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14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

15 **IN AND FOR THE COUNTY OF MARICOPA**

16 Peter S. Davis, as Receiver of DenSco
17 Investment Corporation, an Arizona
18 corporation,

19 Plaintiff,

20 v.

21 US Bank, NA, a national banking
22 organization; Hilda H. Chavez and John
23 Doe Chavez, a married couple; JP
24 Morgan Chase Bank, N.A., a national
25 banking organization; Samantha Nelson
26 f/k/a Samantha Kumbaleck and Kristofer
27 Nelson, a married couple; and Vikram
28 Dadlani and Jane Doe Dadlani, a married
couple,

Defendants.

No. CV2019-011499

JOINT REPORT

(Tier 3 case)

(Assigned to Hon. Daniel Martin)

(Commercial case)

29 The parties signing below certify that they have conferred in good faith, either
30 in person or by telephone, as required by Rule 7.1(h), about the matters set forth in
31 Rules 8.1(e) and 16(b)(2) and (c)(3), and that this case is not subject to the mandatory
32 arbitration provisions of Rule 72. With regard to matters upon which the parties
33 could not agree, they have set forth their positions separately in item 14 below. The
34 parties are submitting a Proposed Scheduling Order with this Joint Report. Each date

1 in the Joint Report and in the Proposed Scheduling Order includes a calendar month,
2 day, and year.

3 1. ***Brief description of the case:*** The plaintiff in this action is Peter S.
4 Davis, the court-appointed receiver of DenSco Investment Corporation (the
5 “Receiver”). Davis was appointed on August 18, 2016 in *Arizona Corporation*
6 *Commission v. DenSco Investment Corporation*, Case No. CV 2016-014142, after the
7 death by suicide of DenSco’s sole director, officer and employee, Denny Chittick, and
8 the filing of an application for the appointment of a receiver by the Securities Division
9 of the Arizona Corporation Commission. DenSco was in the business of funding the
10 purchase of real estate secured by deeds of trust, using money raised from investors
11 who purchased promissory notes from DenSco.
12

13 As part of its business, DenSco loaned money to Scott Menaged and his
14 companies, Easy Investments, LLC and Arizona Home Foreclosures, LLC, to
15 purchase foreclosed properties, for which Menaged was to give DenSco first position
16 liens against the properties he purchased. Starting in January 2014, DenSco wired
17 monies to accounts that Menaged maintained with Defendant U.S. Bank National
18 Association and Defendant JPMorgan Chase Bank, N.A., respectively, and Menaged
19 or his agent would draw cashier’s checks against his accounts, purportedly to pay
20 trustees for foreclosed properties. The Receiver contends that Menaged did not use
21 the loaned monies to purchase foreclosed properties, and instead redeposited the
22 cashier’s checks into his bank accounts and used those funds for other purposes.
23

24 In his Second Amended Complaint, filed on February 5, 2021, the Receiver
25 alleges that Defendants aided and abetted Menaged in defrauding DenSco. He also
26 asserts claims against Defendants for aiding and abetting fraud, conversion and breach
27 of fiduciary duty, and for civil racketeering. After counsel for the parties met and
28 conferred, pursuant to Rule 12(j), to discuss whether certain claims in the Second

1 Amended Complaint were sufficiently stated, the Receiver drafted and provided to
2 Defendants a proposed Third Amended Complaint. While Defendants do not agree
3 that the proposed Third Amended Complaint cures the deficiencies they identified in
4 the Second Amended Complaint, they have consented to the filing of the Third
5 Amended Complaint.

6 Defendants deny any liability and have also asserted several affirmative
7 defenses.

- 8
- 9 • If a claimant is seeking other than monetary damages, specify the relief
10 sought: Not applicable.

11 2. ***Current case status:*** Every defendant has been served or dismissed.

12 Yes.

- 13 • Every party who has not been defaulted has filed a responsive pleading.

14 No.

- 15 • Explanation of a “no” response to either of the above statements:

16 Defendants have reviewed the Receiver’s proposed Third Amended
17 Complaint. Although Defendants believe that it has not cured the issues raised
18 by Defendants’ counsel with respect to the Second Amended Complaint, they
19 have consented to the Receiver filing it. Defendants intend to file a Rule 12
20 motion challenging the new claims asserted in the Third Amended Complaint.

21 3. ***Amendments:*** A party anticipates filing an amendment to a pleading
22 that will add a new party to the case: No.

23 4. ***Special case management:*** Special case management procedures are
24 appropriate: No.

25 5. ***Commercial case management [Rule 8.1(e)]:***

26 a. **Approximate Amount in Controversy:** In excess of \$10
27 million.

1 b. **The commercial court should assign this case to a tier other**
2 **than Tier 3 for the following reasons:** Not applicable.

3 c. **Anticipated Areas of Expert Testimony (not binding):**

4 Plaintiff: Banking (policies, procedures, statutory and regulatory
5 obligations), damages.

6 Defendants: Banking, real estate/foreclosure, legal malpractice.

7 d. **Electronically Stored Information:** The parties do expect
8 electronically stored information to be at issue in this case.

9 Have the parties reached an agreement regarding the discovery of
10 electronically stored information? Not yet. They anticipate doing so in the near
11 future.

12 If yes, have the parties filed a stipulated order? No.

13 Do the parties currently have disputes or anticipate particular disputes
14 over electronically stored information? No.

