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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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12 WE ARE AMERICA, *et al.*, )

13 Plaintiffs, )

No. CIV 06-2816-PHX-RCB

14 vs. )

ORDER SETTING RULE 16  
SCHEDULING CONFERENCE

15 )

16 MARICOPA COUNTY BOARD of, )

16 SUPERVISORS, *et al.*, )

17 Defendants. )

18

19 Currently pending before the court is a motion by defendants,  
20 Maricopa County Board of Supervisors, Hon. Fulton Brock, Hon. Don  
21 Stapley, Hon. Andrew Kunasek, Hon. Max Wilson, and Hon. Mary Rose  
22 Wilcox ("the Board"), and Joseph M. Arpaio, Maricopa County Sheriff  
23 ("Arpaio"), for a Rule 16 scheduling conference (Doc. 79). The  
24 plaintiffs did not file a response; nor did defendant Montgomery,  
25 and the time to do so has passed. Thus, and because the court  
26 finds that the granting of such relief would assist in the orderly  
27 progression of this litigation, the court grants this defense  
28 motion (Doc. 79).

1 **IT IS HEREBY ORDERED:**

2 Pursuant to Rule 16, Federal Rules of Civil Procedure, a  
3 Scheduling Conference is set for October 17, 2011, at 10:30 a.m.,  
4 Sandra Day O'Connor United States Courthouse, 401 West Washington  
5 Street, SPC 61, Sixth Floor, Courtroom 606, Phoenix, Arizona 85003-  
6 2158. Counsel are directed to Rule 16 for the objectives of this  
7 conference. At least one of the attorneys for each party attending  
8 the conference shall have authority to enter into stipulations and  
9 make admissions regarding all matters which may be discussed.

10 Counsel and all unrepresented parties shall confer before the  
11 conference regarding:

12 A. Possibility of consent to trial before a United States  
13 Magistrate Judge pursuant to 28 U.S.C. §636(c), or reference to a  
14 master;

15 B. Any matters relating to jurisdiction, venue or  
16 joinder of additional parties;

17 C. The scope of discovery, and possible limitations  
18 thereof. Counsel and unrepresented parties are expected to comply  
19 with Rule 26(f) of the Federal Rules of Civil Procedure and seek to  
20 minimize the expense of discovery. In cases where dispositive  
21 motions will be filed, counsel and unrepresented parties should  
22 consider limiting discovery to the issue at hand until the court  
23 has ruled on the motion;

24 D. A schedule of all pretrial proceedings, an estimate of  
25 the length of trial, and any suggestions for shortening trial. A  
26 trial date will be set at the pre-trial conference.

27 E. Prospects for settlement, and whether any party  
28 desires having a settlement or other conference before a judicial

1 officer, or participating in any other alternative dispute  
2 resolution forum (see Local Rule 83.10); and

3 F. Any other matters which counsel may feel will help dispose  
4 of the matter in an efficient and economical manner.

5 G. Counsel and unrepresented parties shall file with the  
6 Court, not less than ten days before the Scheduling Conference, a  
7 joint report reflecting the results of their discussions. The  
8 report shall include individually numbered brief statements  
9 indicating;

10 1. The nature of the case, setting forth in brief  
11 statements the factual and legal basis of plaintiff's claims and  
12 defendant's defenses;

13 2. The factual and legal issues genuinely in  
14 dispute, and whether they can be narrowed by stipulation or motion;

15 3. The jurisdictional basis of the case,  
16 citing specific statutes;

17 4. Parties, if any, which have not been served,  
18 as well as parties which have not filed an answer or other  
19 appearance. Unless counsel and unrepresented parties can otherwise  
20 show cause, an order shall accompany the joint report dismissing  
21 any party which has not been served, or seeking default judgment on  
22 any non-appearing party.

23 5. The names of parties not subject to the  
24 Court's jurisdiction;

25 6. Whether there are further dispositive or  
26 partially dispositive issues to be decided by pretrial motions, and  
27 the legal issues about which any pretrial motions are contemplated;

28 7. Whether the case is suitable for reference

1 to arbitration, to a master, or to a United States Magistrate Judge  
2 for trial;

3           8. The status of related cases pending before  
4 other judges of this Court or before other courts;

5           9. Proposed scheduling deadlines, including  
6 those deadlines contained in the attached form of Scheduling Order  
7 (Attachment #1), unless inapplicable. Counsel and unrepresented  
8 parties shall submit a proposed Scheduling Order consistent with  
9 Attachment #1. Although the court strongly urges that agreement be  
10 reached, if counsel and unrepresented parties cannot agree on  
11 deadlines, separate proposed Scheduling Orders with separate  
12 proposed deadlines shall be submitted for discussion at the  
13 Scheduling Conference.

14           10. Estimated date that the case will be ready  
15 for trial, the estimated length of trial, and any suggestions for  
16 shortening the trial;

17           11. Whether a jury trial has been requested;

18           12. The prospects for settlement, including any  
19 request to have a settlement conference before a United States  
20 Magistrate Judge, or other request of the court for assistance in  
21 settlement efforts.

