

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00440-JLK-KLM

RICHARD FICK,
SANDRA FICK, and
AMANDA FICK,

Plaintiffs,

v.

SOUTHERN REFRIGERATED TRANSPORT, INC., a foreign corporation, and
HAROLD STOW, individually,

Defendants.

**ORDER SETTING
SCHEDULING/PLANNING CONFERENCE**
(as *amended* effective September 11, 2009)

The above captioned case has been referred to Magistrate Judge Kristen L. Mix pursuant to the Order of Reference entered by Senior District Judge John L. Kane on September 10, 2009.

A. Date of Scheduling Conference

IT IS HEREBY **ORDERED** that a Scheduling/Planning Conference pursuant to Fed.R.Civ.P. 16(b) shall be held on **November 9, 2009**, commencing at **11:00 a.m.** in Courtroom C-204, Second Floor, Byron G. Rogers United States Courthouse, 1929 Stout Street, Denver, Colorado.

B. How to Request Different Date for Scheduling Conference

If this date is not convenient for any counsel/pro se party, he/she shall file a motion to reschedule the conference to a more convenient date, and shall list dates in the motion which are available for all counsel/pro se parties. Absent exceptional circumstances, no request for rescheduling any appearance in this court will be considered unless a motion is made FIVE (5) business days in advance of the date of appearance.

C. How to Request Appearance By Telephone at Scheduling Conference

If you wish to appear at the Scheduling/Planning Conference by telephone, you must file a motion seeking permission to appear by telephone and setting forth good cause for a telephonic appearance. No such motion will be granted unless it is filed at least FIVE (5) business days in advance of the scheduling conference.

D. Plaintiff's Duty to Notify Parties of Scheduling Conference

The plaintiff shall notify all parties who have not entered an appearance as of the date of this Order of the date and time of the Scheduling/Planning Conference set forth above.

E. Parties' Obligations Before Scheduling Conference

1. Scheduling and Discovery Order

IT IS **ORDERED** that counsel/pro se parties in this case are to hold a pre-scheduling conference meeting at least twenty-one (21) days before the Scheduling/Planning Conference pursuant to Fed. R. Civ. P. 26(f)(1).

No later than **five (5) calendar days** prior to the Scheduling/Planning Conference, counsel/pro se parties shall submit their proposed Stipulated Scheduling and Discovery Order (**in PDF**) in compliance with the Court's Electronic Case Filing Procedures which are also available on the Court's website. An additional copy of the proposed Stipulated Scheduling and Discovery Order is to be provided to my chambers at Mix_Chambers@cod.uscourts.gov by **e-mail attachment** with the subject line stating "proposed Stipulated Scheduling and Discovery Order" and in **WordPerfect format**. The instructions for completing the Stipulated Scheduling and Discovery Order required in cases assigned to Judge Kane may be found on the Court's website under his name (www.cod.uscourts.gov) and a sample order which complies with Judge Kane's standards is attached herein.¹ Pursuant to Fed. R. Civ. P. 26(d), as amended, no discovery is to be exchanged until after the Rule 26(f) conference meeting. The parties **shall** include the following language in their proposed Stipulated Scheduling and Discovery Order:

"Other Planning or Discovery Orders: No opposed discovery motions are to be filed with the Court until the parties comply with D.C.COLO.LCivR. 7.1(A). If the parties are unable to reach agreement on a discovery issue after conferring, they shall arrange a conference call with Magistrate Judge Mix to attempt to resolve the issue. Both of these steps must be completed before any contested discovery motions are filed with the Court;"

Parties who are pro se or do not have access to the internet may obtain the Stipulated Scheduling and Discovery Order form and instructions from the Clerk's Office, Room A105, in the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado, 80294. Stipulated Scheduling and Discovery Orders prepared by parties not represented by counsel, or without access to electronic case filing, are to be submitted to the Clerk of the Court on paper.

2. Mandatory Disclosures

IT IS **FURTHER ORDERED** that on or before 14 days after the Rule 26(f) pre-scheduling conference meeting, the parties shall comply with the mandatory disclosure requirements of Fed.R.Civ.P. 26(a)(1), as amended.

3. Confidential Settlement Statements

IT IS **FURTHER ORDERED** that at least **five (5) calendar days** before the

¹ Parties should also familiarize themselves with Pretrial and Trial Procedures Memorandum and sample Pretrial Order specific to Judge Kane, which are also available on the Court's website (www.cod.uscourts.gov).

Scheduling/Planning Conference, counsel/pro se parties shall submit a brief Confidential Settlement Statement to the Magistrate Judge **ONLY**, outlining the facts and issues involved in the case, and the possibilities for settlement, including any settlement authority from the client. Electronic case filing participants are to submit their Confidential Settlement statements to chambers at Mix_Chambers@cod.uscourts.gov with the subject line stating "Confidential Settlement Statement" along with the case number and case caption. The Confidential Settlement statement should be submitted **in PDF** format and sent as an attachment to the e-mail. Documents with attachments totaling over 15 pages shall be submitted **to the Clerk's office** in an envelope labeled "Personal Materials" addressed to Magistrate Judge Kristen L. Mix.² Counsel/pro se parties should be prepared to discuss settlement at the Scheduling/Planning Conference.

F. Miscellaneous

All out-of-state counsel shall comply with D.C.COLO.LCivR 83.3 before the Scheduling/Planning Conference.

It is the responsibility of counsel/pro se parties to notify the Court of his/her entry of appearance, notice of withdrawal, notice of substitution of counsel, or notice of change of address, e-mail address, or telephone number by complying with the Court's Electronic Case Filing Procedures or paper-filing the appropriate document with the Court.

The Parties are further advised that they shall not assume that the Court will grant the relief requested in any motion. Failure to appear at a court-ordered conference or to comply with a court-ordered deadline which has not been vacated by court order may result in the imposition of sanctions under Fed. R. Civ. P. 16(f).

Anyone seeking entry to the Byron G. Rogers United States Courthouse will be required to show valid photo identification. See D.C.COLO.LCIVR. 83.2B. Failure to comply with this requirement will result in denial of entry to the courthouse.

DATED: September 11, 2009 at Denver, Colorado.

BY THE COURT:

s/ Kristen L. Mix
Kristen L. Mix
United States Magistrate Judge

² Do not label this envelope "confidential settlement statement" because you will risk the public filing of the document.