion, including motions in limine should be filed well in advance of the Final Pretrial Conference. Unless otherwise directed by the Court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the Final Pretrial Conference.

DATED this 12th day of September, 2008.

BY THE COURT



 David Nuffer
 U.S. Magistrate Judge

FILED
U.S. DISTRICT COURT

2008 SEP 12 A 8:47

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Terry E. Welch (5819)
Bentley J. Tolk (6665)
PARR WADDOUPS BROWN GEE & LOVELESS
185 S. State Street, Suite 1300
Salt Lake City, Utah 84111
Telephone: (801) 532-7840
Facsimile: (801) 532-7750

Attorneys for Defendants General Dynamics
Corporation and General Dynamics Corporation
Employee Health Benefit Plan

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

BETHANY MASON and VERRDON
MASON,

Plaintiffs,

vs.

GENERAL DYNAMICS CORPORATION,
GENERAL DYNAMICS CORPORATION
EMPLOYEE HEALTH BENEFIT PLAN,
EMPIRE HEALTHCHOICE HMO, INC.,
and UNITED BEHAVIORAL HEALTH,
INC.,

Defendants.

**ORDER FOR PRO HAC
VICE ADMISSION**

Civil No. 2:08-CV-00477 TS

Honorable Ted Stewart

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Spiridoula Mavrothalasitis in the United States District Court, District of Utah in the subject case is GRANTED.

Dated this 12th day of September, 2008.



U.S. District Judge
The Honorable Ted Stewart

Terry E. Welch (5819)
Bentley J. Tolk (6665)
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Salt Lake City, Utah 84111
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Attorneys for Defendants General Dynamics
Corporation and General Dynamics Corporation
Employee Health Benefit Plan

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

BETHANY MASON and VERRDON
MASON,

Plaintiffs,

vs.

GENERAL DYNAMICS CORPORATION,
GENERAL DYNAMICS CORPORATION
EMPLOYEE HEALTH BENEFIT PLAN,
EMPIRE HEALTHCHOICE HMO, INC.,
and UNITED BEHAVIORAL HEALTH,
INC.,

Defendants.

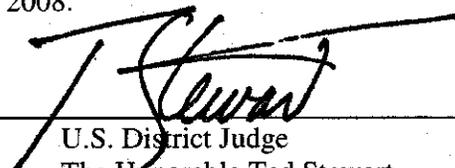
**ORDER FOR PRO HAC
VICE ADMISSION**

Civil No. 2:08-CV-00477 TS

Honorable Ted Stewart

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Craig C. Martin in the United States District Court, District of Utah in the subject case is
GRANTED.

Dated this 12th day of September, 2008.



U.S. District Judge
The Honorable Ted Stewart

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

**M-13 CONSTRUCTION, INC., a Utah
corporation,**

Plaintiff,

v.

**MOSAICA EDUCATION, INC., a
Georgia corporation; and GENE
EIDELMAN, an individual,**

Defendants.

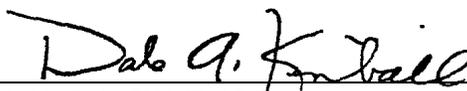
**ORDER DISMISSING DEFENDANT
GENE EIDELMAN**

Case No. 2:08CV478 DAK

Based on the parties' stipulation of dismissal of Defendant Gene Eidelman, he is hereby
DISMISSED from this action without prejudice, each party to bear its own costs and fees.

DATED this 12th day of September, 2008.

BY THE COURT:



DALE A. KIMBALL

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central Division for the District of Utah

SOURCE DIRECT HOLDINGS,

Plaintiff,

vs.

INTEGRITAS et al,

Defendant.

SCHEDULING ORDER

Case No. 2:08-cv-00520

District Judge Dee Benson

Magistrate Judge Wells

Pursuant to Fed. R. Civ. P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #20). The court held an Initial Pretrial Conference on 09/09/2008 @ 10:30 a.m. (docket #27). Plaintiff was represented by Ms. Tobi Potestio, Esq; Defendant was represented by Mr. Leslie Slaugh, Esq. and Mr. Ray Martineau. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. PRELIMINARY MATTERS | <u>DATE</u> |
|--|--------------------|
| Nature of claim(s) and any affirmative defenses: | |
| a. Was Rule 26(f)(1) Conference held? | <u>09/23/09</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>08/13/08</u> |
| c. Was 26(a)(1) initial disclosure completed? | <u>09/23/08</u> |
-
- | 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|--|----------------------|
| a. Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>25</u> |
| e. Maximum requests for admissions by any Party to any Party | <u>unlimited</u> |
| f. Maximum requests for production by any Party to any Party | <u>unlimited</u> |

