

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO
Honorable Michael E. Romero**

In re:)	
)	Case No. @@
@)	
)	Chapter @
Debtors.)	
_____)	
)	
@)	Adversary No. @ MER
)	
Plaintiff@,)	
)	
v.)	
)	
@)	
)	
Defendants.)	

**ORDER AND NOTICE OF TRIAL PURSUANT TO
FED.R.BANKR.P. 7016 (FED.R.CIV.P. 16(b))**

IT IS ORDERED that the provisions of Fed.R.Civ.P. 26, as amended effective December 1, 2000, shall apply to this proceeding, subject to the provisions of this Order.

IT IS FURTHER ORDERED that the parties adhere to the following deadlines:

1. Amended Pleadings. Motions to amend or supplement pleadings or to join additional parties must be filed by @ (45 days from date of this order). This deadline pertains to timing only, parties must comply with Fed.R.Civ.P. 15(a).

2. Expert Witnesses. Disclosures and written reports required by Fed.R.Civ.P. 26(a)(2) must be made and exchanged on or before @ (45 days before discovery cutoff). If evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Fed.R.Civ.P. 26(a)(2)(B), disclosure must be made on or before @ (15 days before discovery cutoff).

3. Duty to Supplement-Sanctions. All disclosures and responses to discovery shall be timely supplemented pursuant to Fed.R.Civ.P. 26(e). Failure to timely disclose, or incomplete, false or misleading disclosures, may result in Fed.R.Civ.P. 37(c) sanctions.

4. Discovery. Factual Discovery must be completed by @ (75 days before trial). "Completed" means that all depositions are concluded and that responses to written discovery are due

on or before the discovery completion date. The special provisions regarding limited and simplified discovery as specified in Local Bankruptcy Rule 726.1 shall apply in this adversary proceeding. Expert Discovery must be completed by **@(20 days after rebuttal expert disclosures)**.

5. Dispositive Motions. Dispositive motions if any, must be filed by **@(10 days after discovery cutoff)**. Any response to a dispositive motion shall be filed with the Court and served on interested parties **within fifteen (15) days** after mailing of the dispositive motion. **Replies to responses to dispositive motions may only be filed upon leave of court.**

If the dispositive motion is a motion for summary judgment, the movant shall set forth, **specifically, in a one sentence paragraph-by-paragraph format (each sentence/paragraph shall be numbered)**, the alleged facts which exist without substantial controversy (i.e. the undisputed facts). The movant shall identify **with specificity** all pleadings, depositions, answers to interrogatories, and admissions on file, together with any affidavits in support of undisputed material facts. The moving party must also set forth the specific basis upon which it is entitled to judgment as a matter of law, including specific citations to statutes and case law which support or contradict to its motion.

The responding party shall state, **in a one sentence paragraph-by-paragraph format (each sentence/paragraph corresponding to the movant's paragraphs of alleged material facts without substantial controversy)** in short and plain terms the party's admissions or denials as to each of the movant's alleged material facts and shall identify all pleadings, depositions, answers to interrogatories, and admissions on file, together with any affidavits which refute the alleged material facts. The responding party shall further set forth the basis upon which the responding party asserts that the moving party is not entitled to judgment as a matter of law, including specific citations to statutes and case law which support or contradict its motion.

Failure to comply with the above procedure will result in denial of the relief requested and/or sanctions upon the party and counsel failing to comply.

6. Motions in Limine. Motions in limine, if any, shall be filed by **@(10 days after discovery cutoff)**. Any response to a dispositive motion shall be filed with the Court and served on interested parties **within fifteen (15) days** after mailing of the motion in limine. **Replies to responses to motions in limine may only be filed upon leave of court.**

