

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

VIRGINIA VAN DUSEN, <i>et al.</i> ,)	
)	
Plaintiff(s),)	
)	
vs.)	2:10-cv-00899-JWS
)	
SWIFT TRANSPORTATION CO.,)	
INC., <i>et al.</i> ,)	
)	
Defendant(s).)	
_____)	

SCHEDULING AND PLANNING ORDER

I. Meeting of Counsel

Based upon information available to the court through a status report completed by the parties pursuant to Rules 16 and 26(f), Federal Rules of Civil Procedure, the scheduling and planning conference, this order for the pretrial development of the case is entered pursuant to Rule 16(b), Federal Rules of Civil Procedure.

This order sets a schedule for determining issues relating to plaintiffs' status as employees or independent contractors. If the court determines that they are employees, the court will solicit input regarding additional pre-trial activities. If the court determines they are independent contractors, this matter will be resolved by arbitration.

II. Pre-Discovery Disclosures

The information required by Rule 26(a)(1), Federal Rules of Civil Procedure:

- A. Has been exchanged by the parties.
- B. **X** Shall be exchanged by the parties on or before **August 12, 2014**.
- C. Preliminary witness lists:
 - 1. Have been exchanged by the parties.
 - 2. **X** Shall be exchanged by the parties on or before **September 29, 2014**.

Counsel for each party must contemporaneously prepare and maintain a written record of all disclosures and supplementation of disclosures or responses made to requests for discovery under Rule 26(a) and (e), Federal Rules of Civil Procedure. Unless required in support of a motion or by order of the court, disclosures and supplemental disclosures are not to be filed with the court.

III. Contested Issues of Fact and Law

- A. **X** Nothing further is required.
- B. The parties have either failed to submit a preliminary statement of issues or have submitted an unsatisfactory preliminary statement of issues. The parties shall meet, prepare, and file a

satisfactory preliminary joint statement of issues
on or before .

IV. Discovery Plan

Discovery shall be conducted in accordance with Rules 26 through 37 of the Federal Rules of Civil Procedure, applicable Local Civil, and the discovery plan contained in the status report of the parties except as otherwise provided below.

A. Issues requiring discovery.

1. Nothing further is required.
2. The parties have not submitted a statement of issues requiring discovery. The parties shall meet, prepare, and file that statement on or before .

B. Preserving discovery information.

1. There is no indication that this will be an issue.
2. *[Other]*

C. Discovery or disclosure of electronically stored information shall be handled as follows:

1. The parties may proceed as they have proposed.
2. There is no indication this will be an issue.

D. Claims of privilege or protection of trial preparation materials shall be handled as follows:

1. **X** There is no indication that this will be an issue.
2. The parties have entered into a confidentiality agreement.
3. The parties shall submit their proposed confidentiality agreement on or before .

E. Expert witness disclosures in accordance with Rule 26(a)(2) shall be made:

1. By all parties on or before .
2. **X** By plaintiff(s) on or before **January 9, 2015.**
3. **X** By defendant(s) on or before **February 9, 2015.**
4. **X** Rebuttal reports on or before **March 12, 2015.**

F. Disclosures and discovery responses shall be supplemented in accordance with Rule 26(e):

1. At intervals of days; and final supplementations shall be served and filed 60 days before the close of fact discovery.

2. **X** As new information is acquired, but not later than 60 days before the close of discovery.

The disclosures required by Rule 26(a)(3), to the extent not covered by this order, will be addressed by the court in an Order for Pretrial Proceedings and Final Pretrial Conference, which the court will issue concurrent with setting this case for trial.

G. A final witness list, disclosing all lay and expert witnesses whom a party may wish to call at trial, shall be served and filed not later than: **February 27, 2015**. Only those witnesses disclosed in a timely filed witness list will be permitted to testify at trial.

H. Discovery shall be scheduled so as to be completed by:

1. As to all fact discovery, on or before .
2. As to all expert discovery, on or before .
3. **X** As to all discovery, on or before **April 10, 2015**.

If discovery is not completed by the date or dates above specified, counsel may stipulate to a single continuance of no more than two months for the completion of same, provided that any such stipulation shall state precisely what discovery remains

and when it will be accomplished.¹ A discovery conference must be requested if more time is required to complete such discovery.

I. The following limitations on discovery are imposed:

1. The limitations set forth in Federal Rules of Civil Procedure 26(b), 30, and 33 apply, except as indicated below.
2. **X** The maximum number of depositions by each party shall not exceed **five (5) per side**.
 - (a) Depositions shall not exceed hours as to any deponent.
 - (b) Depositions shall not exceed hours as to non-party deponents.
 - (c) Depositions shall not exceed hours as to party² deponents.
3. The maximum number of interrogatories posed by each party shall not exceed .
4. The maximum number of requests for admissions posed by each party shall not exceed .

¹Such a stipulation does not require court approval.

²Unless otherwise specified, the court will consider corporate officer, Rule 30(b)(6) witness, and expert witness depositions to be subject to the time limitation applicable to party depositions.

5. *[Other limitations:]*

V. Pretrial Motions

A. Preliminary motions as to jurisdiction, venue, arbitration, and/or statutes of limitation shall be served and filed not later than:

1. **X** Not applicable.

2. *[Date:]*

B. Motions to amend, motions under the discovery rules, motions in limine, and dispositive motions:

1. shall be served and filed not later than the times specified by applicable Local Rules and Rule 56(c)(1)(A), Federal Rules of Civil Procedure, except as indicated below.

2. **X** Motions to amend pleadings or add parties shall be served and filed not later than **August 29, 2014**.

3. **X** Motions under the discovery rules shall be served and filed not later than **May 11, 2015**.

4. **X** Motions in limine shall be served and filed not later than **May 29, 2015**.

5. **X** Dispositive motions shall be served and filed not later than **May 29, 2015**.

VI. Further Pretrial Proceedings

A. **X** The parties have not requested a scheduling conference with the court.

B. **X** The parties have not consented to all further proceedings in this case being before a United States magistrate judge.

C. With reference to the disclosure requirements of Rule 7.1, Federal Rules of Civil Procedure:

1. The parties are in compliance.

2. **X** Compliance shall be accomplished on or before **August 12, 2014**.

D. The parties have considered and reported to the court as regards possible alternative dispute resolution procedures. The use of ADR procedures appears premature at this time. The court will arrange for mediation assistance from a judge of this court upon request of the parties.

E. The court will schedule a pretrial conference for purposes of considering matters set out in Rule 16(c)(2), Federal Rules of Civil Procedure, upon the request of the parties. The court will call upon the parties to certify the case ready for trial when the times specified for discovery and motion practice have expired. The court will issue an order governing final preparation for trial and scheduling a final pretrial conference when the case has been certified ready for trial.

F. In the event that the parties have completed discovery before the discovery close date set in this scheduling and planning order, and if no dispositive motions are then pending or are to be filed by a party, counsel may jointly file a certificate that the case is ready for trial. When the time allowed for discovery and motion practice has passed and all pending dispositive motions have been ruled upon, the court will call upon the parties to certify the case ready for trial.

VII. Trial

It is estimated that this case will require **five (5)** days for trial by **court**. If requested, the right to a jury trial is not disputed.

VIII. Settlement

The parties shall engage in serious settlement efforts no later than **April 30, 2015**. If assistance from a settlement judge is desired, a joint request shall be filed no later than **March 2, 2015**.

DATED this 22nd day of July 2014.

/s/ JOHN W. SEDWICK
SENIOR UNITED STATES DISTRICT JUDGE