

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WO**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

The Householder Group, LLLP, an  
Arizona Limited Liability Limited  
Partnership,

Plaintiff,

v.

Charles Van Mason, an individual; Jeff  
Deboer, an individual,

Defendants.

\_\_\_\_\_  
Charles Van Mason, an individual and Jeff  
Deboer, an individual,

Counterclaimants,

v.

The Householder Group, LLLP, an  
Arizona Limited Liability Limited  
Partnership,

Counterdefendant.

No. CV-09-2370-PHX-MHM  
No. CV-10-0918-PHX-MHM  
(Consolidated)

**ORDER**

The Court has received the parties' Joint Motion for Additional Time for  
the Settlement Conference, requesting "additional time for the settlement conference . . .  
Counsel specifically request that the Settlement Conference commence at or about 9:00  
a.m. on Tuesday, November 16, 2010, and continue until 5:00 pm, or until such time as  
the Court determines." (Doc. 46)

1 **I. Background**

2 Plaintiff filed its Complaint on November 12, 2009 and Defendants  
3 answered and counterclaimed on January 19, 2010. (Docs. 1, 14) At the April 20, 2010  
4 Rule 16 scheduling conference, the assigned District Judge, the Honorable Mary H.  
5 Murguia, “referr[ed] this matter to a magistrate judge for the purpose of conducting a  
6 settlement conference after the motion for partial summary judgment is decided, which  
7 the Court will attempt to decide by October, 2010. If the motion is decided this summer  
8 or fall, the Court requests the settlement conference be accelerated.” (Doc. 30) The  
9 reference to a summary judgment motion in the text-only minute entry is to defense  
10 counsel’s oral “motion for leave to file a motion for partial summary judgment re:  
11 resolution of liquidated damages.” (*Id.*) On the same date, the Clerk randomly assigned  
12 the settlement conference to the undersigned Magistrate Judge.

13 As authorized by Judge Murguia, Defendants filed a summary judgment  
14 motion on June 16, 2010, moving Judge Murguia “for an order granting partial summary  
15 judgment on the issue of [Plaintiff’s] claim for liquidated damages, barring THG from  
16 re-litigating this issue.” (Doc. 38 at 6) All briefing on this summary judgment motion has  
17 been filed and the motion is under advisement. (Docs. 44-45) On May 21, 2010, Judge  
18 Murguia consolidated this case (No. CV-09-2370- PHX-MHM) with another case, No.  
19 CV- 10- 0918-PHX-MHM.<sup>1</sup> (Doc. 36)

20 The April 27, 2010 settlement conference order sets the subject settlement  
21 conference for Tuesday, November 16, 2010 at 2:00 p.m. and indicates that “[t]he Court  
22

---

23  
24 <sup>1</sup> No one has informed the settlement conference Judge or his chambers that there is  
25 a consolidated case with a new party. At this time, the November 16, 2010 settlement  
26 conference does **not** include the issues and Plaintiff in No. CV-10-0918-PHX-MHM. If the  
27 parties in No. CV-10-0918-PHX-MHM jointly agree to participate in the same settlement  
28 conference with the parties in No. CV-09-2370-PHX-MHM or if the parties in No. CV-  
09-2370-PHX-MHM desire to postpone the November 16, 2010 settlement conference until  
after Judge Murguia rules on the pending motion for partial summary judgment, as she  
directed, counsel shall promptly file a motion and comply with LRCiv 40.2(d).

1 has allocated 2 hours for the Settlement Conference or longer if meaningful progress is  
2 being made towards settlement.” (Doc. 32 at 3)

3 The parties’ Joint Case Management Report indicates, *inter alia*, that  
4 “Defendants request that [they] be permitted to file another Motion for Summary Judg-  
5 ment after the completion of discovery [and] will seek dismissal of all other causes of  
6 action, including the claims for breach of contract and misappropriation of trade secrets.”<sup>2</sup>  
7 (Doc. 28 at 7) The file reflects that no written or deposition discovery has been taken to  
8 date except Defendants’ initial disclosures, request for admission, and non-uniform  
9 interrogatories. (Docs. 21, 27) There is no proof in the file that Plaintiff has engaged in  
10 any discovery except the scheduling order confirms that “[i]nitial disclosures required by  
11 Federal Rule of Civil Procedure 26(a), have already been exchanged.” (Doc. 34 at 1)

## 12 **II. Discussion**

13 After considering the absence of any depositions of the key parties and  
14 corporate representatives to date, the relatively little development of this case, and  
15 Defendants’ expressed desire to file more summary judgment motions, the Court  
16 concludes that a one-half day settlement conference is more than sufficient to conduct a  
17 meaningful, productive settlement conference **provided**, of course, the parties fully  
18 comply with all aspects of the Court’s April 27, 2010 settlement conference order. At the  
19 settlement conference, the Court will invoke a “cut-to-the-chase” procedure designed to  
20 reduce or eliminate settlement posturing during each private caucus. The Court will,  
21 however, move the start time up to 1:00 p.m. to ensure, at least, one additional hour  
22 provided, of course, there is meaningful progress during the afternoon toward a mutual  
23 voluntary resolution of this case. Although the extremely busy magistrate judges of this  
24

---

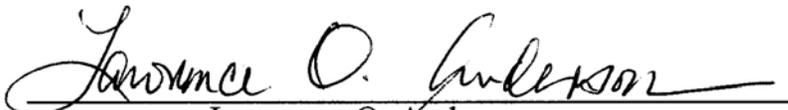
25  
26 <sup>2</sup> It is unclear from the Joint Case Management Report whether Judge Murguia  
27 addressed this issue at the Rule 16 conference. The scheduling order makes clear that “[n]o  
28 party may file more than one motion for summary judgment under Federal Rules of Civil  
Procedure 56 unless permission is first obtained, by joint telephone call, from the Court.”  
(Doc. 34 at 4)

1 District do not have the time to devote a full day to this case as counsel request, the  
2 parties are free to consider a privately-retained local mediator, at minimum rates  
3 beginning at or near \$400.00 per hour, who will likely allow the parties to participate in a  
4 private mediation as long as the parties desire.

5 **IT IS ORDERED** that the parties' Joint Motion for Additional Time for the  
6 Settlement Conference, doc. 46, is **GRANTED** in part. The start time for the Tuesday,  
7 November 16, 2010 settlement conference shall be **1:00 p.m.** (Arizona time). All other  
8 requested relief is **DENIED**.

9 **IT IS FURTHER ORDERED** that all orders in the April 27, 2010 settle-  
10 ment conference order other than the start time are hereby **AFFIRMED**.

11 Dated this 27<sup>th</sup> day of September, 2010.

12  
13   
14 Lawrence O. Anderson  
15 United States Magistrate Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28