

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JOHN EAKIN,

Plaintiff,

v.

AMERICAN BATTLE MONUMENTS  
COMMISSION, et al.

Defendants.

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SA-12-CA-1002 FB (HJB)

**ORDER FOR SCHEDULING RECOMMENDATIONS**

In an effort to assist the parties in resolving this dispute as expeditiously and efficiently as possible, and in accordance with Rule CV-16(c) of the Local Court Rules of the Western District of Texas,

**IT IS HEREBY ORDERED** that each parties shall submit a proposed scheduling order to the Court by **September 9, 2013**. The parties shall first confer as required by FED R. CIV. P. 26(f). The content of the proposed scheduling order shall include proposals for all deadlines set out in the form for scheduling order attached hereto and contained in Appendix B to the Local Rules. The parties shall endeavor to agree concerning the contents of the proposed order, but in the event they are unable to do so, each party's position and the reasons for the disagreement shall be included in the proposed schedule submitted to the court. In the event the plaintiff has not yet obtained service on all defendants, the plaintiff shall include an explanation of why all parties have not been served. **The scheduling proposals of the parties shall be considered by the trial court, but the setting of all dates is within the discretion of the Court.** The parties shall indicate in the proposed order that they have in fact conferred as required by the federal rules of procedure.

The proposed scheduling order shall contain suggestions for the following deadlines:

1. Alternative Dispute Resolution: A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed on or before (*the suggested period being 90 days from the date of this order*).

2. Offer of Settlement: The parties asserting claims for relief shall submit a written offer of settlement to opposing parties by (*the suggested period being 90 days from the date of this order*), and each opposing party shall respond, in writing by (*the suggested period being 104 days from the date of this order*).

3. Designation of Witnesses, Experts, & Exhibits: All parties asserting claims for relief shall file their designation of potential witnesses, testifying experts, and proposed exhibits, and shall **SERVE ON ALL PARTIES, BUT NOT FILE the materials required by FED. R. CIV. P. 26(a)(2)(B)** by *(the standard period being 90 days before the close of discovery)*. Parties resisting claims for relief shall file their designation of potential witnesses, testifying experts, and proposed exhibits, and shall **SERVE ON ALL PARTIES, BUT NOT FILE the materials required by FED. R. CIV. P. 26(a)(2)(B)** by *(the standard period being 45 days before the close of discovery)*. All designations of rebuttal experts shall be FILED, 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, within 14 days of receipt of the report of the opposed expert. 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 30 days of receipt of the written report of the expert's proposed testimony, or within 30 days of the expert's deposition, if a deposition is taken, whichever is later.

4. Discovery Deadline: The parties shall complete discovery by *(the suggested period being six months after the date of this order)*. 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.

5. Dispositive Motions Deadline: All dispositive motions shall be filed by *(the standard period being 30 days after the discovery deadline)*. Dispositive motions as defined in Local Rule CV-7(h) and responses to dispositive motions shall be limited to *(the standard page limit for this Court is 20) pages in length*.

6. Mediation Deadline: The parties shall mediate this case on or before *(the standard period being 14 days after the dispositive motions deadline)*, unless the parties seek an order from the Court excusing them from mediation.

The trial date will be determined at a later date by the Court. The parties shall consult Western District of Texas, San Antonio Division, Local Rule CV-16(e) regarding matter to be filed in advance of trial. At the time the trial date is set, the Court will also set the deadlines for the filing of matters in advance of trial.

**The parties shall submit their proposed orders in a format similar to the form attached.**

SIGNED on August 19, 2013.



Henry J. Bemporad  
United States Magistrate Judge