

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Inscription Canyon Ranch Sanitary District,
Plaintiff,
v.
American Alternative Insurance
Corporation,
Defendant.

No. CIV 12-8019 PCT DGC
CASE MANAGEMENT ORDER

On **May 11, 2012**, a Case Management Conference was held pursuant to Rule 16(b) of the Federal Rules of Civil Procedure. The parties met before the conference in accordance with Rule 26(f) and prepared a joint case management report. On the basis of the Case Management Conference and the joint report,

IT IS HEREBY ORDERED:

1. Deadline for Initial Disclosures. Initial disclosures required by Federal Rule of Civil Procedure 26(a), if not already exchanged, shall be exchanged no later than **May 14, 2012**. The parties shall file with the Clerk a Notice of Initial Disclosure, rather than copies of the actual disclosures.
2. Deadline for Joining Parties, Amending Pleadings, and Filing Supplemental Pleadings. The deadline for joining parties, amending pleadings, and filing supplemental pleadings is **30 days** from the date of this Order.
3. Discovery Limitations. Depositions shall be limited to seven hours each as provided in Rule 30(d)(1) of the Federal Rules of Civil Procedure. Each side may

1 propound up to 25 interrogatories, including subparts, 25 requests for production of
2 documents, including subparts, and 25 requests for admissions, including subparts.

3 4. Deadline for Completion of Fact Discovery. The deadline for completing
4 fact discovery, including discovery by subpoena, shall be **November 2, 2012**. To ensure
5 compliance with this deadline, the following rules shall apply:

6 a. Depositions: All depositions shall be scheduled to commence at
7 least **five working days** prior to the discovery deadline. A deposition commenced five
8 days prior to the deadline may continue up until the deadline, as necessary.

9 b. Written Discovery: All interrogatories, requests for production of
10 documents, and requests for admissions shall be served at least **45 days** before the
11 discovery deadline.

12 c. The parties may mutually agree in writing, without Court approval,
13 to extend the time provided for discovery responses in Rules 33, 34, and 36 of the Federal
14 Rules of Civil Procedure. Such agreed-upon extensions, however, shall not alter or
15 extend the discovery deadlines set forth in this Order.

16 5. Deadlines for Disclosure of Experts and Completion of Expert Discovery.

17 a. Plaintiff(s) shall provide full and complete expert disclosures as
18 required by Rule 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure no later than
19 **September 14, 2012**.

20 b. Defendant(s) shall provide full and complete expert disclosures as
21 required by Rule 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure no later than
22 **October 12, 2012**.

23 c. Rebuttal expert disclosures, if any, shall be made no later than
24 **November 2, 2012**. Rebuttal experts shall be limited to responding to opinions stated by
25 initial experts.

26 d. Expert depositions shall be completed no later than
27 **December 7, 2012**. As with fact witness depositions, expert depositions shall be
28 scheduled to commence at least five working days before the deadline.

1 e. Disclosures under Rule 26(a)(2)(A) must include the identities of
2 treating physicians and other witnesses who will provide testimony under Federal Rules
3 of Evidence 702, 703, or 705, but who are not required to provide expert reports under
4 Rule 26(a)(2)(B). Rule 26(a)(2)(C) disclosures are required for such witnesses on the
5 dates set forth above. Rule 26(a)(2)(C) disclosures must identify not only the subjects on
6 which the witness will testify, but must also provide a summary of the facts and opinions
7 to which the expert will testify. The summary, although clearly not as detailed as a Rule
8 26(a)(2)(B) report, must be sufficiently detailed to provide fair notice of what the expert
9 will say at trial.¹

10 f. As stated in the Advisory Committee Notes to Rule 26 (1993
11 Amendments), expert reports disclosed under Rule 26(a)(2)(B) must set forth “the
12 testimony the witness is expected to present during direct examination, together with the
13 reasons therefor.” Full and complete disclosures of such testimony are required on the
14 dates set forth above; absent truly extraordinary circumstances, parties will not be
15 permitted to supplement their expert reports after these dates.

