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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Thomas Dillon, as Court-Appointed Receiver  
for Vesta Strategies, LLC, and Excalibur 1031  
Group, LLC,

NO. C 10-05238 JW

**SCHEDULING ORDER**

Plaintiff,

v.

Continental Casualty Co.,

Defendant.

This case is scheduled for a Case Management Conference on October 17, 2011. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement and Proposed Order. (See Docket Item No. 50.) Based on their joint submission, it appears that a schedule for the case can be set without the necessity of an appearance at this time. Accordingly, the Case Management Conference is VACATED and the parties are ordered to comply with the following schedule:

**CASE SCHEDULE**

<b>Close of All Discovery (¶ 9)</b>	<b>May 7, 2012</b>
<b>Last Date for Hearing Dispositive Motions (¶ 10)</b> <i>(≈60 days after the Close of All Discovery)</i>	<b>July 9, 2012</b>
<b>Preliminary Pretrial Conference at 11 a.m. (¶ 12)</b> <i>(≈30 days before the Close of All Discovery)</i>	<b>April 9, 2012</b>

None of the dates set in this Order may be changed without an order of the Court made after a motion is filed pursuant to the Civil Local Rules of Court.

**Standing Order to Lodge Printed Copy of "ECF" Papers**

1. In all cases, including cases covered by the Electronic Case Filing System of the Court "ECF," when filing papers in connection with any motion or any pretrial conference, in addition to filing the paper electronically, the filing parties shall lodge with the Clerk's Office a printed copy of the papers, in an envelop clearly marked "Chamber's Copy – Lodged for the Chambers of Judge James Ware." The "Chamber's Copy" envelop must state the case name and case number and be delivered on or before the close of the next court day following the day the papers are filed electronically. See Standing Order Regarding Case Management in Civil Cases.

**Compliance with Discovery Plan and Reference to Magistrate Judge**

2. The parties are ordered to comply with the discovery plan as set forth in the Case Schedule. Any disputes with respect to the implementation of the discovery plan and all disclosure or discovery disputes are referred to the assigned Magistrate Judge. In addition, any disputes pertaining to service or joinder of parties or claims are referred to the assigned Magistrate Judge.

**Document Management During Pretrial Discovery and Electronic Evidence Presentation**

3. This Court has available a digital and video electronic evidence presentation system. Before commencement of pretrial discovery, the parties are ordered to familiarize themselves with the system, and to meet and confer about whether the case will involve voluminous documentary. If so, as the parties identify documentary material which is likely to be used as trial exhibits, the parties are ordered to electronically store these materials in a fashion which will facilitate displaying them electronically during the trial. The parties are reminded that Civil L.R. 30-2(b) requires sequential numbering of exhibits during depositions and that numbering must be

1 maintained for those exhibits throughout the litigation. Each proposed exhibit shall be pre-marked  
2 for identification. All exhibits shall be marked with numerals. The parties shall meet and confer on  
3 a division which will avoid duplication (e.g., Plaintiff: 1-99,000; Defendant #1: 100,000-299,999;  
4 Defendant #2: 300,000-500,000).

5 **Disclosure of Expert Witnesses**

6 4. Any party wishing to present expert witness testimony with respect to a  
7 claim or a defense shall lodge with the Court and serve on all other parties the name, address,  
8 qualifications, résumé and a written report which complies with Fed. R. Civ. P. 26(a)(2)(B) **63 days**  
9 **before close of discovery.** Expert witness disclosure must be made with respect to a person who is  
10 either (a) specially retained or specially employed to provide expert testimony pursuant to  
11 Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to  
12 provide expert opinion testimony.

13 5. The parties are also required to lodge any supplemental reports to which any  
14 expert will testify at trial in accordance with Fed. R. Civ. P. 26(a)(2)(B).

15 6. Any party objecting to the qualifications or proposed testimony of an expert  
16 must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in  
17 writing in accordance with Civil Local Rule 7-2, for hearing no later than **42 DAYS AFTER BOTH**  
18 **EXPERT AND REBUTTAL EXPERT DISCLOSURES ON A MONDAY (LAW AND**  
19 **MOTION DAY) at 9:00 a.m.** and preferably before or on the same day as the discovery cutoff  
20 date at 9:00 a.m.

21 **Rebuttal Expert Witnesses**

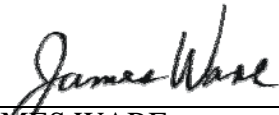
22 7. If the testimony of the expert is intended solely to contradict or rebut opinion  
23 testimony on the same subject matter identified by another party, the party proffering a rebuttal  
24 expert shall make the disclosures required by Fed. R. Civ. P. 26(a)(2)(B), no later than **49 days**  
25 **prior to discovery cutoff.**



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13. With respect to the time allocation for trial, at the Preliminary Pretrial and Trial Setting Conference trial counsel will be asked to stipulate to a time allocation to each side for the trial of the case. Once a stipulated allocation has been entered, the parties must plan their presentations to conform to the stipulated time allocation.

Dated: October 11, 2011

  
\_\_\_\_\_  
JAMES WARE  
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Brian Patrick Cummings brian.cummings@troutmansanders.com  
3 Eileen King Bower eileen.bower@troutmansanders.com  
4 John R. Gerstein jack.gerstein@troutmansanders.com  
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7 Robert Louis Brace rlbrace@hbsb.com  
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**Dated: October 11, 2011**

**Richard W. Wieking, Clerk**

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**By: /s/ JW Chambers**  
**Susan Imbriani**  
**Courtroom Deputy**

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