

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

FEDERAL TRADE COMMISSION and UTAH DIVISION OF CONSUMER PROTECTION,  Plaintiffs,  v.  ZURIXX, LLC, et al.,  Defendants.	<p style="text-align: center;"><b>SCHEDULING ORDER</b></p>  Case No. 2:19-cv-00713-DAK-DAO  District Judge Dale A. Kimball  Magistrate Judge Daphne A. Oberg
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Pursuant to Fed. R. Civ. P. 16(b), the court received the Attorney Planning Meeting Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

**\*\*ALL TIMES 4:30 PM UNLESS INDICATED\*\***

<b>1.</b>	<b>PRELIMINARY MATTERS</b>	<b>DATE</b>
	Nature of claims and any affirmative defenses:	
	a. Date the Rule 26(f)(1) conference was held?	06/16/2020
	b. Have the parties submitted the Attorney Planning Meeting Report? Yes.	06/19/2020
	c. Deadline for 26(a)(1) initial disclosures?	07/23/2020
<b>2.</b>	<b>DISCOVERY LIMITATIONS</b>	<b>NUMBER</b>
	a. Maximum number of depositions by Plaintiffs:	25
	b. Maximum number of depositions by Defendants:	25
	c. Maximum number of hours for each deposition (unless extended by agreement of parties):	7
	d. Maximum interrogatories by any party to any party:	60

e. Maximum requests for admissions by any party to any party: Unlimited

f. Maximum requests for production by any party to any party: Unlimited

g. The parties shall handle discovery of electronically stored information as follows:

The parties agree to exchange electronically-stored data (“ESI”), including the metadata. The parties also agree that each party will alert the other in writing if it appears that privileged ESI may have been produced.

The parties agree that, to the extent feasible, the production of electronically-stored information shall comply with the Bureau of Consumer Protection Production Guide.

h. The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows:

The parties agree, consistent with Federal Rule of Evidence 502(b), that the inadvertent production of privileged and protected information shall not operate as a waiver of the privilege or protection provided that: (1) the disclosure is inadvertent; (2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and (3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following the procedures provided by Rule 26(b)(5)(B).

i. Last day to serve written discovery: March 18, 2021

j. Close of fact discovery: July 22, 2021

k. (optional) Final date for supplementation of disclosures and discovery under Rule 26(e):

**3. AMENDMENT OF PLEADINGS/ADDING PARTIES<sup>1</sup> DATE**

a. Last day to file Motion to Amend Pleadings: January 21, 2021

b. Last day to file Motion to Add Parties: January 21, 2021

**4. RULE 26(a)(2) EXPERT DISCLOSURES & REPORTS DATE**

**Disclosures (subject and identity of experts)**

a. Party(ies) bearing burden of proof: March 18, 2021

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<sup>1</sup> Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

b. Counter disclosures: May 20, 2021

**Reports**

a. Party(ies) bearing burden of proof: August 20, 2021

b. Counter reports: October 11, 2021

**5. OTHER DEADLINES DATE**

a. Last day for expert discovery: December 3, 2021

b. Deadline for filing dispositive or potentially dispositive motions: January 15, 2022

c. Deadline for filing partial or complete motions to exclude expert testimony: January 15, 2022

**6. SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION DATE**

a. Likely to request referral to a magistrate judge for settlement conference: Fair

b. Likely to request referral to court-annexed arbitration: No

c. Likely to request referral to court-annexed mediation: No

d. The parties will complete private mediation/arbitration by: The parties do not intend to engage in private alternative dispute resolution.

e. Evaluate case for settlement/ADR on: July 22, 2021

f. Settlement probability: Uncertain.

**7. TRIAL AND PREPARATION FOR TRIAL TIME DATE**

a. Rule 26(a)(3) pretrial disclosures<sup>1</sup>

Plaintiff(s): 06/10/2022

Defendant(s): 06/24/2022

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<sup>1</sup> The Parties must disclose and exchange any demonstrative exhibits or animations with the 26(a)(3) disclosures.

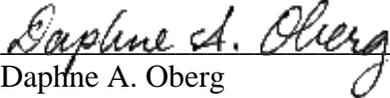
- |    |   |                |           |                          |
|----|---|----------------|-----------|--------------------------|
| b. | Objections to Rule 26(a)(3) disclosures<br>(if different than 14 days provided in Rule) |                |           | <u>00/00/00</u>          |
| c. | Special Attorney Conference <sup>2</sup> on or before:                                  |                |           | <u>07/08/2022</u>        |
| d. | Settlement Conference <sup>3</sup> on or before:  |                |           | <u>07/08/2022</u>        |
| e. | Final Pretrial Conference:  |                |           | Not set at this<br>time. |
| f. | Trial   | <u>Length</u>  |           |                          |
|    |   | <u>10 days</u> | 8:30 a.m. | <u>08/15/2022</u>        |

**8. OTHER MATTERS**

Parties should fully brief all Motions in Limine well in advance of the pretrial conference.

DATED this 22nd day of June, 2020.

BY THE COURT:

  
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Daphne A. Oberg  
United States Magistrate Judge

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<sup>2</sup> The Special Attorneys Conference does not involve the court. During this conference, unless otherwise ordered by the court, counsel will agree, to the extent possible, on voir dire questions, jury instructions, and a pretrial order. They will discuss the presentation of the case, and they should schedule witnesses to avoid gaps and disruptions. The parties should mark exhibits in a way that does not result in duplication of documents. The pretrial order should include any special equipment or courtroom arrangement requirements.

<sup>3</sup> The Settlement Conference does not involve the court unless the court enters a separate order. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.