7. Witnesses and Exhibits. The disclosures required by Fed.R.Civ.P. 26(a)(3) and (a)(4) must be made on or before **@(30 days before trial)**. Exhibits must be marked for identification (Plaintiff-numbers and Defendant-letters) and exchanged at the time the disclosures are made. **A List of Witnesses and Exhibits must be filed with the Court by @ (30 days before trial), substantially in the form of Attachment A.** Written objections directed to the exhibits must be filed and served on opposing counsel or party on or before **@(20 days before trial)**, otherwise all objections except as to relevancy are waived. Copies of contested exhibits must be attached to the

filing of objections for the Court's prior review, unless the nature of the objection involves the fact that the party proffering the exhibit has failed to adequately identify and/or exchange it. While objections to exhibits will be deemed waived unless the objector complies with this paragraph, only those exhibits which are specifically admitted through the course of trial proceedings will be considered by the Court and become part of the trial record. Except in unusual circumstances, omnibus motions at the conclusion of the trial to admit voluminous records, which have not been admitted through witness testimony or otherwise during the course of the trial, will not be granted.

8. @(Optional) Pretrial Statement. On or before @(30 days before trial), the parties, through counsel, if applicable, must confer and prepare a pretrial statement setting forth the following, which must be filed with the Court on or before @(20 days before trial):

- a. A brief summary of the claims and defenses of each party;
- b. A concise statement of stipulated and uncontested facts;
- c. A concise statement of the issues that are in dispute;
- d. A brief statement of all points of law relied upon, citing pertinent statutes, standards, cases and other authority; and
- e. If applicable, an itemization of damages with a description of the basis for the calculation.

9. @(Optional) Trial Briefs. Trial briefs, if desired shall be filed by @.(30 days before trial) Response briefs shall be filed by @(20 days before trial), and reply briefs, if desired, shall be filed by @.(15 days before trial)

10. @(Optional) Final Pretrial Conference. A final pretrial conference shall be held on @ (approx. 10 days before trial), at @, in **Courtroom D**, U.S. Bankruptcy Court, U.S. Custom House, 721 19th Street, Denver, Colorado 80202-2508.

11. Trial. The matter is set for a @-day trial, commencing on @, at @, in **Courtroom D**, U.S. Bankruptcy Court, U.S. Custom House, 721 19th Street, Denver, Colorado 80202-2508.

12. At the Commencement of the Trial. Each party shall provide three (3) copies of all exhibits to the Law Clerk or Courtroom Deputy. Two (2) copies are for the Court and one (1) copy is for the witness. The original exhibits are to be used by the witness. Each exhibit must have been marked for identification before the trial or hearing. (Plaintiff-numbers and Defendant-letters). Exhibits should be placed in a binder and indexed **in the form of Attachment B to this Order**.

IT IS FURTHER ORDERED that, unless a party requests amendments to this Order on or before @(15 days from date of this Order), no modifications will be entertained by the Court. Failure

to comply with this Order may result in imposition of appropriate sanctions pursuant to Fed.R.Bankr.P. 7016 and 7037 (Fed.R.Civ.P. 16 and 37).

Dated October ____, 2004

BY THE COURT:

Michael E. Romero
U.S. Bankruptcy Judge

ATTACHMENT A

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO**

Bankruptcy Judge Michael E. Romero

In re: _____)
)
) Bankruptcy Case No. _____
Debtor.) Chapter ____

(Double Caption if Necessary)

(Party Name)'s LIST OF WITNESSES AND EXHIBITS

_____ ("Party"), through undersigned counsel, hereby designates the following witnesses and exhibits for the trial/hearing on _____, at _____ . m. in Courtroom D before the Honorable Michael E. Romero.

WITNESSES

Party **will** call the following witnesses:

1. _____, to testify regarding:

2. _____, as an adverse witness.

Party **may** call the following witnesses:

1. _____, to testify regarding _____.
2. _____, to testify regarding _____.

EXHIBITS

Party intends to introduce as exhibits at trial those exhibits enumerated in Attachment 1, attached hereto and incorporated herein.

Dated: _____

FIRM NAME

By: _____

John A. Attorney, #0000

Street Address

City, State, Zip

Telephone Number

Facsimile Number

Attorney for _____

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of the foregoing _____'s **List of Witnesses and Exhibits** was served upon the following by depositing same in the U.S. Mail, first class postage prepaid, this ____ day of _____, _____:
