

1 **HUTCHISON & STEFFEN, PLLC**
 2 Brenoch R. Wirthlin, Esq.
 3 Nevada Bar No. 10282
 4 Peccole Professional Plaza
 5 10080 Alta Drive No. 200
 6 Las Vegas, NV 89145
 7 Phone: (702) 385-2500
 8 Fax: (702) 385-2086
 9 email: bwirthlin@hutchlegal.com
 10 Attorneys for Plaintiffs

11 **KERR SIMPSON ATTORNEYS AT LAW**
 12 P. Sterling Kerr, Esq.
 13 Nevada Bar No. 3978
 14 George E. Robinson, Esq.
 15 Nevada Bar No. 9667
 16 2900 W. Horizon Ridge Parkway, Suite 200
 17 Henderson, NV 89052
 18 Phone: 702.451.2055
 19 Fax: 702.451.2077
 20 Email: sterling@kerrsimpsonlaw.com
 21 george@kerrsimpsonlaw.com
 22 Attorneys for Plaintiffs

23 **IN THE UNITED STATES DISTRICT COURT**
 24 **FOR THE DISTRICT OF NEVADA**

25	MICHELLE LYNN STROTHER,	§	Case 2:23-CV-00947-GMN-NJK
26		§	
27	Plaintiff(s),	§	
28		§	JOINT DISCOVERY PLAN
29		§	[SUBMITTED IN
30	vs.	§	COMPLIANCE WITH
31		§	LR 26-1(b)]
32		§	
33		§	
34	NYE COUNTY, et al.,	§	
35		§	
36	Defendant(s).	§	

37 Pursuant to Fed. R. Civ. P. 26(f) and LR 26-1(b), Plaintiff Michelle Lynn Strother
 38 (“Strother” or “Plaintiff”) and Defendant Nye County (“Nye County” or “Defendant”),
 39 respectfully submit the following proposed Joint Discovery Plan:
 40

1 **1. Preliminary Matters**

2 **a. Nature and Basis of Claims and Defenses**

3 Strother brings this action pursuant to the Fourteenth Amendment to the Constitution of
4 the United States and 42 U.S.C. §1983, stemming from her interactions with Nye County related
5 to zoning issues and the subsequent prosecution of Strother by Nye County. Nye County denies
6 all claims made by Strother and has filed a motion to dismiss the Complaint. The parties have
7 stipulated to the filing of an Amended Complaint, which has a deadline of October 28, 2023.

8 **b. Attorneys' Rule 26(f) Conference**

9 The Rule 26(f) conference between counsel for the parties occurred on October 26, 2023,
10 and was attended by the undersigned Brenoch R. Wirthlin, Esq. on behalf of Strother and Brian
11 Hardy, Esq. on behalf of Nye County.

12 **c. Service of Documents**

13 Pursuant to Fed. R. Civ. P. 5(b)(2)(E), the parties consent to service of pleadings and other
14 papers by notice of electronic filing and accompanying electronic service (for documents filed
15 with the Court) and/or by email (for discovery and other non-filed documents). For email service,
16 the parties consent to receive service at counsel's below email addresses. For purposes of response
17 time, email service will be treated the same as service by hand-delivery, except that a document
18 shall not be considered served if the party effectuating service receives an electronic notice that
19 the email was not sent successfully. Service may also be accomplished by other means authorized
20 by the Federal Rules of Civil Procedure, but the parties agree that if they serve any documents by
21 means other than those specified above, they will also email a courtesy copy to counsel at the
22 below email addresses.

23 **d. Certifications**

24 The parties certify that they discussed the possibility of attempting a prompt negotiated
25 resolution of this matter, including mediation, arbitration and early neutral evaluation. The parties
26 further certify that they considered consent to trial by a magistrate judge, and the use of the Short
27 Trial Program.
28

1 **2. Initial Disclosures**

2 The parties have not yet exchanged the initial disclosures required by Fed. R. Civ. P.
3 26(a)(1) but, pursuant to Fed. R. Civ. P. 26(a)(1)(C), the parties will do so within fourteen (14)
4 days of the date of their Rule 26(f) conference, which is **November 9, 2023**.

