

1 Under Fed. R. Civ. P. 26(f), the respective parties conducted a discovery-planning
 2 conference on **June 22, 2017**. The parties continued the conference after the Court denied the
 3 parties' proposed Discovery Plan and Scheduling Order without prejudice on July 7, 2017. The
 4 Court subsequently granted the parties' amended proposed Discovery Plan and Scheduling
 5 Order on July 13, 2017. (ECF No. 94.) While the parties have conducted some preliminary
 6 discovery in the form of serving initial disclosures, serving document requests, serving requests
 7 for admissions, and producing some initial documentation in response to those requests, the
 8 parties await the Court's written order granting in part and denying in part the motion to dismiss
 9 filed by Defendants Avison Young (Canada) Inc., Avison Young (USA) Inc., Avison Young—
 10 Nevada LLC, Mark Rose, and Joseph Kupiec to provide guidance on which claims remain so as
 11 to orient the discovery process and make it as efficient as possible. To that end, the parties
 12 hereby submit the following proposed Second Amended Discovery Plan and Scheduling Order:

13 1. Discovery Cut-Off	December 1, 2019
14 2. Joint Protective Order	July 6, 2017
15 3. Disclosure of Rule 26(a) Initial 16 Disclosures and Asserted Claims	October 2, 2017
17 4. Document Production Deadline	February 1, 2019
18 5. Initial Witness List Exchange	February 28, 2019
19 6. Fact Depositions	March 15, 2019 – July 1, 2019
20 7. Motion to Amend Pleadings/Parties	May 15, 2019
21 8. Simultaneous Exchange of Expert 22 Designations and Reports	October 1, 2019
23 9. Simultaneous Exchange of Rebuttal 24 Expert Designations and Reports	November 15, 2019
25 10. Initial Status Report	October 1, 2019
26 11. Dispositive Motion Deadline	February 1, 2020

27 In accordance with Local Rule 26-1(a), the parties stipulate and agree that the 488-day
 28 discovery period running from the submission of the original proposed Discovery Plan and

1 Scheduling order through the proposed discovery cut-off date of December 1, 2019, is
2 appropriate under the circumstances of this case for the following reasons:

3 (a) This is a complex matter involving nearly a dozen parties and thirteen causes of
4 action. The parties argued the Defendants' motion to dismiss in this case on June 9, 2017 (ECF
5 No. 84) and await a written order from the Court. Depending on that order, the parties may
6 have to conduct discovery into claims that will likely require intensive fact and expert
7 discovery, such as misappropriation of trade secrets.

8 (b) In the meantime, the Court has lifted the stay of discovery and directed the
9 parties to initiate the discovery process, which the parties have now begun. After motion
10 practice, the Court entered a Protective Order in this matter on August 11, 2017. (ECF No.
11 104.) The parties have subsequently served initial disclosures pursuant to Fed. R. Civ. P. 26
12 and several discovery requests upon one another. Some limited documentation has been
13 produced to date in response to those requests.

14 (c) The parties have also agreed on a discovery schedule. It contains a lengthier
15 deadline than typically imposed by the Court. This is due, in large measure, to the fact that,
16 depending on the Court's ruling on Defendants' motion to dismiss, the parties anticipate the
17 need for substantial document collection and review prior to commencing oral discovery,
18 including a substantial amount of electronically stored information ("ESI"). The ESI will have
19 to be searched to locate materials relevant to this matter. This will involve negotiating an ESI
20 protocol and managing extensive electronic searches and productions. The process is expected
21 to take several months.

22 (d) The parties estimate that, depending on the Court's ruling on Defendants'
23 motion to dismiss, oral discovery in this case may require them to complete numerous
24 depositions based on, among other things, the potential volume of responsive documents, the
25 potential number of prospective witnesses, and the complexity of the issues involved. Some of
26 these depositions will be out-of-state and so will likely require additional time and effort to
27 complete.