15 e. **Privilege Issues and Protective Order**

16 Have the parties reached an agreement regarding the inadvertent production
17 of privileged material pursuant to Rule 502 of the Rules of Evidence? No.

18 Have any issues arisen or do you expect any issues to arise regarding
19 claims of privilege or protection of trial preparation materials pursuant to Rule
20 26(b)(6) or Rule 26.1(h)? No. They intend to stipulate to the entry of a protective
21 order applicable to confidential, non-privileged information.

22 6. **Settlement:** The parties agree to engage in settlement discussions with a
23 private mediator. The parties expect that they will be ready for a private mediation by
24 no later than April 8, 2022.

25 If the parties will not engage in a settlement conference or a private mediation,
26 state the reason(s): Not applicable.

27 7. **Readiness:** The parties expect that this case will be ready for trial by
28 June 13, 2022, unless summary judgment motions are pending.

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8. **Jury:**
- There is a right to a trial by jury. Yes.
 - If there is such a right, it has been waived by the parties. No.
9. **Length of trial:** The estimated length of trial is 10-12 days.
10. **Summary jury:** The parties agree to a summary jury trial. No.
11. **Preference:** This case is entitled to a preference for trial pursuant to the following statute or rule: Not applicable.
12. **Special requirements:** At a pretrial conference or at trial, a party will require disability accommodations and/or an interpreter: Not applicable.
13. **Other matters:** Other matters that the parties wish to bring to the court's attention that may affect management of this case: Not applicable.
14. **Items upon which the parties do not agree:** Not applicable.

DATED this 19th day of March, 2021.

OSBORN MALEDON, P.A.

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This document was electronically filed
and served via AZTurboCourt
this 19th day of March, 2021, on:

Honorable Daniel Martin
Maricopa County Superior Court
101 West Jefferson, ECB-412
Phoenix, Arizona 85003

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20 /s/ Lauren Dwyer _____

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No. CV2019-011499

**PROPOSED SCHEDULING
ORDER**

(Tier 3 case)

(Assigned to Hon. Daniel Martin)

(Commercial case)

Upon consideration of the parties' Joint Report, the court orders as follows:

The case is assigned to discovery Tier 3, pursuant to Rule 26.2.

1. **Initial disclosure:** The parties have exchanged initial disclosure statements.

2. **Nonparties at fault:** Defendants shall file any notices of nonparty at fault in accordance with A.R.S. § 12-2506(B) and Ariz. R. Civ. P. 26(b)(5) by **April 30, 2021.**

1 3. ***Expert witness disclosure:*** The parties shall simultaneously disclose
2 areas of expert testimony by **August 20, 2021**.

3 The parties shall simultaneously disclose the identity and opinions of experts for
4 which the parties bear the burden of proof by **January 14, 2022**.

5 The parties shall simultaneously disclose their rebuttal expert opinions by
6 **March 11, 2022**.

7 4. ***Lay (non-expert witness) disclosure:*** The parties shall disclose all lay
8 witnesses by **October 15, 2021**.

9 5. ***Final supplemental disclosure:*** Each party shall provide final
10 supplemental disclosures by **March 11, 2022**. This Order does not replace the parties'
11 obligation to seasonably disclose Rule 26.1 information on an on-going basis and as it
12 becomes available.

13 **No party shall use at trial any lay witness, expert witness, expert opinion, or exhibit**
14 **not disclosed in a timely manner, except upon order of the court for good cause**
15 **shown or upon a written or an on-the-record agreement of the parties.**

16 6. ***Discovery deadlines:*** The parties will propound by **October 29, 2021** all
17 discovery undertaken pursuant to Rules 33 through 36. The parties will complete by
18 **January 21, 2022** the depositions of the parties and lay witnesses, and by **April 8,**
19 **2022**, the depositions of expert witnesses. The parties will complete by **April 8, 2022**
20 all other discovery, which includes but is not limited to, submission of full and final
21 responses to written discovery. (“Complete discovery” includes conclusion of all
22 depositions and submission of full and final responses to written discovery.)

23 7. ***Settlement conference or private mediation:*** The parties will conduct a
24 private mediation no later than **April 8, 2022**. All attorneys and their clients, all self-
25 represented parties, and any non-attorney representatives who have full and complete
26 authority to settle the case, shall appear personally and participate in good faith in this
27 mediation, even if no settlement is expected. However, if a non-attorney representative
28

1 requests a telephonic appearance and the mediator grants the request, a non-attorney
2 representative may appear telephonically.

3 8. **Dispositive motions:** The parties shall file all dispositive motions by **May**
4 **13, 2022.**

5 9. **Trial setting conference:** On _____ at
6 _____ .m, the court will conduct a telephonic trial setting conference.
7 Attorneys and self-represented parties shall have their calendars available for the
8 conference. Plaintiff will initiate the conference call by arranging for the presence of
9 all other counsel and self-represented parties, and by calling this division at (602) 372-
10 2925 at the scheduled time.

11 10. **Firm dates:** No stipulation of the parties that alters a filing deadline or
12 a hearing date contained in this scheduling order will be effective without an order of
13 this court approving the stipulation. Dates set forth in this order that govern court filings
14 or hearings are firm dates, and may be modified only with this court’s consent and for
15 good cause. This court ordinarily will not consider a lack of preparation as good cause.

16 11. **Further orders:** The court further orders as follows: _____.

17
18 _____
19 Date

Judge of the Superior Court

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