

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF (****)

Plaintiffs,

vs.

Defendants.

Case No.

CASE MANAGEMENT ORDER # 2
(After 1st Mediation)

The Discovery Status Conference came before Discovery Referee _____ on _____. The
Discovery Referee

HEREBY RECOMMENDS

1. **Discovery Status Conference Hearings**

The Discovery Referee shall conduct status conferences on the following days:

_____ v. _____
Case Management Order #2

[every 5 – 6 weeks] _____ 10:00 a.m.
[every 5 – 6 weeks] _____ 10:00 a.m.
[every 5 – 6 weeks] _____ 10:00 a.m.
[every 5 – 6 weeks] _____ 10:00 a.m.

A court reporter will be present at each hearing.

The parties are to serve status reports five court days prior to the hearing to the Discovery Referee and opposing counsel. Service to be effectuated by hand delivery, same day fax service, overnight mail or e-mail. Status reports to contain the following:

Depositions

- (1) depositions completed
- (2) depositions incomplete with an estimate of time for completion
- (3) proposed depositions to be taken in the next 45 days
- (4) anticipated depositions to be scheduled between 46 days - trial excluding experts

Written Discovery

- (1) proposed written discovery
- (2) written discovery that is outstanding

Motions

- (1) discovery motions
- (2) substantive motions filed with the Law & Motion department or the Presiding Judge

The status conferences will be held via phone conference. However, if it becomes necessary, or if any party so requests, the conferences will be held in person at _____

If a party requests that a discovery issue be discussed at an upcoming hearing, they must serve the Discovery Referee and all counsel via fax the Friday before the hearing a written list of issues to be discussed.

All motions will be heard at the status conferences. The briefing schedule may be on shortened time. Moving party to contact the Discovery Referee for the briefing schedule prior to serving the motion. All original papers are to be filed with the court with a courtesy copy sent to the Discovery Referee. The parties may file letter briefs instead of full motion papers if all parties are in agreement. However, if the motion involves further responses then a CRC 3.1345 separate statement of items in dispute must be filed. The court day before the hearing, the Discovery Referee will fax a tentative ruling to all parties. If any party contests the tentative ruling then you must notify the Discovery Referee and opposing counsel by 4:00 p.m.

3. **Depositions Completed**

The Discovery Referee has found that the following depositions have been completed:

- A.
- B.
- C.

The completion of the above depositions is subject to a motion by new parties to reopen the depositions.

4. **Incomplete Depositions**

The Discovery Referee has found that the following depositions have been started but have not been completed:

- A.
- B.
- C.

5. **Depositions to be scheduled**

The Discovery Referee has identified the following non-expert depositions that need to be taken:

A. **Within next 90 days**

- 1.
- 2.
- 3.

B. **Within next 190 days**

- 1.
- 2.
- 3.

C. **Prior to close of discovery**

- 1.
- 2.
- 3.

6. **Discovery Committee**

The parties have agreed or the Discovery Referee has appointed the following counsel to the discovery committee:

- (1) Counsel for Plaintiffs
- (2) Counsel for Developer/General Contractor
- (3) Counsel for Subcontractor #1
- (4) Counsel for Subcontractor #2

The discovery committee members are to attend all discovery status conferences *in person*. All other parties may attend, but their attendance is not mandatory. If a member of the discovery committee is unavailable, then they are to advise the Discovery Referee and opposing counsel at their earliest convenience so

that the discovery status conference can be rescheduled if necessary.

7. **Discovery Opened**

Discovery is open for all parties that have properly responded to the discovery listed in paragraph 7, subsections A and B, of Case Management Order #1.

8. **Pre-Approval of Discovery**

Due to the complexity of the case and the number of cross-defendants who will be focusing their discovery on Plaintiffs, defendant _____ and defendant/cross-defendant _____ all discovery (including depositions of parties/party affiliated witnesses, subpoenas of third party witnesses, subpoenas for documents from third parties, form interrogatories, special interrogatories, request for admissions and requests for documents) shall be pre-approved by the Discovery Referee.

