

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ALL POINTS CAPITAL CORP.,

Plaintiff,

vs.

Case No. 8:10-cv-00823-VMC-TGW

THE DISBROW CORP.,
JOHN DISBROW, and
ANGELA DISBROW,

Defendants.

_____ /

CASE MANAGEMENT REPORT

1. **Meeting of Parties:** Pursuant to Local Rule 3.05(c)(2)(B) or (c)(3)(A), a conference was held on July 2, 2010 at 10:00 a.m. between:

<u>Name</u>	<u>Counsel for (if applicable)</u>
Timothy D. Henkel, Esq.	All Points Capital Corp.
Christopher C. Todd, Esq.	John Disbrow Angela Disbrow Disbrow Corporation

2. **Fed.R.Civ.P.26(a)(1), as amended, effective December 1, 2000, Pre Discovery Initial Disclosures:**

The parties (check one) _____ have exchanged _____ agree to exchange information described in Fed.R.Civ.P. 26(a)(1) on or before August 22, 2010.

Below is a detailed description of information disclosed or scheduled for disclosure:

All contracts, agreements, and communications between the parties.

3. **Discovery Plan - Plaintiff(s):** The parties jointly propose the following Plaintiff's discovery plan:

a. Every discovery effort Plaintiff plans to pursue is described below. The description of each discovery effort will be listed under the appropriate heading below and will include the subject matter of the discovery and the time during which the discovery will be pursued:

(1) Requests for Admission:

Number of Requests for Admission: Parties may seek to limit the number of Plaintiff's requests for admission in accordance with Fed.R. Civ.P. 26(b)(2). Any such request must be presented by motion. See paragraph 6 below.

Plaintiff will submit the standard number of requests for admissions to Defendants John and Angela Disbrow.

(2) Written Interrogatories:

Number of Interrogatories: Local Rule 3.03(a) provides "[u]nless otherwise permitted by the Court for cause shown, no party shall serve upon any other party, at one time or cumulatively, more than twenty-five (25) written interrogatories pursuant to Rule 33, Fed.R.Civ.P., including all parts and subparts." Any request by Plaintiff to exceed this limit must be presented by motion. See paragraph 6 below.

Plaintiff will submit the standard number of interrogatories to Defendants John and Angela Disbrow.

(3) Requests for Production or Inspection:

Plaintiff will submit requests for production as permitted by Rule 34 to Defendants John and Angela Disbrow.

(4) Oral Depositions:

Number of Depositions: Local Rule 3.02(b) provides, "[i]n accordance with Fed.R.Civ.P. 30(a)(2)(A) and 31(a)(2)(A), no more than ten depositions per side may be taken in any case unless otherwise ordered by the Court." Any request by Plaintiff to exceed this limit must be presented by motion. See paragraph 6 below.

Time Permitted for Each Deposition, in accordance with Fed.R.Civ.P. 30(d), is limited to one day of seven hours, unless extended by stipulation of the parties or order of the Court.

Plaintiff will depose Defendants John and Angela Disbrow in accordance with the standard time limitations.

b. Disclosure of Expert Testimony: Parties stipulate, in accordance with Fed.R.Civ.P. 26(a)(2)(C), that Plaintiff's Fed.R.Civ.P. 26(a)(2) disclosure will be due as noted here:

Plaintiff will disclose expert information, if any, by August 23, 2010.

c. Supplementation of Disclosures and Responses: Parties agree that Plaintiff's supplementation under Fed.R.Civ.P. 26(e) will be provided at the following times:

October 11, 2010

d. Completion of Discovery: Plaintiff will commence all discovery in time for it to be completed on or before November 19, 2010.

4. Discovery Plan - Defendant(s): The parties jointly propose the following Defendant(s)'s discovery plan:

a. Every discovery effort planned by Defendant(s) is described below. The description of each discovery effort will be listed under the appropriate heading below and will include the subject matter of the discovery and the time during which the discovery will be pursued:

(1) Requests for Admission:

Number of Requests for Admission: Parties may seek to limit the number of Defendant's requests for admission in accordance with Fed.R.Civ.P. 26(b)(2). Any such request must be presented by motion. See paragraph 6 below.

Defendants will submit the standard number of requests of admissions to Plaintiff.

(2) Written Interrogatories:

Number of Interrogatories: Local Rule 3.03(a) provides "[u]nless otherwise permitted by the Court for cause shown, no party shall serve upon any other party, at one time or cumulatively, more than twenty-five (25) written interrogatories pursuant to Rule 33, Fed.R.Civ.P., including all parts and subparts." Any request by Defendant to exceed this limit must be presented by motion. See paragraph 6 below.

Defendants will submit the standard number of interrogatories to Plaintiff.

(3) Requests for Production or Inspection:

Defendants will submit requests for production as permitted by Rule 34 to Plaintiff.

(4) Oral Depositions:

Number of Depositions: Local Rule 3.02(b) provides, "[i]n accordance with Fed.R.Civ.P. 30(a)(2)(A) and 31(a)(2)(A), no more than ten depositions per side may be taken in any case unless otherwise ordered by the Court." Any request by Defendant to exceed this limit must be presented by motion. See paragraph 6 below.

