

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00567-REB-MEH

NATIONAL ASSOCIATION OF INVESTORS CORPORATION, a Michigan non-profit corporation,

Plaintiff,

v.

BIVIO, INC., a Delaware corporation,

Defendant.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on November 5, 2010.

Plaintiff's Notice of Motion and Motion Re: Modifying Scheduling Order [filed November 5, 2010; docket #38] is **granted**. The Settlement Conference set for November 8, 2010, is **vacated**. The parties shall first conference together and then call Chambers at (303) 844-4507 on or before **November 12, 2010**, to reschedule.

Plaintiff represents that it does not oppose Defendant's motion seeking amendment of its answer. Accordingly, Defendant's Motion for Leave to File Amended Answer and Add Additional Party [filed October 21, 2010; docket #33] is **granted**. Defendant is hereby ordered to file an Amended Answer and Counterclaim identical to that at docket #33-1 but without the highlighted changes, on or before Tuesday, **November 9, 2010**.

Plaintiff further represents that it does not oppose the relief requested in Defendant's Motion to Modify Scheduling Order [filed October 22, 2010; docket #35], however, that relief is premised on Defendant's Motion to Compel Discovery [filed October 19, 2010; docket #31]. In consideration of the entry of Defendant's Amended Answer and Plaintiff's representation that it does not oppose the relief requested in the motion to modify, the Court **denies without prejudice** Defendant's Motion to Compel Discovery [filed October 19, 2010; docket #31].¹ The Court directs the parties to submit a Joint Motion to Modify the Scheduling Order indicating what changes in the Scheduling Order are needed on or before **November 12, 2010**.

¹Defendant may re-file its motion to compel if cause still exists after further conferral with Plaintiff and submission of a joint motion to modify the scheduling order.