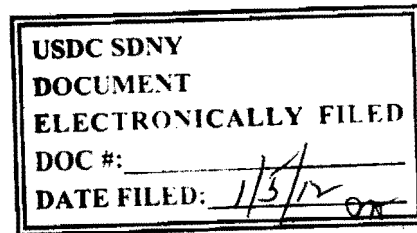


Engelmann, T

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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JEREMY LEBEWOHL, UNCLE ABIES DELI INC.
d/b/a 2nd AVE DELI, UNCLE ABIES DELI ON FIRST
INC., UNCLE ABIES DELI SANDWICH TRADEMARKS
LLC, AND JACK LEBEWOHL,

Plaintiffs,

Index No. 11-cv-3153 (PAE)

-against-

HEART ATTACK GRILL LLC, HAG LLC,
JON BASSO, DIET CENTER LLC (TEXAS), AND
DIET CENTER LLC (DELAWARE),

Defendants.

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AMENDED CONSENT SCHEDULING ORDER

1. This Civil Case Management Plan (the "Plan") is submitted by the parties in accordance with Fed. R. Civ. P. 26(f)(3).
2. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences.
3. This case is to be tried to a jury.
4. Plaintiffs will amend their complaints to add Diet Center LLC (Texas) and Diet Center LLC (Delaware) by October 28, 2011. Defendants will amend their pleadings solely to respond to the addition of the new parties by November 4, 2011. After these dates, amended pleadings may not be filed and additional parties may not be joined except with leave of the Court.
5. All fact discovery shall be completed no later than January 13, 2012.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5 above.
 - a. Depositions to be completed by January 13, 2012.
7. The Parties will not call expert witnesses in this case.

8. All motions and applications shall be governed by the Court's Individual Rules and Practices, including the requirement of a pre-motion conference before a motion for summary judgment is filed. Pursuant to the authority of Fed. R. Civ. P. 16(c)(2), any motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto is made in writing by January 27, 2012, i.e., within fourteen (14) days of the close of fact discovery.
 - a. The following briefing schedule will apply to Defendants' motion for summary judgment that was the subject of a pre-motion conference held on January 4, 2012:
 - i. Moving papers must be filed by January 27, 2012.
 - ii. Opposition papers must be filed by February 21, 2012.
 - iii. Reply papers must be filed by March 6, 2012.
9. All counsel and Parties to this litigation must meet face-to-face for at least one hour to discuss settlement by January 27, 2012, i.e., within fourteen (14) days following the close of fact discovery.
10. Counsel for the parties will participate in the District's Mediation Program before Magistrate Judge James C. Francis. Counsel for the parties recommend that the alternate dispute resolution mechanism be employed by the end of fact discovery. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.
11. The Final Pretrial Order date is February 13, 2012, thirty (30) days following the close of fact discovery. By the Final Pretrial Order date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Rules and Practices and Fed. R. Civ. P. 26(a)(3). Any motions in limine shall be filed after the close of discovery on or before the Final Pretrial Order date. If this action is to be tried before a jury, proposed voir dire, jury instructions and verdict form shall also be filed on or before the Final Pretrial Order date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the Final Pretrial Order date, unless they meet the standard of Fed. R. Civ. P. 51(a)(2)(A). If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted on or before the Final Pretrial Order date.
12. Counsel for the parties have conferred and their present best estimate of the length of trial is two days.

TO BE COMPLETED BY THE COURT:

The Plan has been reviewed by the Court and, except as modified, is adopted as the Scheduling Order of this Court in accordance with Fed. R. Civ. P. 16(b).

14. [Other]

15. The next Case Management Conference is scheduled for _____ at _____. This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend the dates herein (except as noted in paragraph 6) shall be made in a written application in accordance with paragraph 1.E of the Court's Individual Rules and Practices and shall be made no less than two (2) business days prior to the expiration of the date sought to be extended.

Paul A. Engelmayer

Hon. Paul A. Engelmayer
United States District Judge

Dated: New York, New York
Jan. 5, 2017

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