Time Permitted for Each Deposition, in accordance with Fed.R.Civ.P. 30(d), is limited to one day of seven hours, unless extended by stipulation of the parties or order of the Court.

Defendants may take the deposition of the Plaintiff but if such deposition is taken, it will be within the standard time limitations.

b. Disclosure of Expert Testimony: Parties stipulate, in accordance with Fed.R.Civ.P. 26(a)(2)(C), that Defendant's Fed.R.Civ.P. 26(a)(2) disclosure will be due as noted here:

Defendants will disclose expert information, if any, by September 22, 2010.

c. Supplementation of Disclosures and Responses: Parties agree that Defendant's supplementation under Fed.R.Civ.P. 26(e) will be provided at the following times:

October 11, 2010

d. Completion of Discovery: Defendant will commence all discovery in time for it to be completed on or before November 19, 2010.

5. Joint Discovery Plan - Other Matters: Parties agree on the following other matters relating to discovery (*e.g.*, handling of confidential information, assertion of privileges, whether discovery should be conducted in phases or be limited to or focused upon particular issues):

Should issues as to confidentiality arise (which is not currently anticipated), the parties will resolve them by stipulation or file an appropriate motion with the Court. Privileges claimed will be listed on a privilege log. There is no need for discovery to be conducted in phases.

6. Disagreement or Unresolved Issues Concerning Discovery Matters:

Any disagreement or unresolved issue concerning discovery matters must be made the subject of a separate motion to be filed not later than eleven days after the filing of the Case Management Report. Such disagreement or unresolved issue will not excuse the establishment of discovery completion dates.

Pursuant to Fed.R.Civ.P. 26(a)(1), as amended effective December 1, 2000, any objection as to the appropriateness of required Initial Disclosures shall be recorded in the case management report.

7. Third-Party Claims/Joinder of Parties and Potentially Dispositive

Motions: Parties agree that the final date for filing motion for leave to file third-party claims or motion to join parties should be (this date must be *at least* 120 days prior to close of discovery); **and** that the final date for filing all potentially dispositive motions (for summary judgment or other) should be (a date which is at least 60 days prior to the final pretrial conference).

The final date for such motions for leave to file third party claims or to join parties is agreed to be July 22, 2010.

The final date for dispositive motions is agreed to be November 19, 2010.

8. Settlement and Alternative Dispute Resolution:

a. Settlement: The parties agree that settlement is (check one):

 X likely unlikely

b. Mediation: This case is referred to Court-Annexed Mediation pursuant to Rule 9, Local Rules, M.D.Fla. Mediation must be conducted by a Certified Mediator. A list of Certified Mediators is available on the Middle District of Florida website. The parties are granted an opportunity to select a Certified Mediator from the approved list and to decide where the mediation should be held. The parties should also state the deadline for conducting the mediation conference. If the parties are unable to agree, they must notify the Court and the Court will appoint a Certified Mediator and set a deadline for the mediation conference.

Certified Mediator: Roy W. Cohn

Deadline for Mediation: October 10, 2010

Location of Mediation: 2406 W. Watsons Avenue
Tampa, Florida 33629
(813) 244-3930

9. Parties agree to consent to trial presided over by United States Magistrate Judge (which will afford the parties better opportunity for a "date certain" for trial):

_____ yes X no _____ likely to agree in future

*If yes, the parties shall complete and all counsel and unrepresented parties shall sign the Form AO-85 attached hereto (please note **all signatures must appear on the same form**); submit the same to the Clerk, and the undersigned will promptly thereafter enter the "Order of Reference" portion and file the same in the record hereof.*

10. Preliminary Pretrial Conference:

If designated a Track Three case, Local Rule 3.05(c)(3)(B) provides that a preliminary pretrial conference **is mandatory, and the Court will sua sponte schedule and notice such conference.**

[**Note:** If case was not designated Track Three but all counsel believe it should be such, plaintiff's counsel shall immediately contact the undersigned's Courtroom Deputy Clerk.]

If designated a Track Two case, the parties (check one)

_____ request X do not request

a preliminary pretrial conference before entry of a Case Management and Scheduling Order to address the following unresolved issues:

[**NOTE: If no issues are specified here by the parties, no such conference will be scheduled.**]

11. Final Pretrial Conference and Trial: Parties agree that they will be ready for a final pretrial conference on or after February 1, 2011 and for trial on or after April 25, 2011.

This (check one): [] Jury [X] Non-Jury trial is expected to take approximately 12 hours (including jury selection if applicable).

12. Pretrial Disclosure and Final Pretrial Procedures: Parties acknowledge that they are aware of and will comply with pretrial disclosure requirements in Fed.R.Civ.P. 26(a)(3) and final pretrial procedures requirements in Local Rule 3.06.

Yes.

13. Others Matters (if any):

It should be noted that Defendant Disbrow Corporation is in bankruptcy and Plaintiffs cannot proceed against Disbrow Corporation at this time because of the bankruptcy stay.

Date: July 2, 2010

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