1 (e) It is also anticipated that extensive expert discovery will be required, including
2 reports and depositions.

3 (f) Although the discovery schedule proposed by the parties is robust, it is
4 comparable to the discovery schedules governing litigation in other jurisdictions involving
5 similar plaintiffs and defendants. *See, e.g., BGC Partners Inc., et al. v. Avison Young*
6 *(Canada), Inc. et al.*, Case No. 15 L 002186, Circuit Court of Cook County, Illinois, County
7 Department, Law Division (allowing nearly two years between the entry of the scheduling order
8 and the start of trial); *BGC Partners Inc., et al. v. Avison Young (Canada) Inc., et al.*, Case No.
9 652669/2012, Supreme Court of the State of New York, County of New York (discovery
10 commenced in early 2014 and is currently ongoing); *BGC Partners Inc., et al. v. Avison Young*
11 *(Canada) Inc., et al.*, Case No. 2015 CA 001028, Superior Court of the District of Columbia
12 (setting the deadline for mediation prior to trial approximately 16 months after the entry of the
13 initial scheduling order).

14 (g) The parties are mindful of the Court's desire to move the case along briskly.
15 The proposed schedule is the parties' attempt to complete the array of tasks this case requires as
16 expeditiously as possible.

17 IT IS ORDERED that any extension of the discovery deadline will not be allowed
18 without a showing of good cause for the extension. All motions or stipulations to extend
19 discovery must be received by the court at least **21 days before the expiration of the subject**
20 **deadline**. A request made after this date will not be granted unless the movant demonstrates that
21 the failure to act was the result of excusable neglect. The motion or stipulation must include:

22 (a) A statement specifying the discovery completed by the parties as of the date of
23 the motion or stipulation;

24 (b) A specific description of the discovery that remains to be completed;

25 (c) The reasons why the remaining discovery was not completed within the time
26 limit of the existing discovery deadline; and

27 (d) A proposed schedule for the completion of all remaining discovery.
28

1 IT IS FURTHER ORDERED that, if no dispositive motions will be filed within the
2 time specified in this order, then the parties must file a written, joint proposed pretrial order
3 within 30 days of the dispositive motion cutoff, on or before **March 1, 2020**. If dispositive
4 motions are filed, then the parties must file a written, joint proposed pretrial order within 30
5 days of the date the court enters a ruling on the dispositive motions.

6 IT IS SO ORDERED

7 

8
9 UNITED STATES MAGISTRATE JUDGE

10 DATED: 6-21-2018

11
12 Agreed to by:

13 NIXON PEABODY LLP

GORDON REES SCULLY MANSUKHANI,
LLP

14
15 By: /s/ Seth A. Horvath

By: /s/ Robert S. Larsen

16 F. Thomas Hecht (*pro hac vice*)
17 Tina B. Solis (*pro hac vice*)
18 Seth A. Horvath (*pro hac vice*)
70 W. Madison Street, Suite 3500
Chicago, Illinois 60602

Robert S. Larsen (Nv. Bar No. 10875)
300 S. 4th Street, Suite 1550
Las Vegas, NV 89101

19 *Attorneys for Plaintiffs BGC Partners Inc.,*
G&E Acquisition Company LLC, and
20 *BGC Real Estate of Nevada LLC*

Bryan Stephany, Esq.
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Washington, DC 20005

Attorneys for Defendants Avison Young
(Canada) Inc., Avison Young (USA) Inc.,
Avison Young–Nevada LLC, Mark Rose, and
Joseph Kupiec

21
22 RICE REUTHER SULLIVAN
23 & CARROLL LLP

24 By: /s/ Anthony J. DiRaimondo

25 David Carroll (Nev. Bar No. 7643)
26 Anthony J. DiRaimondo (Nev. Bar No. 10875)
3800 Howard Hughes Pkwy. Suite 1200

27 *Attorneys for The Nevada Commercial Group*
LLC and John Pinjuv