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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

[Debtor's Name],
Debtor(s).

Case No. [Case No]

Chapter [Chapter]

[Plaintiff's Name],
Plaintiff(s),

Adversary No. [Adversary No]

vs.

[Defendant's Name],

**ORDER SETTING TELEPHONIC
STATUS CONFERENCE, SETTING
INITIAL DISCLOSURES, AND
DISCOVERY CONFERENCE**

Defendant(s).

The purpose of this Order is (1) to notify the parties of their obligation under Fed. R. Civ. P. 26, as incorporated by Fed. R. Bankr. P. 7026, to make initial disclosures and meet for a discovery conference; and (2) to modify those Rule 26 requirements in certain respects. As such, this Order has no effect in any proceeding exempted under Rule 26(a)(1)(B) from the initial disclosures and discovery conference requirements. For purposes of this Order, "Status Conference" means the date and time set forth in the Summons.

1. Date and Time of Status Conference: A telephonic Status Conference will be held on **CMC Date (Spell out)** at **[CMC Time]** Instructions for telephonic appearances are attached and

1 are incorporated as part of this order.

2 **2. The Discovery Conference.** At least 21 calendar days before the Status Conference, the
3 parties shall confer in person or by telephone at a discovery conference as required by Rule 26(f).
4 Plaintiff shall initiate contact regarding arrangement of the discovery conference. Defendant shall
5 cooperate in fixing the time and place of the discovery conference. No party shall initiate or conduct
6 any formal discovery prior to the discovery conference, except as permitted by Rule 26(d)(2) or by
7 stipulation. The parties may conduct informal discovery.

8 **3. Settlement and BDRP.** At the discovery conference, the parties shall consider the nature
9 and basis of their claims and defenses and the possibility of any early settlement. The parties shall
10 also discuss alternative dispute resolution options as required by B.L.R. 9040-3 and comply
11 therewith. The Bankruptcy Dispute Resolution Program (BDRP) offers a means to resolve disputes
12 quickly, at less cost and often without the stress and pressure of litigation. Parties wishing
13 assignment to the BDRP or a judicially supervised settlement conference should contact Ms. Tanya
14 Bracegirdle at 408-278-7556. The BDRP procedures are explained in B.L.R. 9040-1 *et seq.* A list of
15 available resolution advocates is available in the Clerk's Office and on the Court's website.

16 **4. Initial Disclosures.** At the discovery conference, the parties shall arrange to make the
17 initial disclosures required by Rule 26(a), without necessity of a formal discovery request. The
18 initial disclosures shall be made at or within 14 calendar days after the discovery conference. All
19 disclosures shall be in writing, signed by the party or his or her attorney, and served on all other
20 parties.

21 **5. Discovery Plan.** At the discovery conference, the parties shall develop a written discovery
22 plan signed by all parties or their counsel, that reflects the parties' view and proposals concerning:

- 23 (a) what changes, if any, should be made in the timing, form, or requirements of the initial
24 disclosures;
- 25 (b) the timing, subject matter, and limitations, if any, of discovery to be conducted after the
26 initial disclosures; and
- 27 (c) the subject of any orders that the Court should enter under Rule 26(a)(1) and Rule 16(b)
28 and (c) applicable herein by Fed. R. Bankr. P. 7016.

1 The discovery plan shall be filed within 14 calendar days after the discovery conference.

2 **6. Pretrial Disclosures.** Notwithstanding Rule 26(a)(3), pretrial disclosures shall be made in
3 accordance with further order of the Court.

4 **7. Status Conference Statements.** At least 7 days before the initial Status Conference and at
5 least 7 days before each subsequent Status Conference, all parties shall file a statement addressing
6 the status of the case, including:

7 (a) each legal theory on which the party relies and a brief general statement of the facts
8 supporting such theories;

9 (b) proposed cut-off dates for discovery and pretrial motions and the estimated time for trial
10 and desired trial dates;

11 (c) a statement by non-governmental corporate party identifying its parent corporations and
12 any publicly held company that owns 10% or more of the party's stock; and

13 (d) if a jury demand is made, the demanding party shall address (I) whether the demand is
14 timely; (II) whether the demanding party has a right to jury trial; and (III) whether all parties
15 consent.

16 **8. Pro Bono Services Available:** Santa Clara University's Alexander Community Law
17 Center has established a project designed to provide representation for Chapter 7 debtors who have
18 been sued in the San Jose Division of the United States Bankruptcy Court for the Northern District
19 of California, by companies claiming that credit card debts should be held to be non-dischargeable
20 in bankruptcy.