16 g. Each side shall be limited to one retained or specially employed
17 expert witness per issue.

18 6. Discovery Disputes.

19 a. The parties shall not file written discovery motions without leave of
20 Court.² If a discovery dispute arises, the parties promptly shall contact the Court to
21 request a telephone conference concerning the dispute. The Court will seek to resolve the
22 dispute during the telephone conference, and may enter appropriate orders on the basis of
23

24 ¹ In *Goodman v. Staples The Office Superstore, LLC*, 644 F.3d 817 (9th Cir. 2011), the
25 Ninth Circuit held that “a treating physician is only exempt from Rule 26(a)(2)(B)’s written
26 report requirement to the extent that his opinions were formed during the course of treatment.”
27 *Id.* at 826. Thus, for opinions formed outside the course of treatment, Rule 26(a)(2)(B) written
28 reports are required. *Id.* For opinions formed during the Court of treatment, Rule 26(a)(2)(C)
disclosures will suffice.

² The prohibition on “written discovery motions” includes any written materials delivered
or faxed to the Court, including hand-delivered correspondence with attachments.

1 the telephone conference. The Court may order written briefing if it does not resolve the
2 dispute during the telephone conference.

3 b. Parties shall not contact the Court concerning a discovery dispute
4 without first seeking to resolve the matter through personal consultation and sincere
5 effort as required by Local Rule of Civil Procedure 7.2(j). Any briefing ordered by the
6 Court shall also comply with Local Rule of Civil Procedure 7.2(j).

7 c. Absent extraordinary circumstances, the Court will not entertain fact
8 discovery disputes after the deadline for completion of fact discovery, and will not
9 entertain expert discovery disputes after the deadline for completion of expert discovery.

10 7. Deadline for Filing Dispositive Motions.

11 a. Dispositive motions shall be filed no later than **January 11, 2013**.
12 Such motions must comply in all respects with the Federal Rules of Civil Procedure and
13 the Local Rules.

14 b. No party shall file more than one motion for summary judgment
15 under Rule 56 of the Federal Rules of Civil Procedure unless permission is first obtained,
16 by joint telephone call, from the Court.

17 c. Failure to respond to a motion within the time periods provided in
18 Local Rule of Civil Procedure 7.2 will be deemed a consent to the denial or granting of
19 the motion and the Court may dispose of the motion summarily pursuant to Local Rule of
20 Civil Procedure 7.2(i).

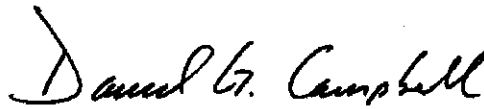
21 d. The parties shall not notice oral argument on any motion. Instead, a
22 party desiring oral argument shall place the words "Oral Argument Requested"
23 immediately below the title of the motion pursuant to Local Rule of Civil Procedure
24 7.2(f). The Court will issue an order scheduling oral argument as it deems appropriate.

25 8. Deadline for Engaging in Good Faith Settlement Talks. All parties and
26 their counsel shall meet in person and engage in good faith settlement talks no later than
27 **September 28, 2012**. Upon completion of such settlement talks, and in no event later
28 than five working days after the deadline set forth in the preceding sentence, the parties

1 shall file with the Court a joint report on settlement talks executed by or on behalf of all
2 counsel. The report shall inform the Court that good faith settlement talks have been held
3 and shall report on the outcome of such talks. The parties shall indicate whether
4 assistance from the Court is needed in seeking settlement of the case. The parties shall
5 promptly notify the Court at any time when settlement is reached during the course of
6 this litigation.

7 9. The Deadlines Are Real. The parties are advised that the Court intends to
8 enforce the deadlines set forth in this Order, and should plan their litigation activities
9 accordingly. The parties are specifically informed that the Court will not, absent truly
10 unusual circumstances, extend the schedule in this case to accommodate settlement talks.

11
12 Dated this 15th day of May, 2012.

13
14 

15 _____
16 David G. Campbell
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28