22           13. In class actions, the proposed dates for  
23 class certification proceedings and other class management issues.  
24 Such certification will result in the case being reassigned to the  
25 **complex track** for case management purposes;

26           14. Whether any unusual, difficult, or complex  
27 problems or issues exist which would require this case to be placed  
28 on the **complex track** for case management purposes; and

1           15. Any other matters which counsel feel will aid the  
2 Court in resolving this dispute in a just, speedy, and inexpensive  
3 manner.

4           After the conference, the Court will enter a Scheduling Order,  
5 which shall control the course of the action, unless modified by  
6 subsequent Order. Counsel and unrepresented parties are cautioned  
7 that the deadlines set at this conference shall be enforced.

8           It is the responsibility of plaintiff's counsel (or plaintiff  
9 if unrepresented) to initiate the communication necessary to  
10 prepare this joint report and the proposed Scheduling Order.

11          This Court views this Scheduling Conference as critical to its  
12 case management responsibilities and the responsibilities of the  
13 parties under Rule 1, Federal Rules of Civil Procedure.

14          DATED this 19th day of September, 2011.

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Robert C. Broomfield  
Senior United States District Judge

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

❖,	)		
	)		
	)	Plaintiff(s),	No. CIV ❖ RCB
	)		
	)	vs.	RULE 16 SCHEDULING ORDER
	)		(No Separate Mailing
❖,	)		to Counsel)
	)		
	)	Defendant(s).	
	)		

A Scheduling Conference having been held on insert  
date.

**IT IS HEREBY ORDERED:**

Motions to amend the Complaint, to add a counterclaim or  
cross-claim, and/or to join additional parties, shall be filed no  
later than [insert date].

Rule 26(a)(1) initial disclosures (have been made) or (shall  
be made not later than [insert date]).

Rule 26(b)(2) expert disclosure shall be made as follows:  
(Attachment #1)

1           1.       Plaintiff(s) shall disclose its expert witnesses, if  
any, and their reports, not later than \_\_\_\_[insert date].

2           2.       Defendant(s) shall disclose its expert witness, if any  
3 and their reports, not later than \_\_\_\_[insert date].

4           3.       Expert witness depositions shall be completed by  
5 \_\_\_\_[insert date].

6           4.       All other discovery pursuant to Rules 30, 31, 33, 34, 35  
7 and 36, including supplements thereto, shall be completed by \_\_\_\_  
8 [insert date]. Interrogatories, including subparts, are limited to  
9 (25) or (\_\_\_\_). Requests for production, including subparts, are  
10 limited to (25) or (\_\_\_\_). Requests for admissions, including  
11 subparts, are limited to (10) or (\_\_\_\_).

12           Parties are directed to LRCiv 7.2(j), which prohibits filing  
13 discovery motions unless parties have first met to resolve any  
14 discovery difficulties. If parties cannot reach a resolution, they  
15 are directed to first arrange a conference call with the Court to  
16 attempt to resolve the matters.

17           This order contemplates that each party will conduct discovery  
18 in such a manner as to complete discovery within these deadlines.  
19 Therefore, all discovery should be sought within time sufficient to  
20 permit responses by the deadlines. "Last minute or eleventh hour"  
21 discovery which results in insufficient time to complete discovery  
22 or to undertake additional discovery and which requires an  
23 extension of a discovery deadline is disfavored, and could result  
24 in denial of an extension, exclusion of evidence, or the imposition  
25 of other sanctions.

26           A brief joint letter to the court concerning status of  
27 settlement discussions containing no specific settlement terms or  
28 offers shall be submitted by \_\_\_\_[insert date]. This letter

1 should occur early in the litigation, after initial key  
2 discovery, in order to avoid excessive expenditure of time,  
3 money, and effort at further discovery.

4 All dispositive motions shall be filed by [insert date].  
5 This deadline shall take into account the time limits for  
6 motions set forth in LRCiv 56(b).

7 A joint proposed pretrial order shall be lodged by  
8 [insert date]. If dispositive motions are filed, then this  
9 pretrial order shall be due either on the above date or thirty  
10 (30) days following ruling on the motions, whichever is later.  
11 The content of the proposed pretrial order shall include, but  
12 not be limited to, that prescribed in a standard form of  
13 Pretrial Order which will be given to counsel at the Scheduling  
14 Conference. Statements made shall not be in the form of a  
15 question, but should be a concise narrative statement of each  
16 party's contention as to each uncontested and contested issue.

17 The attorneys for each party who will be responsible for  
18 trial of the lawsuit shall appear and participate in a Pretrial  
19 Conference on \_\_\_\_\_, at \_\_\_\_\_ a.m., in Courtroom  
20 606, Sixth Floor, Sandra Day O'Connor United States Courthouse,  
21 401 West Washington Street, Phoenix, Arizona. A trial date and  
22 any other necessary deadlines will be set at the Pretrial  
23 Conference.

24 DATED this \_\_\_\_ day of \_\_\_\_\_, 2011.

25  
26 \_\_\_\_\_  
27 ROBERT C. BROOMFIELD  
28 SENIOR UNITED STATES DISTRICT JUDGE

29 Copies to counsel of record