21 The Program is designed to assist persons who do not have a bankruptcy attorney - or whose
22 bankruptcy attorney who filed their Chapter 7 petition will not agree to represent them in such an
23 action. The Law Center provides free legal advice and, in some instances, representation. The Law
24 Center cannot represent all such debtors due to income guidelines and other limitations. Persons
25 who would like a free consultation, or who otherwise would like information about this Program,
26 should contact the Law Center at (408) 288-7030 and ask to speak with Ms. Dianne Blakely.

27 **Disponibilidad De Servicios Gratuitos:** El Centro Comunitario Legal Alexander, cual es
28 parte de la Universidad de Santa Clara, ha establecido un programa para representar a aquellos

1 deudores que se han declarado en bancarrota (Chapter 7) y que han sido demandados ante un
2 tribunal del Distrito del Norte de California, en la División de San José, del Tribunal de Bancarrota
3 de los Estados Unidos. Este programa defendería a los deudores contra compañías que mantienen
4 que las deudas establecidas con tarjetas de crédito no pueden ser disueltas a través de una auto-
5 declaración de bancarrota.

6 Este programa es para ayudar a aquellas personas que no tienen un Abogado de Bancarrota o
7 a aquellas personas cuyos abogado se rehúsan a representarlos en estas demandas después de
8 haberles ayudado a declararse en bancarrota. El Centro Legal provee consejos legales gratuitos y
9 en algunos casos provee representación legal. El Centro Legal no puede representar a todos los
10 deudores que acuden en busca de ayuda debido a que algunas personas sobrepasan un cierto límite
11 de ingresos o por otras razones. Las personas que deseen una consulta gratuita o que deseen saber
12 más sobre este programa pueden llamar al Centro Legal al (408) 288-7030 y preguntar por la Senora
13 Dianne Blakely.

14 **9. Service of this Order.** The summons, complaint, the BDRP information sheet and this
15 Order shall be served by plaintiff on all parties within 7 days of the date of this Order. A return or
16 proof of service shall be filed within 5 days after service.

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DATED: _____

UNITED STATES BANKRUPTCY JUDGE

INSTRUCTIONS FOR TELEPHONIC STATUS CONFERENCES

1. Telephone Procedures To Be Followed

Appearances for telephonic status conferences will be arranged through Court Conference.

Participants will be contacted at the telephone number set forth at the top of the pleading with the participant's identification. All participants shown on the court's calendar 7 days prior to the telephonic Status Conference will be contacted by Court Conference at least two days prior to the telephonic Status Conference to confirm participation in the conference call and payment arrangements.

Attorneys who are unavailable when called by Court Conference **MUST** return the call within 24 hours. The decision whether or not to appear by telephone **MUST** be made at this time and, if non-responsive, you will not be added to the call at the last minute. Do not argue with Court Conference or request special treatment. Court Conference's function is no more than to offer you the opportunity to appear by telephone. Your election to appear by telephone constitutes your agreement for telephonic appearances.

The cost of appearing telephonically is \$40.00. Court Conference will arrange payment by the participant either through the use of a major credit card or, in the case of attorneys, may offer to bill for its service.

If a participant has not been contacted two days before the telephonic Status Conference, participants may contact Court Conference at 1-866-582-6878 to discuss procedures, confirm dates and times, etc. Participants must reference this Court, and the case name and number when calling Court Conference.

At the time of the scheduled telephonic Status Conference, Court Conference will contact the participant as prearranged. Court Conference may initiate calls to some participants on a delayed basis to minimize waiting time. **All participants MUST be available when called.** If the participant is not available when called, you will be billed for the call and the telephonic Status Conference will proceed in the participant's absence. The court may impose sanctions as set forth below.

At the time of the telephonic Status Conference you will initially be in the listening mode and able to hear the case before yours just as if you were in the courtroom. After your call is connected to

the courtroom, the Courtroom Deputy will call the case. The Judge will ask for appearances and direct the manner in which the telephonic Status Conference proceeds. Each time a participant speaks, he or she must identify himself or herself for the record. When the Judge informs the participants that the hearing is completed, the participants may disconnect and the next case will be called.

Telephonic appearances are connected directly with the courtroom's public address system and electronic recording equipment so that a normal record is produced. To ensure a quality record, the use of car phones, public telephone booths, or phones in other public places is prohibited except in the most extreme emergencies. Participants should be able to hear all parties without difficulty or echo. The system also allows more than one speaker to be heard so that the Judge can interrupt a speaker to ask a question or redirect the discussion.

2. Sanctions

Telephonic appearances by multiple participants are only possible where there is compliance with every procedural requirement. Sanctions may be imposed when there is any deviation. Sanctions may include dropping the matter from the calendar, continuing the hearing, proceeding in the absence of an unavailable participant, or a monetary sanction of **\$100** or more. Where Court Conference agrees to bill for its services and the billings are not timely paid attorneys should expect a sanction of **\$250** to be imposed.