

1 unless (i) otherwise agreed by the parties and the deponent, (ii) alternate
2 times are necessary to accommodate the deponent's schedule; or (iii) it is
3 necessary to go past 6:00 pm to get a full seven hours on the record.

- 4 **b.** Locations. Depositions shall take place, to the extent practicable, in a
5 conference room provided by a law firm or Court Reporter. For any
6 depositions of Plaintiff or a Third Party, the conference room should be
7 able to accommodate at least 10 attendees, if possible.
- 8 **c.** The parties will confer in good faith about mutually scheduling
9 depositions at a time and place convenient to all parties.
- 10 **d.** The depositions of Defendants should be coordinated between Plaintiff's
11 counsel and the individual Defendant's counsel, consistent with the goal
12 of scheduling all depositions for the mutual convenience of all parties.
- 13 **e.** The parties from time to time should exchange the total time used at
14 depositions.
- 15 **f.** For any third-party deponent who refuses to sit for more than seven hours
16 of deposition, the parties shall meet and confer prior to the deposition to
17 allocate time to ensure that all parties have the opportunity to question the
18 deponent.

- 19 **2. Remote Attendance.** Participation by telephone or videoconference is permitted.
20 Any party, party's counsel or other individual entitled to attend or to review the
21 deposition under the Protective Order entered by the Court in this matter may receive
22 access to the LiveNote transmission and monitor the deposition via LiveNote at their
23 own expense. After commencement of the deposition, any technical delays relating
24 to the LiveNote feed will either not delay the deposition or any delay of the
deposition to remedy the technical failure will be charged against the total deposition

1 hour time limit of the party requesting such delay, at the option of the party taking
2 the deposition.

3 **3. 30(b)(6) Procedures.** If an individual will be deposed both as an individual and as a
4 30 (b)(6) corporate representative, the respective depositions will be conducted
5 separately, although both depositions may be conducted on the same day if the time
6 limits will permit.

7 **4. Notice to Third Parties.** When serving Subpoenas or Notices of Depositions, the
8 Noticing Attorney shall include a copy of the Court's Deposition Protocol Order
9 with the Notice.

10 **5. Attendance at Depositions by Defendants.** Any Defendant has the right to exclude
11 any other Defendant(s) from a deposition or portion of a deposition where
12 confidential information is discussed. Plaintiff's outside counsel permitted under the
13 protective order to view Protected Material and Plaintiff's experts permitted under
14 the protective order to view Protected Material may attend the depositions of any
15 party.

16 **6. Objections.** Counsel shall comply with Fed. R. Civ. P. 30(d)(1). Objections will be
17 made by counsel by stating, "Objection," and the basis for the objection concisely
18 and in a nonargumentative and nonsuggestive manner. Any objection made at a
19 deposition shall be deemed to have been made on behalf of all other parties. All
20 objections, except those as to form and privilege, are reserved until trial or other use
21 of the deposition. Counsel shall refrain from engaging in colloquy during deposition.
22 The phrase "objection as to form" or similar language shall be sufficient to preserve
23 all objections as to form and foundation until the deposition is sought to be used. If
24 requested, the objecting party shall provide a sufficient explanation for the objection
to allow the deposing party to rephrase the question.

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7. Scheduling Order: Nothing in this Deposition Protocol alters the deposition requirements and limitations set forth in the Court’s Scheduling Order (Dkt. # 178). Those deposition requirements and limitations are incorporated by reference herein

PROPOSED ORDER

The forgoing Deposition Protocol shall be adopted by the Court and used by the parties in this case.

SO ORDERED

Hon. Marsha J. Pechman, U.S. District Court Judge

1 Dated: February 28, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

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