

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Kristen L. Mix**

**Civil Action No.: 09-cv-00636-REB-KLM**

**FTR** - Reporter Deck - Courtroom C-204  
Byron G. Rogers United States Courthouse  
Courtroom Deputy, Kathleen Finney

**Date: July 9, 2009**

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VIDEO PROFESSOR, INC.,

Gregory C. Smith

**Plaintiff(s),**

v.

AMAZON.COM, INC.,

Marc C. Levy

**Defendant(s).**

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**COURTROOM MINUTES / MINUTE ORDER**

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**HEARING: RULE 16(b) SCHEDULING CONFERENCE**

**Court in Session: 10:28 a.m.**

Court calls case. Appearance of counsel.

**It is ORDERED:** Parties will jointly file an amendment to Section 4 of the Scheduling Order containing Undisputed Facts **within 30 days.**

**The following will confirm the actions taken and dates set at the scheduling conference held this date:**

Deadline for Joinder of parties / Amendment of pleadings is **SEPTEMBER 1, 2009.**

Discovery Cut-off is **DECEMBER 1, 2009.**

Dispositive Motions deadline is **JANUARY 15, 2010.**

Parties shall designate experts **on or before OCTOBER 1, 2009.**

Parties shall designate rebuttal experts **on or before NOVEMBER 2, 2009.**

Each party shall be limited to two (2) Expert witnesses, absent leave of court.

Each party shall be limited to three (3) fact, plus two (2) expert Depositions, absent leave of court.

Parties shall be limited to twenty-five (25) Interrogatories, twenty (20) Requests for Production, and twenty-five (25) Requests for Admission.

**Counsel shall call the Court by joint conference call to schedule hearings regarding unresolved discovery disputes prior to filing Motions to Compel and/or Motions for Protective Order.**

No **STATUS CONFERENCE** is set at this time. If the Court determines one is necessary, one will be set by Minute Order. The parties may request a status conference by contacting Chambers (303) 355-2770, preferably as a joint conference call, and request that one be set.

**SETTLEMENT CONFERENCE** is set **NOVEMBER 3, 2009 at 1:30 p.m.**

Attorney(s) and Client(s)/Client Representative(s), including an adjuster if an insurance company is involved, with full settlement authority **are to be present in person** for the Settlement Conference.

**No party or attorney may make plans to leave or leave the scheduled settlement conference before 5:30 p.m. without obtaining express permission from the Court in advance. Any party or attorney who schedules travel which requires departure from the settlement conference before 5:30 p.m. WILL BE REQUIRED TO MAKE ALTERNATE PLANS if the case has not settled by the departure time.**

Each party shall submit an Updated Confidential Settlement Statement to Magistrate Judge Mix **on or before October 27, 2009** in accordance with the Court's *Instructions for Preparation of Confidential Settlement Statements*, Effective January 1, 2008, a copy of which is attached.

The Updated Confidential Settlement Statements shall be sent via e-mail in a PDF format to **Mix\_Chambers@cod.uscourts.gov** ALL additional settlement material (*i.e.* exhibits, deposition transcripts, Exhibits, documents) shall be submitted to the court as hard copies. Counsel shall indicate in their e-mail if they are submitting additional information for the Court to read. Any additional material shall be delivered to the Office of the Clerk of the Court in an envelope marked "Personal per Magistrate Judge Mix's Instructions".

***All parties asserting claims for damages shall provide a monetary demand to all opposing parties one week prior to the Settlement Conference.***

**FINAL PRETRIAL CONFERENCE** is set **MARCH 23, 2010 at 9:30 a.m.**

Final Pretrial Order is due **no later than five (5) days** before the Final Pretrial Conference. (See the court's website **www.cod.uscourts.gov** for Instructions for Preparation and Submission). In accordance with FED.R.Civ.P. 16(d), the conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.

Counsel and the parties must notify chambers (303-335-2770) at least **3 business days in advance** of any hearing requiring presentation of documentary evidence, so that the courtroom can be equipped with the appropriate electronic technology.

