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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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

SCHEDULING ORDER FOR EVIDENTIARY HEARING
ON MOTION TO VALUE AND AVOID LIEN

A hearing on debtor(s)' motion to value and avoid lien was
held on _____, 20__.

Appearances were as follows:

[] For Debtor(s): _____ ("Debtor");
[] For Creditor: _____ ("Creditor");
[] Other(s): _____.

(**Alternative Language:** Debtor(s) and Creditor _____
("Creditor") have agreed to trial on the motion to value and avoid
lien.)

Upon due consideration, the court hereby enters the following
scheduling order.

TRIAL. The trial or hearing ("Trial") on the above matter

1 will commence on the Date and Time of Trial, set forth below, at
2 the United States Bankruptcy Court, 450 Golden Gate Avenue,
3 Sixteenth Floor, Courtroom 19, San Francisco, CA 94102. The Time
4 Reserved for Trial is also shown below.

5 **MOTIONS.** Unless otherwise ordered, motions to join other
6 parties and to amend the pleadings must be filed not later than 10
7 days after entry of this scheduling order.

8 **DISCOVERY.** Discovery shall be completed by the Discovery
9 Deadline shown below. Completion means that depositions must be
10 concluded, although not necessarily transcribed. As to written and
11 production discovery, responses must be due before the Discovery
12 Deadline. The court will attempt to resolve all discovery disputes
13 on an expedited basis via telephonic conference, which any party
14 may initiate by request to the court's Calendar Clerk/Courtroom
15 Deputy and notice to the other party after they have met and
16 conferred and made a good faith effort to resolve the dispute. The
17 party requesting the conference should submit a brief letter
18 explaining the issues to be presented.

19 The Discovery Deadline may be extended by the parties by
20 agreement, without an order of the court.

21 **PRE-TRIAL SUBMISSIONS.** Not later than 14 calendar days before
22 the Date and Time of Trial, each party shall:

23 (a) File and serve a trial brief, which shall include a
24 summary of the facts to be proven and the legal theories on which
25 the party relies. Briefs shall not exceed 15 pages without prior
26 permission of the court. The court will not normally request or
27 permit post-trial briefs.

28 (b) File and serve a witness list, including a brief

1 summary of the anticipated testimony from each witness. If a party
2 to the matter will be called as a witness (even as an adverse
3 witness) that party's name must be included on the witness list.
4 The presence of a witness' name on the witness list is to alert the
5 court and the other side that the witness may be called. It does
6 not mean that that person will be called. Accordingly, each party
7 is responsible for ensuring the attendance of every witness the
8 party intends to call, whether or not named by the other side.
9 Except in exceptional circumstances, and absent consent by the
10 other side, a party will not be allowed to call a witness not named
11 on that party's witness list. This subparagraph shall not apply to
12 expert witnesses or their testimony.

13 The requirement of advance identification and production of
14 exhibits does not apply to witnesses presented for purposes of
15 impeachment or rebuttal.

16 (c) File and serve a list of exhibits (other than those
17 to be used for impeachment or rebuttal) and exchange, **but not file**,
18 copies of all exhibits the party intends to introduce into
19 evidence. Any paper(s) in the court's file of which a party
20 intends the court to take judicial notice must be copied and
21 included as an exhibit(s). Copies of the declaration filed and
22 served shall be marked as exhibits in the manner described herein.

23 Exhibits are to be premarked for identification. Debtor's
24 exhibits should be marked by number. Creditor's exhibits should be
25 marked by letter. Each page of any exhibit that has more than one
26 page is to be numbered consecutively.

27 The parties shall bring to Trial copies of all exhibits for
28 opposing counsel, the witnesses and the court, together with an

1 exhibit list. If a party has more than 10 exhibits, the exhibits
2 should be placed in a three-ring binder with a tab for each exhibit
3 and the exhibit list placed at the front of the binder.

4 **EXPERTS.** The presentation of expert testimony at Trial shall
5 be governed by the following procedure. **For purposes of the**
6 **evidentiary hearing scheduled pursuant to this order, appraisers**
7 **and appraisal records shall be governed by this provision.**

8 (a) Direct evidence shall be presented by a declaration
9 that authenticates the report of the expert. See FRCP 26(a)(2)(B),
10 incorporated via Fed. R. Bankr. P. 7026. Each party shall file and
11 serve declarations of experts and other documentary evidence
12 related thereto no later than 14 calendar days prior to the
13 Discovery Deadline.

14 (b) To cross-examine an opposing party's expert
15 declarant, a party shall notify the opposing party in writing or by
16 e-mail at least 3 court days before the Date and Time of Trial, in
17 which case the declarant will be required to attend the Trial. Any
18 party who fails to notify the opposing party will not be permitted
19 to cross-examine the opposing party's expert. Any party who
20 requests the right to cross-examine an expert and then does not do
21 so will be expected to reimburse the opposing party no less than
22 the expenses incurred in producing the expert at the Trial.

23 **PRE-TRIAL OBJECTIONS.** Promptly after receipt of the items
24 mentioned in **PRE-TRIAL SUBMISSIONS**, above, each party must advise
25 the opposing party of any objections to the introduction of
26 testimony or exhibits. Parties must meet and confer before Trial
27 to attempt to reach agreement regarding admissibility. The court
28 expects the parties to make good faith efforts to resolve all

1 evidentiary issues.

2 **NON-COMPLIANCE.** Any failure of a party to comply timely with
3 this order may result in judgment against such party, removal of
4 the Trial from calendar, exclusion of evidence or imposition of
5 monetary or non-monetary sanctions. See Fed. R. Bankr. P. 7016.

6

7 **DATE AND TIME OF TRIAL:**

8 **TIME RESERVED FOR TRIAL:**

9 **DISCOVERY DEADLINE:**

10 **OTHER PROVISIONS:**

11

****END OF ORDER****

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