	<u>DATE</u>
3. AMENDMENT OF PLEADINGS/ADDING PARTIES²	
a. Last Day to File Motion to Amend Pleadings	<u>10/24/08</u>
b. Last Day to File Motion to Add Parties	<u>10/24/08</u>
4. RULE 26(a)(2) REPORTS FROM EXPERTS³	
a. Plaintiff	<u>01/16/09</u>
b. Defendant	<u>01/16/09</u>
c. Counter Reports	<u>02/13/09</u>
5. OTHER DEADLINES	
a. Discovery to be completed by:	
Fact discovery	<u>12/23/08</u>
Expert discovery	<u>3/13/09</u>
b. <i>(optional)</i> Final date for supplementation of disclosures and discovery under Rule 26 (e)	
c. Deadline for filing dispositive or potentially dispositive motions	<u>04/10/09</u>
6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION	
a. Referral to Court-Annexed Mediation	
b. Referral to Court-Annexed Arbitration	
c. Evaluate case for Settlement/ADR on	
d. Settlement probability:	
7. TRIAL AND PREPARATION FOR TRIAL:	
a. Rule 26(a)(3) Pretrial Disclosures ⁴	
Plaintiffs	07/18/09
Defendants	08/01/09
b. Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)	

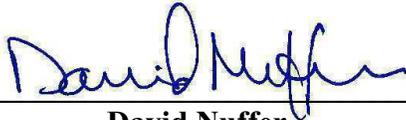
			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		08/15/09
d.	Settlement Conference ⁶ on or before		08/15/09
e.	Final Pretrial Conference	2:30 p.m.	09/08/09
f.	<u>Trial</u>	<u>Length</u>	<u>Time</u>
	i. Bench Trial		
	ii. Jury Trial	<u>Seven days</u>	<u>8:30 a.m.</u>
			<u>09/21/09</u>

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 12 day of September, 2008.

BY THE COURT:



**David Nuffer
U.S. Magistrate Judge**

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special

equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

S:\IPT\2008\Source Direct Holdings v. Integritas et al 208cv520DB 0909 tb.wpd

Steven W. Beckstrom - 9534
Jenny T. Jones - 10430
CLARKSON DRAPER & BECKSTROM, LLC
162 North 400 East, Suite A-204
P.O. Box 1630
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Facsimile: (435) 634-1942
Attorney for Plaintiff
sbeckstrom@clarksondraper.com
jjones@clarksondraper.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION**

BULLOCH BROTHERS ENGINEERING,
INC., a Utah corporation;

Plaintiff,

vs.

R. BARRY MCCOMIC, an individual, R.
BARRY MCCOMIC D/B/A TRANS WEST
HOUSING, INC., R. BARRY MCCOMIC
D/B/A MCCOMIC CONSOLIDATED, INC.;

Defendants.

:
: **SCHEDULING ORDER AND**
: **ORDER VACATING HEARING**
:
:
:
:
: Case No. 2:08-cv-564
:
: District Judge Ted Stewart
:
:
:
:
:
:
:

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #6). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for October 8, 2008, at 10:30 a.m. is VACATED.

1.	PRELIMINARY MATTERS	<u>DATE</u>
	Nature of claim(s) and any affirmative defenses:	
	a. Was Rule 26(f)(1) Conference held?	<u>08/28/08</u>
	b. Has Attorney Planning Meeting Form been submitted?	<u>09/08/08</u>
	c. Was 26(a)(1) initial disclosure completed?	<u>9/10/08</u>
2.	DISCOVERY LIMITATIONS	<u>NUMBER</u>
	a. Maximum Number of Depositions by Plaintiff(s)	<u>5</u>
	b. Maximum Number of Depositions by Defendant(s)	<u>5</u>
	c. Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	<u>7</u>
	d. Maximum Interrogatories by any Party to any Party	<u>25</u>
	e. Maximum requests for admissions by any Party to any Party	<u>25</u>
	f. Maximum requests for production by any Party to any Party	<u>25</u>
		<u>DATE</u>
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES²	
	a. Last Day to File Motion to Amend Pleadings	<u>12/01/08</u>
	b. Last Day to File Motion to Add Parties	<u>12/01/08</u>
4.	RULE 26(a)(2) REPORTS FROM EXPERTS³	
	a. Plaintiff	<u>03/01/09</u>
	b. Defendant	<u>03/01/09</u>
	c. Counter reports	<u>04/01/09</u>

5. OTHER DEADLINES

- a. Discovery to be completed by:
 - Fact discovery 02/01/09
 - Expert discovery 05/01/09
- b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e) 00/00/00
- c. Deadline for filing dispositive or potentially dispositive motions 05/01/09

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

- a. Referral to Court-Annexed Mediation Yes/No **No**
- b. Referral to Court-Annexed Arbitration Yes/No **No**
- c. Evaluate case for Settlement/ADR on 04/01/09
- d. Settlement probability: **fair**

7. TRIAL AND PREPARATION FOR TRIAL:

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiff **08/28/09**
 - Defendant **09/11/09**
- b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule) **DATE**
- c. Special Attorney Conference⁵ on or before **09/25/09**
- d. Settlement Conference⁶ on or before **09/25/09**
- e. Final Pretrial Conference **2:30 p.m.** **10/13/09**

f. Trial	<u>Length</u>	<u>Time</u>	<u>Date</u>
i. Bench Trial	<u># days</u>	_____	_____
ii. Jury Trial	<u>Two Days</u>	<u>8:30 a.m.</u>	<u>10/26/09</u>

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 12th_ day of September, 2008.

