

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

U.S. COURTS
2004 JAN 30 PM 11:26

FILED
MICHAEL S. BURKE
CLERK OF COURT

CHUCK WEDDE, dba POCA TELLO)	
CAB COMPANY,)	Case No. CV-03-505-E-BLW
)	
Plaintiff,)	CASE MANAGEMENT
)	ORDER AND REFERRAL
v.)	TO MAGISTRATE JUDGE
)	Track: (Standard)
LEASECOMM CORPORTION and)	
LOGANBERRY MERCHANT SERVICE,)	
)	
Defendant.)	
_____)	

In accordance with the agreements reached in the telephone status conference held between counsel and the Court on **January 30, 2004**, and to further the efficient administration of this matter,

NOW THEREFORE IT IS HEREBY ORDERED, that the following recitation of deadlines and procedures shall govern this litigation:

1. **Dispositive Motion Deadline:** All dispositive motions shall be filed by **July 31, 2004**.
 - a. This is the critical event for case management and will dictate when the trial will be set.
 - b. As provided below, a trial setting conference will be scheduled

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immediately following resolution of all dispositive motions. To facilitate a prompt trial setting, the Court will make every effort to schedule oral argument within 60 days and issue a decision within 30 days after the oral argument. If a decision is not issued within this time frame, the Court will invite inquiry from counsel as to the status of the decision.

2. Amendment of Pleadings and Joinder of Parties: All motions to amend pleadings and join parties, except for allegations of punitive damages, shall be filed on or before **February 27, 2004**. This deadline shall only be extended for good cause shown.¹ All parties are entitled to know the claims and parties well-before trial rather than be forced to pursue or defend against a moving target. Although this deadline precedes the general discovery deadline, the parties are directed to send out all discovery requests that might relate to amendment or joinder enough in advance of this amendment and joinder deadline to obtain the responses needed to make an informed decision on amendment and joinder.

3. Initial Disclosures: **February 11, 2004**.

¹ The Ninth Circuit has held that motions to amend filed after the Scheduling Order deadline are governed, not by the liberal provisions of Fed.R.Civ.P. 15(a) but instead, by the more restrictive provisions of Fed.R.Civ.P. 16(b) requiring a showing of "good cause." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992).

4. Alternative Dispute Resolution Plan: The parties will file an ADR Plan by April 30, 2004. The ADR Plan must indicate the form of ADR which will be utilized and the date on which it will be conducted. In preparing the ADR Plan, the Court encourages counsel to confer with the Court's ADR Coordinator, Denise Asper. The Court *strongly* encourages the attorneys to schedule ADR early in the proceedings, before extensive discovery has been undertaken, and in advance of the filing of dispositive motions so as to reduce the cost of litigation for their clients. In addition, the trial will be set very soon after the resolution of dispositive motions so that there will be little time to engage in meaningful ADR after that date.

- a. If the parties fail to file an ADR Plan by the date specified, the Court will schedule an ADR Conference at which all parties must be present and accompanied by their client or, in the case of a corporation or insurance company, a representative who has primary responsibility for the litigation. At the ADR Conference, counsel will be required to verify that they have fully discussed the merits of ADR with their client and explain to the Court why they and their client have concluded that ADR is not appropriate for this case.

5. Discovery Plan: Oral Depositions - Beginning February 18, 2004,
subject to the availability of counsel
and witnesses.

6. Completion of Discovery: All discovery will be completed by:

Fact Discovery: June 30, 2004

Expert Discovery: July 31, 2004.

This is a deadline for the completion of all discovery; it is not a deadline for discovery requests. Discovery requests must be made far enough in advance of this deadline to allow completion of the discovery by the deadline date. The parties may, by stipulation, agree to defer some trial-related discovery, such as discovery related to damages issue, until after the Court has ruled on any dispositive issues.

7. Disclosure of Experts:

a. The Plaintiff shall disclose the experts intended to be called at trial on or before April 30, 2004.

b. The Defendant shall disclose the experts intended to be called at trial on or before May 31, 2004.

c. All rebuttal experts shall be identified on or before June 15, 2004.

8. Rules Governing Disclosure of Expert Witnesses: Within the deadlines for

the disclosure of expert witnesses set out above, the parties shall also provide – for each expert disclosed – the report described in Fed. R. Civ. P. 26(a)(2)(B), as modified by Local Rule 26.2(b). Supplementation to the expert witness report shall be done in accordance with Fed. R. Civ. P. 26(e)(1). Pursuant to Local Rule 26.2(b), expert witnesses will not be allowed to offer any opinion not disclosed in the mandatory Rule 26 disclosures, supplementation, or deposition. This includes rebuttal experts. No undisclosed expert rebuttal opinion testimony will be allowed at trial.

9. Scheduling of Trial and Pretrial Conference. Plaintiff's counsel shall contact the Court's staff within one week following the entry of a decision on all pending dispositive motion to make arrangements for a telephone scheduling conference between counsel and the Court's staff in which the trial and pretrial conference shall be set. If no dispositive motion is filed, Plaintiff's counsel shall immediately contact the Court's staff within one week of the dispositive motion filing deadline to set a telephone scheduling conference.
10. Referral to Magistrate Judge: This case is referred to United States Magistrate Judge Mikel H. Williams for resolution of all discovery disputes and all non-dispositive motions. **Any motion that alters the schedule of**

the dispositive motion deadline shall remain with Judge Winmill.

11. Law Clerk: If counsel has a procedural or legal question that needs to be brought to the Judge's attention, please contact **Rebecca Gregory**, the law clerk assigned to this case at (208) 334-9028.
12. Calendaring Clerk: With regard to any scheduling matters or calendar issues, please contact my deputy clerk, LaDonna Garcia at (208) 334-9021.
13. Fax Notification: If counsel signs up for Fax Notification of the Court's orders, then it is not necessary to send stamped, return envelopes.

DATED this 30th day of January, 2004.



B. LYNN WINMILL
Chief Judge, United States District Court

United States District Court
for the
District of Idaho
January 30, 2004

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 4:03-cv-00505

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

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Chief Judge B. Lynn Winmill
 Judge Edward J. Lodge
 Chief Magistrate Judge Larry M. Boyle
 Magistrate Judge Mikel H. Williams

Visiting Judges:
 Judge David O. Carter
 Judge John C. Coughenour
 Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date: 1-30-04

BY: CSB

(Deputy Clerk)