

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA**

**CARL EVANS, DONALD SPENCER,
VALERIE SPENCER, CINDY CARTER,
individuals, on Behalf of themselves and for
the Benefit of all with the Common or
General Interests, Any Persons Injured, and
All Others Similarly Situated,**

CIVIL DIVISION

No. 10-cv-1679

Plaintiffs,

v.

**LINDEN RESEARCH, INC., a corporation,
and PHILIP ROSEDALE, an individual,**

Defendants.

F.R.C.P. 26(f) REPORT

Pursuant to F.R.C.P. 26(f) and this Court's Order filed August 27, 2010, a conference was held by telephone between Robert A. Bracken, Esquire, counsel for Plaintiffs, and Michael H. Page, Esquire and Johanna Calabria, Esquire, counsel for Defendants, on September 3, 2010. Counsel discussed those issues addressed in the Notice to Counsel of Agenda of Initial Pretrial Conference.

I. JURISDICTIONAL DEFECTS

On July 9, 2010, Defendants filed a Motion to Dismiss Under Rule 12(b)(6) or in the Alternative to Transfer Pursuant to 28 U.S.C. § 1404(a) arguing the existence of various jurisdictional deficiencies. This motion remains pending.

II. PRETRIAL SCHEDULE

The parties agree that in this class action matter discovery should be conducted in phases. The first phase of discovery shall pertain solely to the issue of class certification.

Class certification discovery shall be limited to that discovery required to ascertain the existence, numbers, and relevant characteristics of potential members of the putative classes, and the suitability and typicality of the putative class representatives.

Depositions shall be limited to those of named parties and Rule 30(b)(6) depositions of corporate parties limited to class certification issues. The parties submit that this discovery should be completed one hundred and twenty (120) days after the Court rules on the pending Motion to Dismiss. Plaintiffs' motion for certification shall be filed thirty (30) days following the close of the first phase of discovery. Defendants' response in opposition shall be filed twenty-eight (28) days after Plaintiffs' motion is filed. Plaintiffs' reply shall be filed fourteen (14) days after Defendants' response in opposition is filed.

Following, the Court's ruling on certification, the second phase of discovery will commence. At that time, the parties agree to submit to the Court proposed deadlines for the remainder of discovery, adding additional parties,¹ amending pleadings, dispositive motions, expert reports, and trial. The parties shall provide this schedule to the Court within ten (10) days of the Court's ruling on certification. If the Court prefers to schedule such matters at the present time, the parties have engaged in preliminary discussions and will be prepared to address those issues at the September 9, 2010 conference.

III. SETTLEMENT

The parties agree that the prospects of settlement are far more likely after the Court rules on the certification issue. Presently, an amicable settlement is unlikely.

¹ During the conference, Plaintiff's counsel raised the issue that they want to proceed with discovery as to the Defendants' financial condition prior to the expiration of time to add additional parties. Defendants' counsel indicated that they would not consent to this request. Thus, this issue may need to be addressed with the Court following a ruling on certification.

IV. SELF EXECUTING DISCLOSURE UNDER F.R.C.P. 26(a)(1)

The parties will serve their Rule 26(a)(1) disclosures thirty (30) days after the Court rules on the issue of jurisdiction.

V. MISCELLANEOUS

The parties agree to accept service via electronic mail, with service effective on the date of receipt.

Respectfully submitted,

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Dated: September 7, 2010