BY THE COURT:

 David Nuffer
 U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.
6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

S:\IPT\2008\Bulloch Bros. v. McComic 208cv564TS 0908 tb.wpd

2008 SEP 11 A 11: 34

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION
DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

TRAVIS CHIDESTER,

Plaintiff,

vs.

MICHAEL J. ASTRUE, Commissioner,
Social Security Administration,

Defendant.

ORDER OF REFERENCE

Civil No. 2:08 CV 572 TC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(B) and the rules of this court, the above entitled case is referred to United States Magistrate Judge Brooke C. Wells. Judge Wells is directed to manage the case, receive all motions, hear oral arguments, conduct evidentiary hearings as deemed appropriate, and to submit to the undersigned judge a report and recommendation for the proper resolution of dispositive matters presented.

DATED this 10th day of September, 2008.

BY THE COURT:



TENA CAMPBELL
Chief Judge

FILED
U.S. DISTRICT COURT

2008 SEP 12 A 11:09

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IOWA

CENTRAL DIVISION

BY: _____
DEPUTY CLERK

EDWARD ALLEN BUCK,

Plaintiff,

v.

BENCH, et al.

Defendants,

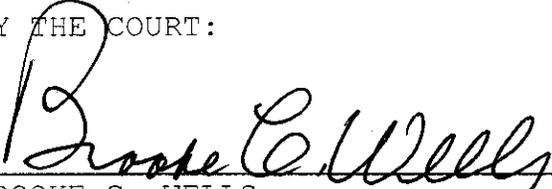
: 2:08CV 581 TC

: NOTICE OF RECUSAL

I recuse myself in this case and ask that it be reassigned
to another Magistrate Judge.

DATED this 12th day of September, 2008.

BY THE COURT:


BROOKE C. WELLS
United States Magistrate Judge

FILED
U.S. DISTRICT COURT

United States District Court

DISTRICT OF UTAH
Central Division for the District of Utah

BY: _____
DEPUTY CLERK

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

Guldyn Platinum et al

v.

State of California et al

Case: 2:08cv00694
Assigned To : Greene, J. Thomas
Assign. Date : 9/12/2008
Description: Guldyn Platinum et al v.
State of California et al

Having considered the application to proceed without prepayment of fees under 28 U.S.C. 1915;

IT IS ORDERED that the application is:

GRANTED.

The clerk is directed to file the complaint.

DENIED, for the following reasons:

ENTER this

9th

day of

Sept

, 20*08*

Brooke C. Wells

Signature of Judicial Officer

Magistrate Judge Brooke C. Wells

Name and Title of Judicial Officer

FILED
U.S. DISTRICT COURT
UNITED STATES DISTRICT COURT
2008 SEP 11 A 11:48
Central District of Utah

UNITED STATES OF AMERICA

V. BY: DEPUTY CLERK

Edin Ralda-Hernandez
aka Eduardo Dein Ralda
aka Rolando Gonzalez
aka Eduardo A. Ralda

JUDGMENT IN A CRIMINAL CASE
(For Revocation of Probation or Supervised Release)

Case Number: DUTX 2:97CR00232-001 TC
USM Number: 06417-081

Spencer Rice
Defendant's Attorney

THE DEFENDANT:

- admitted guilty to violation of condition(s) #1 of the Petition of the term of supervision.
- was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1.	The defendant illegally re-entered the United States, and was found in Los Angeles, California, on or about 4/15/2004. No information has been received to indicate the defendant had legal permission to enter the country.	

The defendant is sentenced as provided in pages 2 through 2 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has not violated condition(s) #2 of the Petition and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's Residence Address: _____

Defendant's Mailing Address: _____

09/08/2008
Date of Imposition of Judgment

Tena Campbell
Signature of Judge

Tena Campbell Chief, United States District Court Judge
Name and Title of Judge

9-10-2008
Date

DEFENDANT: Edin Ralda-Hernandez
CASE NUMBER: 2:97CR00232-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

18 Months, 9 Months shall run CONSECUTIVELY to sentence imposed in 1:08CR00038 TC AND
9 Months shall run CONCURRENTLY to sentence imposed in 1:08CR00038 TC.

The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant serve his sentence at FCI Fort Dix, New Jersey.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL