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

Memie C. Burton,
Plaintiff,
v.
United States Internal Revenue Service,
Defendant.
United States Internal Revenue Service,
Counter Claimant,
v.
Memie C. Burton, et al.,
Counter Defendants.

No. CV-14-02032-PHX-DJH
**ORDER SETTING RULE 16
SCHEDULING CONFERENCE**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a Scheduling Conference is set for July 7, 2015 at 4:00 p.m. in Courtroom 605, Sandra Day O'Connor United States Courthouse, 401 W. Washington Street, Phoenix, Arizona 85003. In preparation for this Scheduling Conference, and taking into account that Rule 1 of the Federal Rules of Civil Procedure requires that these Rules be construed and administered to secure the just, speedy and inexpensive determination of every action,

IT IS HEREBY ORDERED as follows:

A. Rule 26(f) Meeting and Filing of the Joint Case Management Report

The parties are directed to meet and confer **at least 21 days** before the Scheduling

1 Conference as Fed.R.Civ.P. 26(f) requires. It is the plaintiff's responsibility to initiate the
2 Rule 26(f) meeting and prepare the Joint Case Management Report. The defendant shall
3 promptly and cooperatively participate in the Rule 26(f) meeting and assist in preparation
4 of the Joint Case Management Report. The plaintiff shall file the Joint Case Management
5 Report with the Clerk **not less than seven (7) days** before the Rule 16 Scheduling
6 Conference.

7 The Court will use the Joint Case Management Report for purposes of entering a
8 Rule 16 Scheduling Order. Therefore, the parties should be prepared to have the Joint
9 Case Management Report serve as the sole basis for the Court's Rule 16 Scheduling
10 Order.

11 If the parties currently are engaged in settlement negotiations, the plaintiff's
12 counsel shall advise the Court **within seven (7) days** from the date of this Order, and
13 shall specify the date by which the parties expect to conclude their settlement
14 negotiations.

15 **B. Joint Case Management Report**

16 At the Rule 26(f) Case Management Meeting, the parties shall discuss the
17 following matters and develop a Joint Case Management Report. This Joint Report shall
18 include individually numbered paragraphs addressing the following:

- 19 1. A list of the parties in the case, including any parent corporations or entities
20 (for recusal purposes);
- 21 2. A short statement of the nature of the case (3 pages or less), including a
22 description of each claim and each affirmative defense, and identifying the factual and
23 legal issues genuinely in dispute;
- 24 3. The jurisdictional basis for the case, describing the basis for jurisdiction and
25 citing specific statutes, if any;
- 26 4. Any parties which have not been served and an explanation of why they have
27 not been served; and any parties which have been served but have not answered or
28 otherwise appeared, including fictitious parties. Unless any party can otherwise show

1 cause, an order shall accompany the Joint Case Management Report dismissing any party
2 which has not been served, naming fictitious or unnamed parties, or seeking default
3 judgment on any non-appearing party.

4 5. A statement of whether any party expects to add additional parties to the case
5 or otherwise to amend pleadings (the Court will set a deadline of not later than 60 days
6 from the issuance of the Rule 16 Scheduling Order);

7 6. A list of contemplated motions and a statement of the issues to be decided by
8 these motions;

9 7. Whether the parties will consent to the assignment of this action to a United
10 States Magistrate Judge in accordance with 28 U.S.C. § 636(c);

11 8. The status of related cases pending before other courts or other judges of this
12 Court;

13 9. A statement of when the parties exchanged or will exchange Fed.R.Civ.P. 26(a)
14 Initial Disclosures;

15 10. A discussion of any issues relating to disclosure or discovery of electronically
16 stored information, including the form or forms in which it will be produced (*see*
17 Fed.R.Civ.P 16(b)(3)(B)(iii); Fed.R.Civ.P. 26(f)(3) (C));

18 11. A discussion of any issues relating to claims of privilege or work product (*see*
19 Fed.R.Civ.P. 16(b)(3)(B)(iv); Fed.R.Civ.P. 26(f)(3)(D));

20 12. A discussion of whether an order under Fed.R.Evid. 502(d) is warranted;

21 13. A discussion of necessary discovery, including:

22 a. The extent, nature, and location of discovery anticipated by the parties;

23 b. The scope of discovery and whether discovery should be conducted in
24 phases or should be limited to focus on particular issues.

25 c. Suggested changes, if any, to the discovery limitations imposed by the
26 Federal Rules of Civil Procedure;

27 d. The number of hours permitted for each deposition, unless modified by
28 agreement of the parties. *See* Fed.R.Civ.P. 30(d)(1).

- 1 14. Proposed specific dates for each of the following:
- 2 a. A deadline for the completion of fact discovery;¹
- 3 b. Dates for complete expert disclosures under Federal Rule of
- 4 Civil Procedure 26(a)(2)(A)-(E), including separate dates for plaintiff's expert disclosure,
- 5 defendant's expert disclosure, and for rebuttal expert disclosure;²
- 6 c. A deadline for completion of all expert depositions;
- 7 d. A deadline for filing dispositive motions;
- 8 e. A date by which the parties shall have engaged in face-to-face good faith
- 9 settlement talks;

10 15. Whether a jury trial has been requested and whether the request for a jury trial

11 is contested and, if so, the reasons why the request is contested;

12 16. The estimated length of trial; and

13 17. The prospects for settlement, including any request of the Court for assistance

14 in settlement efforts, including referral to a United States Magistrate Judge for the limited

15 purposes of settlement.

16 **C. Other Matters**

17 The parties are expected to comply fully with the Federal and Local Rules of Civil

18 Procedure and to minimize the expense of discovery. Additionally, the parties should

19 ensure that all filings comply with Local Rules of Civil Procedure 7.1, 7.2, and 56.

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24 ¹ Discovery requests must be served and depositions noticed sufficiently in

25 advance of this date to ensure reasonable completion by this deadline, including time to

resolve discovery disputes.

26 ² No expert witness not timely disclosed will be permitted to testify unless

27 the party offering such witness demonstrates: (a) that the necessity of such expert witness

could not have been reasonably anticipated at the time of the deadline for disclosing such

28 expert witness; (b) the Court and opposing counsel or unrepresented party were promptly


notified upon discovery of such expert witness; and (c) that such expert witness was

promptly proffered for deposition. *See Wong v. Regents of the Univ. of Cal.*, 410 F.3d

1052, 1060 (9th Cir. 2005).

1 The Clerk of the Court shall send copies of this order to all counsel of record and
2 to any unrepresented parties.

3 **Dated** this 4th day of May, 2015.

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7 Honorable Diane J. Humetewa
8 United States District Judge
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