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1 **LAGOMARSINO LAW**
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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 PAUL LEMUS, an individual,
11
12 Plaintiff,

13 v.

14 NYE COUNTY, a political subdivision of the
15 State of Nevada; GEORGE WEHRLY,
16 individually,
17
18 Defendants.

CASE NO.: 2:21-cv-01392-JAD-DJA

**DISCOVERY PLAN AND
SCHEDULING ORDER**

**SPECIAL SCHEDULING
REVIEW REQUESTED**

16 Pursuant to FRCP 26(f) and LR 26-1, the parties, by and through their respective counsel,
17 hereby submit the following proposed *Discovery Plan and Scheduling Order*.

18 The parties hereby request a **special scheduling review** to allow discovery to be completed
19 within two hundred forty (240) days, due to Plaintiff’s counsel having a four (4) week long trial
20 starting on October 14, 2021 and a three-four (3-4) week long trial starting on January 24, 2022.

21 **1. Fed. R. Civ. P. 26(f) Meeting**

22 Pursuant to Fed. R. Civ. P. 26(f), a conference was held on September 24, 2021, and was
23 attended by CORY M. FORD, ESQ. for Plaintiff PAUL LEMUS; and SUSAN E. GILLESPIE,
24 ESQ. of MARQUIS AURBACH COFFING for Defendants NYE COUNTY and GEORGE
25 WEHRLY.

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2. Changes to Pre-Discovery Disclosures

Pursuant to FRCP 26(f)(3)(A), the parties stipulate that there shall be no changes to the form or requirement for disclosures under FRCP 26(a). The parties have stipulated that disclosures under FRCP 26(a) shall be due on or before October 8, 2021 including, but not limited, to any Computation(s) of Damages required pursuant to FRCP 26(a)(i)(A)(iii).

3. Areas of Discovery

The parties agree that all discovery allowed under the Federal Rules of Civil Procedure, including by Rule 26(b), Rule 30, Rule 33, Rule 34, and Rule 36 should be permitted, such that the parties may obtain discovery regarding any non-privileged matter that is relevant to any party’s claim or defense, and proportional to the needs of the case, subject to the limitations imposed by Rule 26(b)(2).

All parties reserve all rights.

4. Issues with Electronically Stored Information

The parties stipulate that there are no issues pertaining to the disclosure, discovery, or preservation of electronically stored information. The parties anticipate, however, that this case will involve or require the inspection or production of electronically stored information (“ESI”). To the extent a party requests ESI, the parties agree that the ESI can be produced in paper format, as an image (e.g., pdf, jpg, or tiff), or via hard electronic copy (e.g., CD-ROM, DVD, or Dropbox.com). The parties will cooperate in good faith to ensure that ESI is produced in a readily identifiable (and readable) format.

5. Issues Regarding Privilege or Protection

The parties agree to be bound by Federal Rule of Evidence 502 regarding the disclosure of privileged material or work product. Further, the parties acknowledge and agree that while each taking reasonable steps to identify and prevent disclosure of any document (or information) that they believe is privileged, there is a possibility that certain privileged material may be produced

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1 inadvertently. Accordingly, the parties agree that a party who produces a document protected from
 2 disclosure by the attorney-client privilege, attorney work product doctrine, or any other recognized
 3 privilege (“privileged document”) without intending to waive the claim of privilege associated with
 4 such document shall promptly, meaning within fifteen (15) days after the producing party actually
 5 discovers that such inadvertent disclosure occurred, amend its discovery response and notify the
 6 requesting party that such document was inadvertently produced and should have been withheld.
 7 Once the producing party provides such notice to the requesting party, the requesting party must
 8 promptly, meaning within seventy-two (72) hours, return the specified document(s) and any copies
 9 thereof. By complying with this obligation, the requesting party does not waive any right to
 10 challenge the assertion of privilege and request an order of the court denying such privilege.

11 **6. Discovery Plan**

12 The parties propose the following discovery plan, noting that the first appearance made in
 13 this Court was by way of Defendants, NYE COUNTY and GEORGE WEHRLY filing their
 14 *Motion to Dismiss* on September 2, 2021 (ECF No. 10).

15 **a. Close of Discovery Date**

16 The parties herein stipulate that the discovery period shall be two hundred and forty (240)
 17 days from September 2, 2021. Therefore, the close of discovery shall be Monday, May 2¹, 2022.

18 **b. Amending the Pleadings or Adding Parties**

19 The parties shall have until Tuesday, February 1, 2022, to file any motions to amend the
 20 pleadings or to add parties. This is ninety (90) days prior to the close of discovery.

21 **c. FRCP 26(a)(2) Disclosure of Experts**

22 Disclosure of experts shall proceed according to FRCP Rule 26(a)(2)(D) and LR 26-1(b)(3)
 23 as follows:

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¹ This deadline falls on April 30, 2022, which is a Saturday. As a result, this deadline extends to the next court day of Monday, May 2, 2022, by operation of FRCP 6

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- 1 • The disclosure of experts and their reports shall occur on or before Thursday, March
- 2 3, 2022.
- 3 • The disclosure of rebuttal experts and their reports shall occur on or before Monday,
- 4 April 4, 2022².

5 These deadlines are sixty (60) days before the discovery cut-off date and thirty (30) days after the
6 initial disclosure of experts.

7 **d. Dispositive Motions**

8 The parties shall have until Wednesday, June 1, 2022, to file dispositive motions. This is
9 thirty (30) days after the discovery cut-off date, as required by LR 26-1(b)(4).

10 **e. Pre-Trial Order**

11 The parties will prepare a consolidated Pre-Trial Order on or before Friday, July 1, 2022,
12 which is not more than thirty (30) days after the date set for filing dispositive motions in this case,
13 as required by LR 26-1(b)(5). In the event dispositive motions are filed, the date for filing the joint
14 pretrial order shall be suspended until thirty (30) days after decision of the dispositive motions or
15 further order of the Court. The disclosure required by FRCP Rule 26(a)(3), and objections thereto,
16 shall be made in the pre-trial order.

17 **f. Modifications of the Discovery Plan and Scheduling Order**

18 LR 26-4 governs modifications or extensions of this Discovery Plan and Scheduling Order.
19 Any stipulation or motion must be made at least twenty-one (21) days prior to the expiration of any
20 extension thereof that may have been approved by the Court, or at least twenty-one (21) days prior
21 to the expiration of the subject deadline.

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² This deadline falls on April 2, 2022, which is a Saturday. As a result, this deadline extends to the next court day of
Monday, April 4, 2022, by operation of FRCP 6

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7. Certifications

Lastly, pursuant to LR 26-1(b)(7-9), the parties certify as follows:

a. Alternative Dispute Resolution

That they met and conferred about the possibility of using alternative dispute-resolution process including mediation, arbitration and if applicable, early neutral evaluation. The parties agree to participate in the Early Neutral Evaluation set by the Court.

b. Alternative Forms of Case Disposition

That they considered consent to trial by magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01). At this time, the parties withheld their mutual consent to such forms of alternative case disposition.

c. Electronic Evidence

That they discussed whether they intend to present evidence in electronic format to jurors for the purposed of the jury deliberations and that no stipulations have been reached as of the filing of this plan regarding providing discovery in an electronic format compatible with the court's electronic jury evidence display system.

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IT IS SO STIPULATED AND AGREED.

DATED this 24th day of September, 2021.

DATED this 24th day of September, 2021.

LAGOMARSINO LAW

MARQUIS AURBACH COFFING

/s/ Cory M. Ford
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*Attorneys for Defendants Nye County and
George Wehrly*

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE
DATED: September 27, 2021

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