

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Magistrate Judge Craig B. Shaffer**

Civil Action: 12-cv-01699-RBJ-CBS  
Date: October 17, 2013

FTR - Reporter Deck-Courtroom A402  
Courtroom Deputy: Courtni Covington

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Parties:

A PDX PRO CO. INC.,  
  
Plaintiff,

Counsel:

Richard A. Oertli

v.

DISH NETWORK SERVICE, LLC,  
  
Defendant.

Darren E. Nadel  
Alyson A. Smith  
Jennifer S. Harpole

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**COURTROOM MINUTES/MINUTE ORDER**

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**HEARING: DISCOVERY CONFERENCE**

**Court in session: 9:03 a.m.**

Court calls case. Appearances of counsel. Michael Paxton appears as representative for A PDX Pro Co., Inc. and Brett Kitei appears as representative of Dish Network Service, LLC.

Discussion between the court and the parties regarding constructing a chronology of events in the case.

Counsel for Defendant presents oral argument regarding their Motion to Compel and engages in discussion with the court. Counsel electronically presents spreadsheets of records in question.

Discussion held regarding the discovery that has been completed up to this point, individuals counsel will depose, and the parties' Rule 26(a) disclosures.

The court addresses both parties regarding their behavior during the discovery process in this case.

Plaintiff's counsel addresses Defense counsel's statements and engages in discussion with the court.

**10:10 Court in recess.**

**10:20 Court in session.**

Discussion held regarding Plaintiff's calculation of damages. The court notes the current calculation is inadequate and that Rule 26(a) disclosures are subject to the Rule 26(g) certification requirement.

Plaintiff's counsel addresses his concerns with remaining as counsel of record in this matter, notes no trial date is currently set, and orally moves to withdraw from the case.

For the reasons stated on the record,

**ORDERED:** Mr. Oertli's oral Motion to Withdraw is **DENIED**.

Further discussion held regarding the scheduling of depositions, Defendant's concerns with how documents will be identified by Plaintiff, and Plaintiff obtaining data by subpoena from a non-party.

Discussion regarding Plaintiff's Motion to Compel.

For the reasons stated on the record,

**ORDERED:** Plaintiff PDX's Motion to Compel [Doc. No. 86, filed 10/3/2013] is **GRANTED in part** and **DENIED in part**.

The Motion is granted to the extent the court will require Defendant to supplement their privilege log and to provide to Plaintiff load files as negotiated by the parties no later than **Wednesday, October 23, 2013**. The Motion is denied in all other respects.

**ORDERED:** Defendant's Motion to Compel [Doc. No. 87, filed 10/3/2013] is **GRANTED**.

Plaintiff is required to supplement his Rule 26(a) disclosures to Defense counsel **by close of business on Monday, October 21, 2013**. Plaintiff must provide a computation of damages by category and identify (not physically produce) each and every document he will rely upon and plans to use at trial to support his damage computation. Plaintiff will also be required to identify with particularity those categories of damages for which he is lacking documentation.

**Each party to pay their own fees and costs.**

Defense counsel seeks clarification from the court with respect to how the information will be identified. The court notes Plaintiff has an obligation to produce the information in a way that makes it readily usable and reviews the specificity that shall be used by Plaintiff.

The court notes it will allow Defendant to take the deposition of Mr. Paxton next Friday and advises counsel that before that deposition, they should determine what discovery is to be taken, a schedule for that discovery, and the individuals they wish to depose. The scheduling of those depositions should be coordinated when counsel meet for Mr. Paxton's deposition. The court notes if the parties can finalize a discovery schedule, it will be open to discussing the shifting of some dates, but advises the parties that the deadlines will not be substantially extended.

**ORDERED:** A Telephonic Status Conference is set for **Wednesday, October 30, 2013** at **3:00 p.m.**

HEARING CONCLUDED. **Court in recess: 12:05 p.m.** Total time in court: 03:02

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