

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

DEC 1 8 2010

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

DELIVERANCE POKER, LLC,
Plaintiff,

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v.

CAUSE NO. 10-CV-664-JRN

MICHAEL MIZRACHI and
TILTWARE, LLC,
Defendant.

SCHEDULING ORDER

Before the Court in the above-entitled and styled cause of action is Parties' Proposed Scheduling Order (Clerk's Doc. #35). Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Court issues the following Scheduling Order:

IT IS ORDERED THAT:

1. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed on or before **January 4, 2011**.
2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before **January 7, 2011**, and each opposing party shall respond, in writing, on or before **January 14, 2011**. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further **ORDERED** to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.
3. The parties shall file all motions to amend or supplement pleadings and all motions to join additional parties on or before **January 18, 2011**.
4. All parties asserting claims for relief shall file and serve on all other parties their designation of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other

parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before **March 1, 2011**. Parties resisting claims for relief shall file and serve on all other parties their designations of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before **March 15, 2011**. All designations of rebuttal experts shall be filed and served on all other parties **within seven (7) days** of receipt of the report of the opposing expert, and the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) for such rebuttal experts, to the extent not already served, shall be served, but not filed, on all other parties **within seven (7) days** of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, **within seven (7) days** of receipt of the written report of the expert's proposed testimony or **within seven (7) days** of the expert's deposition, if a deposition is taken, whichever is later. **The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702.**


6. The parties shall complete discovery on or before **March 25, 2011**. Counsel may, by agreement, continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions shall be filed and served on all other parties on or before **March 28, 2011** and shall be limited to **ten (10) pages in length**. Responses shall be filed and served on all other parties **within eleven (11) days** of the service of the motion and shall be limited to **ten (10) pages in length**. Any replies shall be filed and served on all other parties **within five (5) days** of the service of the response and shall be limited to **five (5) pages in length**, but the Court need not wait for the reply before

ruling on the motion. Unless otherwise directed by the Court, a party may file no more than one motion for summary judgment, without first obtaining leave of court for good cause.

8. At this point, the Court is not aware of any party's demand for a jury trial. Either way, the dates set out below will apply. Of course, there will be no jury selection in the event of a bench trial. This case is set for final pretrial conference **at 2 p.m. on April 21, 2011**. The final pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. **In addition to counsel, party representatives with authority to negotiate a settlement and all other persons necessary to negotiate a settlement shall attend the final status conference.** Jury selection and trial will begin at **9 a.m. on April 25, 2011**. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference.

SIGNED this 13th day of December 2010.



JAMES R. NOWLIN
UNITED STATES DISTRICT JUDGE