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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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12 DEMETRIUS M. WHITE,)

13) Plaintiff,)

No. CIV 11-8152 PCT RCB (SPL)

14) vs.)

O R D E R

15) MIKE LINDERMEN, et al.,)

16) Defendants.)

17

18 The deadlines set forth in the Scheduling Order (Doc. 23)

19 as amended by Orders (Doc. 36, 29), have passed. Further,

20 this court recently granted the motion for summary judgment

21 by defendants Linderman and Desmond, to the extent plaintiff

22 "requests damages under RLUIPA [the Religious Land Use and

23 Institutionalized Persons Act, 42 U.S.C. § 2000cc *et seq.*]

24 and moratory damages[.]" Ord. (Doc. 68) at 20, ¶ (2). The

25 court denied the remainder of defendants' summary judgment

26 motion, however. Id. Because this action now is ready for

27 trial, the court hereby **ORDERS** that plaintiff *pro se* and the

28 attorney or attorneys who will be responsible for the trial

1 of this lawsuit prepare a proposed Joint Final Pretrial Order
2 and lodge it with the Clerk of the Court by no later than
3 October 28, 2013.

4 Although it is the defendants' responsibility to ensure
5 that the proposed Joint Final Pretrial Order is properly
6 prepared and timely lodged, the plaintiff *pro se* shall fully
7 cooperate with the defendants to ensure that such Order is
8 properly prepared and timely lodged. That proposed Joint
9 Final Pretrial Order shall be signed by plaintiff *pro se* and
10 defense counsel. Plaintiff *pro se* may authorize defense
11 counsel to sign on his behalf.

12 The content of the proposed Joint Final Pretrial Order
13 shall include, but is not limited to, that prescribed in the
14 form of the proposed Joint Final Pretrial Order attached
15 hereto.

16 Pursuant to Fed.R.Civ.P. 16(d) and 37(c), the court will
17 not allow the parties to modify the Joint Final Pretrial
18 Order or introduce at trial any exhibits, witnesses, or other
19 information or to make any objections to exhibits that were
20 not previously specified and/or disclosed as directed by the
21 Court in the Joint Final Pretrial Order, except to prevent
22 manifest injustice. Galdamez v. Potter, 415 F.3d 1015, 1020
23 (9th Cir. 2005).


24 After the lodging of the signed proposed Joint Final
25 Pretrial Order, at a date to be set by the court, the parties
26 shall participate telephonically in a Pretrial Conference to
27 discuss that Proposed Order. Plaintiff may appear by
28 telephone. Counsel for the defendants shall provide the

1 Court with a telephone number where plaintiff may be
2 contacted and make the necessary arrangements for his
3 appearance by telephone at the hearing. Following that
4 Pretrial Conference, the court will issue the Final Pretrial
5 Order and set a trial date for this action.

6 **IT IS ORDERED** that:

- 7 (1) the reference to the Magistrate Judge is
8 withdrawn; and
- 9 (2) the parties **shall** lodge a Proposed Joint Final
10 Pretrial Order in accordance herewith by no
11 later than October 28, 2013.

12 DATED this 28th day of August, 2013.

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15 _____
16 Robert C. Broomfield
17 Senior United States District Judge

18 Copies to counsel of record and plaintiff *pro se* White
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1 FINAL PRETRIAL ORDER

2 This Final Pretrial Order supersedes the pleadings and
3 shall govern the trial and further proceedings in this case.

4 A. STATEMENT OF JURISDICTION. Cite the statute(s) which
5 gives this Court jurisdiction:

6 (example - Jurisdiction in this case is based on
7 diversity of citizenship under Title 28 U.S.C. §1332.)

8 B. NATURE OF ACTION. Provide a concise statement of
9 the type of case, the cause of the action, and the relief
10 sought:

11 (example - This is a products liability case wherein
12 the plaintiff seeks damages for personal injuries
13 sustained when he fell from the driver's seat of the
14 forklift. The plaintiff contends that the forklift was
defectively designed and manufactured by the defendant
and the defects were a producing cause of his injuries
and damages.)