A. All proposed discovery shall be submitted in final form to the Discovery Referee and opposing counsel for pre-approval fifteen (15) days prior to the status conference. Opposing counsel shall object in writing five (5) days prior to the status conference to any aspect of the proposed discovery. Propounding party shall reply two (2) court days prior to the status conference. The Discovery Referee ruling shall be incorporated into a recommendation for the court's signature. No discovery shall be conducted by any party until approval by the Discovery Referee has been obtained.

Objections to the discovery are to focus on

- (1) Specifically, which interrogatories, requests for admissions, requests for production of documents, deposition subpoenas are being objected to¹;
- (2) The areas of discovery sought had already been explored; and
- (3) What discovery devices have been used including how much deposition testimony has covered the issue, how many document requests, interrogatories, requests

¹ All objections except those on the grounds of privilege and work product are deemed waived if not raised at the this time.

for admissions and requests for production of documents have been propounded on the issue.

Reply to the objections are to focus on

- (1) The areas of discovery sought;
- (2) Why the area of discovery sought wasn't obtained in prior deposition questioning or written discovery; and
- (3) The need for the discovery.

B. Each party is limited to the following:

- (1) A combination of 35 Form Interrogatories, Special Interrogatories, Requests for Admission and Requests for Production of Documents.
- (2) A party can use special interrogatories or Form Interrogatory 17.1(d) to request another party to identify by bates stamp the location of a document in the document depository.
- (3) No limitation on third party subpoenas for documents².
- (4) Depositions of parties and third party witnesses will be determined by the Discovery Referee and scheduled by the discovery committee subject to approval by the referee.

C. Service of the proposed discovery, opposition to the proposed discovery and the reply may be served via overnight service, fax service or e-mail service.

9. **Discovery Approved**

The following discovery has been approved.

- A. Discovery to _____
- B. Discovery to _____
- C. Discovery to _____

² The subpoenaed documents are to be produced to the document depository.

The discovery is deemed served on _____. Parties to serve verified responses to the discovery no later than _____. Service may be effectuated by hand delivery, overnight service, fax service, e-mail service or U.S. Mail.

10. **Dates for Mediation**

_____ has been selected as mediator. The mediation is scheduled for _____ at _____. The parties agree/do not agree that the Discovery Referee and the mediator can communicate with one another regarding **ONLY** what discovery needs to be completed or dispositive motion needs to be made prior to the next mediation.

11. **Electronic Service**

10. **Electronic Service**

The Court having deemed this case complex within the meaning of California Rules of Court, Rule 3.400(a), and after finding that such an order would not cause undue hardship or significant prejudice to any party (in that LexisNexis has agreed to serve as the e-serve agent in this proceeding, each party, through counsel, has received information on how to electronically serve documents, the costs proposed for electronic service will generally be less than the costs otherwise incurred by the parties for copying and mailing, and the technology required for electronic service should be readily available to all counsel without significant expense) it is ordered that pursuant to Code of civil Procedure §187 and California Rules of Court Rule 2.253(a), within 5 days of service of this order, all parties that have appeared in this case shall serve any and all pleadings, motions, documents (as that term is defined by California Rules of Court 2.250(2)), and any other document required to be served pursuant to the California Code of Civil Procedure, electronically using LexisNexis, except when personal service is required by statute or rule. E-service shall be the only method of service considered as valid and effective on all designated recipients pursuant to California Rules of Court, Rules 2.250 to 2.261, inclusive. Every pleading (including without limitation, discovery requests and discovery responses served

electronically shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, telephone number and State Bar of California number of said attorney. Topographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the California Rules of Court. This Order shall apply only to the electronic service of documents upon other counsel. Counsel or parties filing documents with the Court shall do so electronically with the Clerk of the Court following existing filing procedures.

12. **Referee Fees**

Referee fees to be split as follows: _____ plaintiffs, _____ Developer/General Contractor and _____ Subcontractors. Fees to be paid in full in 30 days.

13. **Objection to Recommendation**

Any objection to this recommendation must be in compliance with C.C.P. §643.

SO RECOMMENDED:

Date _____

Discovery Referee

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ORDER

The court having reviewed the above recommendation of the referee and approves of the same. It is therefore ordered that the parties shall comply with the above recommendation.

Dated: _____

Honorable _____
JUDGE OF THE SUPERIOR COURT