5 **3. Discovery Parameters**

6 The parties propose to conduct discovery in accordance with the Federal Rules of Civil
7 Procedure and Local Rules of this Court. The parties do not believe that discovery should be
8 conducted in phases or focused on any specific matters.

9 **4. Discovery Limits**

10 The parties agree to the limits on discovery in the Federal Rules of Civil Procedure.

11 **5. Proposed Scheduling Order, in Conformity with LR 26-1(b)**

12 The parties propose the following Scheduling Order to govern this case, which complies
13 with Local Rule 26-1(b). The parties have stipulated to the filing of an Amended Complaint, which
14 has a deadline of October 28, 2023, but which deadline is extended to Monday October 30, 2023,
15 pursuant to Fed. R. Civ. P. 6.

16 **SCHEDULING ORDER DATES:**

17

Date	Deadline
8/31/23	The date that the first appearing Defendants filed their Motion to Dismiss [ECF 24], and discovery will close 180 days thereafter.
11/29/23	Deadline to file motions for leave to amend pleadings or add parties.
12/29/24	Expert disclosure deadline.
1/29/24	Rebuttal expert disclosure deadline.
2/19/24	Deadline that any motion to modify or extend the Discovery Plan and Scheduling Order is due under LR 26 4.
2/27/24	End of fact and expert discovery.
3/28/24	Deadline to file dispositive motions.
4/29/24	Deadline Joint Pretrial Order is due, unless one or more dispositive motions has been filed, in which case the Joint Pretrial Order is due thirty (30) days after a ruling on all dispositive motions, pursuant to LR 26-1(b)(5).
TBD	The parties propose to conduct mediation prior to the date the Joint Pretrial Order is due. In the event dispositive motions are filed, this will permit the parties to determine whether a settlement would be more likely to occur before or after the Court's ruling on such motions.

25

26

27

28 Requests to extend case management deadlines must be filed at least 21 days before the subject deadline(s) for which extension is sought. See Local Rule 26-3.

1 **6. Extension or Modification of the Discovery Plan/Scheduling Order**

2 All motions to modify or extend this Discovery Plan and Scheduling Order must be made
3 within the deadline set forth above and comply with LR 26-3.

4 **7. E-Discovery**

5 The parties stipulate that all requests for production served in this matter shall include a
6 request for any emails and other electronic documents in the responding party's possession,
7 custody or control, except as set forth herein. The parties agree to produce electronic documents
8 in the form of exact duplicates of the original files (including all metadata), except that emails may
9 be produced in the form of .pst files. The parties agree to further produce Bates-labeled .pdf
10 versions of all emails, word documents, PowerPoint files, images and .pdf documents, with
11 attachments to an email to be produced directly behind the relevant email. Documents that are
12 other file types including, without limitation, excel spreadsheets shall be produced in native format
13 with their name altered to the Bates number that would have been assigned to them if they had
14 been produced in .pdf format.

15 In addition, the parties agree the producing party is only required to produce a single copy
16 of a responsive document and will globally de-duplicate responsive ESI (based on MD5 or SHA-
17 1 hash values at the document level) across all custodians. For emails with attachments, the hash
18 value is generated based on the parent/child document grouping. However, metadata identifying
19 all custodians in possession of each document that is removed as a duplicate must be produced, to
20 the extent it exists at the point of collection, in an "OTHER CUSTODIAN" field in the production
21 load file.

22 Further, the producing party may produce e-mails solely as part of an inclusive e-mail
23 thread, even though such e-mails were transmitted by themselves or as part of a non-exclusive
24 shorter e-mail thread, provided that any otherwise duplicate e-mail thread having a previous e-
25 mail in the thread deleted or modified will be identified as a separate inclusive e-mail. The
26 producing party will make reasonable efforts to correct any errors to produce e-mail threads, as
27 described above, including but not limited to incomplete production of attachments. If any issues
28 arise from producing party's production of e-mail threads, even if not strictly production "errors,"
producing party and the requesting party will meet and confer in good faith to resolve or address
such issues.

1 **8. Assertions of Privilege and Claw-Back Agreement**

2 The parties agree to exchange privilege logs in accordance with the Federal Rules of Civil
3 Procedure and Local Rules of this Court, within thirty (30) days after the exchange of documents.

