

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GABRIELA DOW,

Plaintiff,

v.

SEAWORLD PARKS &
ENTERTAINMENT, INC. A Delaware
Corporation,

Defendants.

Case No. 10CV2002-BEN(JMA)

**ORDER RESCHEDULING (1) EXPERT
DESIGNATION DATES AND
(2) MANDATORY SETTLEMENT
CONFERENCE**

The Court convened a telephonic Case Management Conference on June 16, 2011 at 9:30 a.m. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing, **IT IS HEREBY ORDERED** that expert designation dates and the Mandatory Settlement Conference are rescheduled as follows:

1. The deadlines for exchanging expert designations are continued to coincide with the deadlines for the exchange of Fed. R. Civ. P. 26(a)(2) expert reports. The parties shall designate their respective case-in-chief experts in writing on or before **September 2, 2011**. Rebuttal experts shall be designated on or before **September 30, 2011**. Expert designations shall include the name, address, and telephone number of each expert, and a reasonable summary of the testimony the expert is expected to

1 provide. The list shall also include the normal rates the expert charges for deposition
2 and trial testimony.

3 The parties must identify any person who may be used at trial to present
4 evidence pursuant to Rules 702, 703 or 705 of the Federal Rules of Evidence. This
5 requirement is not limited to retained experts.

6 **Please be advised that failure to comply with this section or any other**
7 **discovery order of the Court may result in the sanctions provided for in Fed. R.**
8 **Civ. P. 37, including a prohibition on the introduction of experts or other**
9 **designated matters in evidence.**

10 2. The Mandatory Settlement Conference on July 25, 2011 at 10 a.m. is
11 vacated and reset for **August 12, 2011 at 10 a.m.** Counsel shall submit settlement
12 statements **directly** to Magistrate Judge Adler's chambers no later than **August 5,**
13 **2011.**¹ The parties may either submit confidential settlement statements or may
14 exchange their settlement statements. Each party's settlement statement shall set forth
15 the party's statement of the case, identify controlling legal issues, concisely set out
16 issues of liability and damages, and shall set forth the party's settlement position,
17 including the last offer or demand made by that party, and a separate statement of the
18 offer or demand the party is prepared to make at the Mandatory Settlement Conference.
19 **The settlement conference briefs shall not be filed with the Clerk of the Court.**

20 **All named parties, all counsel, and any other person(s) whose authority is**
21 **required to negotiate and enter into settlement shall appear in person at the**
22 **conference. The individual(s) present at the Mandatory Settlement Conference**
23 **with settlement authority must have the unfettered discretion and authority on**
24 **behalf of the party to: 1) fully explore all settlement options and to agree during**
25 **the Mandatory Settlement Conference to any settlement terms acceptable to the**
26

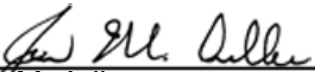
27 ¹Statements under 20 pages in length, including attachments and exhibits, may be
28 delivered directly to chambers, e-mailed to efile_adler@casd.uscourts.gov, or faxed to (619)
702-9939. Statements exceeding 20 pages in length, including attachments and exhibits, must
be delivered directly to chambers.

1 party (*G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th
2 Cir. 1989)), 2) change the settlement position of a party during the course of the
3 Mandatory Settlement Conference (*Pitman v. Brinker Int'l, Inc.*, 216 F.R.D. 481,
4 485-86 (D. Ariz. 2003)), and 3) negotiate a settlement without being restricted by
5 any predetermined level of authority (*Nick v. Morgan's Foods, Inc.*, 270 F.3d 590,
6 596 (8th Cir. 2001)).

7 Governmental entities may appear through litigation counsel only. As to all other
8 parties, appearance by litigation counsel only is not acceptable. Retained outside
9 corporate counsel shall not appear on behalf of a corporation as the party who has the
10 authority to negotiate and enter into a settlement. **The failure of any counsel, party or**
11 **authorized person to appear at the Mandatory Settlement Conference as required**
12 **shall be cause for the immediate imposition of sanctions.** All conference
13 discussions will be informal, off the record, privileged, and confidential.

14 **IT IS SO ORDERED.**

15 DATED: June 22, 2011

16 
17 Jan M. Adler
18 U.S. Magistrate Judge
19
20
21
22
23
24
25
26
27
28