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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ATS PRODUCTS INC.,)

Plaintiff(s),)

v.)

FRANK GHIORSO, THERMALGUARD)
TECHNOLOGY LLC, THERMALGUARD)
LLC,)

Defendant(s).)

FRANK GHIORSO,)

Counter-Claimant,)

v.)

ATS PRODUCTS, INC.; LAWRENCE)
E. SHEA, individually and in)
his capacity as Trustee of)
the 1992 SHEA FAMILY TRUST;)
SHEA TECHNOLOGY, LLC, and)
HELEN SHEA.)

No. C10-4880 BZ

FIRST PRETRIAL ORDER

The first pretrial conference in this case was held on
September 26, 2011. Plaintiff was represented at the
conference by Marc L. Shea, Esq. Defendants were represented
by John V. Picone, Esq.

1 **1. MOTIONS**

2 **Motion No. 1 (to Exclude the Testimony of David L. Cowen**
3 **at the Time of Trial):** Based on the limited showing made, I
4 am not satisfied that Mr. Cowen is a proper rebuttal expert,
5 and might not permit him to testify. I may reconsider this
6 after I hear Plaintiff’s testimony. If Defendants intend to
7 try to have Mr. Cowen testify at trial, Defendants must make
8 the laptop computer at issue available to Plaintiff for
9 examination.

10 **Motion No. 2 (to Exclude the Testimony of Dr. Louis A.**
11 **Pilato and Frank Ghorso):** The parties are ordered to
12 schedule depositions of the parties’ disclosed experts as
13 early as practicable. If any expert witness is not timely
14 deposed, I will entertain a motion to exclude that expert’s
15 testimony.

16 Defendants’ objections to Plaintiff’s expert witnesses
17 (Docket No. 150) are **OVERRULED** for the reasons stated at the
18 conference. If Defendants wish to hold a Daubert hearing
19 prior to trial, Defendants must make a showing at the next
20 pretrial conference that such a hearing is necessary.

21 Defendants’ Ex-Parte Motion to Enlarge Time to File
22 Certain Trial Documents is **GRANTED**.

23 **2. EXHIBITS AND JURY INSTRUCTIONS**

24 The parties shall meet and confer in an effort to agree
25 on exhibits and jury instructions consistent with the
26 guidance given during the first pretrial conference.

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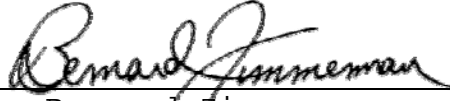
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3. LENGTH AND TIME OF TRIAL

Rulings on the motion to continue and motion to withdraw are forthcoming.

Dated: September 27, 2011



Bernard Zimmerman
United States Magistrate Judge

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