4 The parties agree that the inadvertent production of a privileged document in this matter
5 shall not constitute a waiver of any assertion of privilege. Should any party discover that it has
6 inadvertently produced document(s) it asserts are privileged, it shall promptly notify all other
7 parties of that fact, identifying the document(s) by Bates number. Within seven (7) days of
8 providing such notice, the party that inadvertently produced the document(s) shall produce a
9 supplemental privilege log identifying the documents in question. Within seven (7) days of
10 receiving the initial notice of the inadvertent production, the parties to whom the document was
11 inadvertently produced shall destroy all copies of the document in their possession, custody or
12 control and shall certify in writing to the producing party that they have done so. A party that
13 challenges the assertion of privilege over any inadvertently produced document may do so in
14 accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court in a manner
15 that does not disclose information over which the claim of privilege is asserted.

16 If a document is attached as an exhibit to any publicly filed pleading in this matter, notice
17 that such document is an inadvertently produced privileged document must be given no later than
18 fourteen (14) days after the document was publicly filed. If such notice is timely given, the parties
19 to this proceeding agree to jointly move to seal the filed document over which privilege is asserted,
20 in which case a party shall request that the filing be unsealed only if the assertion of privilege is
21 successfully challenged. Nothing in this section is intended to waive a party's right to challenge
22 the designation of a document as privileged.

23 If a document is introduced as a deposition exhibit in this matter, notice that such document
24 is an inadvertently produced privileged document must be given no later than fourteen (14) days
25 from the calendar day on which such deposition has concluded. If such notice is timely given, the
26 parties agree not to publicly disclose (beyond the confines of the deposition) any information over
27 which the claim of privilege is asserted unless the claim of privilege is successfully challenged.
28

1 The parties stipulate, to the greatest extent permitted by law, that the public filing of an
2 inadvertently produced privileged document and the introduction of an inadvertently produced
3 privileged document as a deposition exhibit in this matter shall not constitute a waiver of privilege.

4 **9. Electronic Evidence**

5 The parties certify they have discussed whether they intend to present evidence in
6 electronic format to jurors for the purposes of jury deliberations. Discussions between the parties
7 will be ongoing as the trial date approaches and any electronic evidence will be presented in a
8 format compatible with the Court's electronic jury evidence display system.

9 **10. Later Appearing Parties**

10 Plaintiff shall serve a copy of this Discovery Plan and Scheduling Order on any party
11 appearing after the date they become effective within seven (7) days of that party's appearance.
12 This Discovery Plan and Scheduling Order shall apply to such later-appearing party unless, upon
13 motion and for good cause shown, the Court orders otherwise.

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **11. Scheduling/Discovery Conference**

2 The parties have not requested special scheduling review herein but are available for a
3 conference to discuss this proposed Joint Discovery Plan and Scheduling Order should one be
4 requested by the Court.

5 DATED: October 27, 2023

6 Respectfully submitted,

7 **MARQUIS AURBACH**

HUTCHISON & STEFFEN, PLLC

8 /s/ Hayden R. Smith

/s/ Brenoch R. Wirthlin

9 Brian R. Hardy, Esq.
10 Nevada Bar No. 10068
11 Hayden R. Smith, Esq.
12 Nevada Bar No. 15328
13 10001 Park Run Drive
14 Las Vegas, NV 89145
15 Attorneys for Defendants,
16 *Nye County and Brian Kunzi*

Brenoch R. Wirthlin, Esq.
Nevada Bar No. 10282
Peccole Professional Plaza
10080 Alta Drive No. 200
Las Vegas, NV 89145
Attorneys for Plaintiffs

KERR SIMPSON ATTORNEYS AT LAW

/s/ George E. Robinson

P. Sterling Kerr, Esq.
Nevada Bar No. 3978
George E. Robinson, Esq.
Nevada Bar No. 9667
2900 W. Horizon Ridge Parkway, Suite 200
Henderson, NV 89052
Attorneys for Plaintiffs

20 **ORDER**

21 IT IS SO ORDERED:

22
23 
24 UNITED STATES MAGISTRATE JUDGE

25 DATED: October 30, 2023