15 C. CONTENTIONS OF THE PARTIES. With respect to each
16 count of the complaint, counterclaim or cross-claim, and to any
17 defense, affirmative defense, or the rebuttal of a presumption
18 where the burden of proof has shifted, the party having the burden
19 of proof shall list the elements or standards that must be proved
20 in order for the party to prevail on that claim or defense:

21 (example - In order to prevail on this products
22 liability case, the plaintiff, must prove the following
elements...)

23 example - In order to defeat this products liability
24 claim based on the statute of limitations or repose,
the defendant must prove the following elements...

25 D. STIPULATION AND UNCONTESTED FACTS

26 E. CONTESTED ISSUES OF FACT AND LAW (See and refer to
27 subpart C above)

28 F. LIST OF WITNESSES. Include or separately attach a

1 list(s) of witnesses, identifying each as either plaintiff's or
2 defendants' witnesses and indicating whether the witness is a fact
3 or expert witness.

4 G. LIST OF EXHIBITS. Include or separately attach a
5 list(s) of numbered exhibits, identifying each as either
6 plaintiff's or defendants', with a description of each containing
7 sufficient information to identify the exhibit, indicating whether
8 there is an objection to its admission and, if so, the nature of
9 the objection(s) anticipated. The actual exhibits must
10 be later marked according to instructions which will be provided at
11 the final pre-trial conference.

12 H. LIST OF DEPOSITIONS. Include or separately attach
13 those portions of depositions that will be read at trial by each
14 party listed by page and line number, whether there is an objection
15 to each passage and, if so, the nature of the objection.

16 I. MOTIONS IN LIMINE. Motions in Limine are intended
17 to encompass only significant evidentiary issues and are generally
18 discouraged. Such motions, if allowed, shall be filed by
19 _____, 20__. Any responses shall be filed by
20 _____, 20__. No replies may be filed without permission
21 of the court. Motions in Limine are deemed submitted without
22 argument.

23 J. LIST OF ANY PENDING UNRULED UPON MOTIONS

24 K. PROBABLE LENGTH OF TRIAL

25 For a Bench Trial

26 L. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
27 shall be simultaneously filed by _____, 20__.

28 . . .

For a Jury Trial

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2 M. INSTRUCTIONS. The parties shall seek to stipulate
3 to jury instructions and any stipulated jury instructions shall be
4 filed _____, 20___. Instructions
5 which are not agreed upon shall include citation to authority which
6 shall not exceed one page per instruction and shall be filed by ____
7 _____, 20___. Objections to any non-agreed
8 upon instruction shall include citation to authority which shall
9 not exceed one page per instruction and may be filed by _____
10 _____, 20__.

11 N. VOIR DIRE QUESTIONS. Any proposed voir dire questions
12 shall be filed by _____, 20__.

13 O. CERTIFICATIONS. The undersigned counsel for each of
14 the parties in this action do hereby certify and acknowledge the
15 following:

- 16 1. All discovery has been completed.
- 17 2. The identity of each witness has been disclosed
18 to opposing counsel.
- 19 3. Each exhibit listed herein (a) is in existence;
20 and (b) has been disclosed and shown to opposing counsel.

21 APPROVED AS TO FORM AND CONTENT:

22
23 _____
24 Plaintiff

Attorney for Defendants

25
26 THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED AND TRIAL IS
27 SET FOR _____, 20__ at _____ A.M., COURTROOM 606,
28 Sixth Floor, Sandra Day O'Connor United States Courthouse, 401 W.

1 Washington St., Phoenix, Arizona; COUNSEL SHALL APPEAR AT ____ A.M.

2 DATED this ____ day of _____, 20__.

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ROBERT C. BROOMFIELD
SENIOR UNITED STATES DISTRICT JUDGE

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