**TRIAL** The following are currently set before The Honorable Robert E. Blackburn

Trial Preparation Conference: April 9, 2010 at 10:00 a.m.  
Three (3) day Trial to the Court: April 26, 2010 at 8:30 a.m.

- Scheduling Order is signed and entered with interlineations on July 9, 2009.

HEARING CONCLUDES.

**Court in recess: 10:51 a.m.**

Total In-Court Time: 00:23

To order a transcript of this proceeding, contact Avery Woods Reporting at (303) 825-6119.

**INSTRUCTIONS FOR PREPARATION OF CONFIDENTIAL SETTLEMENT  
STATEMENTS (“CSS”)  
for Submission to Magistrate Judge Mix**

**Effective January 1, 2008**

**I. Introduction**

I am sensitive to the demands placed on counsel by the varying requirements of our court's judicial officers. I carefully considered those demands before deciding that I must revise my settlement conference procedures in order to maximize the efficient use of the parties', counsels' and the court's time, and to ensure the greatest possibility of success in reaching mutually agreeable settlements. If you follow these instructions carefully, I will be able to use my best efforts towards resolution of your case. On the other hand, if you do not follow these instructions, I may require that you revise your CSS, or postpone or cancel the settlement conference. Thank you for your cooperation.

**II. Confidentiality**

In our court, in order to protect the integrity of the process, settlement conferences are confidential. I take this policy very seriously. In conducting the settlement conference, I will not use information provided in your CSS unless you explicitly authorize me to do so. (When appropriate, I may suggest that you authorize me to disclose information.) Therefore, please include in your CSS a designation of all information that you do not wish me to share with the other party (parties) and/or counsel (see Section III. E. iii. below). You may not disclose information exchanged during the settlement conference to anyone who is not a party to the litigation, counsel to a party, or counsel's support staff.

**III. Instructions Regarding Content of CSS**

Please include the following information in your CSS:

- A. An explanation of the facts of the case, computation of damages, and recitation of appropriate legal authority supporting the claims or defenses.
- B. A *numbered list* of the known significant disputed issues of fact.
- C. A *numbered list* of the known significant disputed legal issues.
- D. An *accurate and complete* history of settlement negotiations, including dates and amounts of demands and offers.

- E. An explanation of your preferences for how the settlement conference should proceed. For example, you may address the following issues:
- i. Should each of the parties be physically separated, and why or why not?
  - ii. Given your knowledge of the case and the parties, your assessment of the most effective settlement conference method. Is the case more likely to settle by using a back-and-forth negotiating process or another method? Would a judicial evaluation of the merits of the case and/or its value be helpful or harmful?
  - iii. Designate all information that you do not wish me to share with the other party (parties) and/or counsel.
- F. A good faith evaluation of the value of the case, considering the facts, provable damages, damages limitations (if any), legal issues, witness strengths and weaknesses, procedural status, timing of trial, comparable case verdicts, and any other information you believe to be relevant, AND a good faith explanation of why you value the case as you do.
- G. A settlement demand or offer.

#### **IV. Instructions for Filing of CSS**

If you participate in ECF, please e-mail the CSS in PDF format to my chambers: [Mix\\_Chambers@cod.uscourts.gov](mailto:Mix_Chambers@cod.uscourts.gov). All additional settlement materials (e.g. deposition transcripts, exhibits, etc.) must be submitted to the court in hard copies. Please mail or deliver additional materials either to the Clerk of the Court or directly to me in an envelope marked "Confidential and Private per Magistrate Judge Mix's Order." If you do not participate in ECF, you should mail or deliver your CSS and additional materials as hard copies, as instructed above.

#### **V. Entry to the Courthouse and Cellular Telephones**

Anyone seeking entry into the Alfred A. Arraj United States Courthouse or the Byron Rogers United States Courthouse will be required to show valid photo identification. Cellular telephones with cameras are not permitted in United States Courthouses. Please don't bring them unless you have explicit permission to do so from appropriate Court personnel.