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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

**JOINT SCHEDULING AND
PLANNING CONFERENCE REPORT**

I. Meeting.

In accordance with Rules 16(a) and 26(f), Federal Rules of Civil Procedure, a conferral of the parties was held on *November 2, 2018*, at which the following persons participated: *Ryan J. Tucker, on behalf of Plaintiff; and Deitra Ennis and Meagan Carmichael, on behalf of Defendants*. As a result of that conferral, the parties recommend the following:

II. Discovery Plan.

A. Timing, Form and Disclosure Requirements. Please refer to Rule 26(f)(3)(A), Federal Rules of Civil Procedure. Are there changes that the parties are proposing to that rule for this case under Rule 26(a)?

Yes _____ No X

B. Initial Disclosures / Preliminary Witness Lists.

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

(a) _____ Has been exchanged by the parties.

(b) X Will be exchanged by the parties on or before:

December 7, 2018

2. Preliminary witness lists:

(a) _____ Have been exchanged by the parties.

(b) X Will be exchanged by the parties on or before

December 7, 2018

3. Disclosure Statement. The disclosure requirements of Rule 7.1, Federal Rules of Civil Procedure:

- (a) X Have been complied with by Plaintiff.
- (b) Compliance will be accomplished on or before
[date].
- (c) X Rule 7.1 is not applicable as to Defendants.

C. Subjects and Timing of Discovery. See Rule 26(f)(3)(B), Federal Rules of Civil Procedure.

1. List the subjects on which discovery may be needed. *Plaintiff contends discovery is needed on communications by and between Defendants regarding Title V of the Anchorage Municipal Code and/or Plaintiff, Defendants' communications with Plaintiff, information about Defendants' enforcement of Title V of the Anchorage Municipal Code, information about amendments to Title V of the Anchorage Municipal Code, information related to the ability of Plaintiff to post its policies, the factual allegations contained in Plaintiff's Verified Complaint and Municipal Defendants' Answer to Complaint, and any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case.*

In addition to the above, Defendants also contend that discovery is needed on information about Plaintiff's sources of funding and any agreements or requirements for the funding.

2. Should discovery be conducted in phases or limited to or focused on particular issues? Yes _____ No X
- [If yes, please describe the proposed phases or limitations:]*
3. Absent good cause, the proposed date for completion of all discovery should be no later than **twelve months** from the date of this report. *[If one or both parties contend that good cause exists for additional time for discovery, please explain:]*
4. **Final Discovery Witness List.** A final discovery witness list disclosing all lay witnesses whom a party may wish to call at trial shall be served and filed on **August 23, 2019**.¹
5. **Close of Fact Discovery.** Fact discovery will be completed on or before **September 20, 2019**. *[See paragraph C.3 above].*
6. **Expert Discovery.** See Rule 26(a)(2), Federal Rules of Civil Procedure.
- a. Expert witnesses shall be identified by each party on or before **June 7, 2019**, and each party may identify responsive supplemental expert witnesses within 14 days thereafter.
- b. Expert disclosures (reports) required by Rule 26(a)(2) will be disclosed:
- (1) By all parties on or before **August 16, 2019**; or

¹ Each party shall make a good faith attempt to list only those lay witnesses that the party reasonably believes will testify at trial.

By plaintiff(s) on or before *[date]*, and by defendant(s) on or before *[date]*;

(2) Rebuttal reports on or before 30 days from the service of the report being rebutted.

c. Expert witness discovery (include depositions) shall be completed by:
October 18, 2019. [See paragraph C.3 above].

D. Electronically Stored Information (ESI)

1. Are there issues about the disclosure, discovery, or preservation of ESI, including the form or format in which it should be produced? *See* Rule 26(f)(3)(C), Federal Rules of Civil Procedure.

Yes _____ No X *[If yes, please identify the issue(s):]*

2. Please state how ESI should be produced: ***Discovery from electronic or computer-based media will be requested and produced as reasonably available to the parties in the ordinary course of business. If any issues regarding production of such data arise, the parties agree to confer in a good faith effort to resolve any dispute before presenting it to the Court.***

E. Claims of Privilege or Protection of Attorney Work Product *See* Rule 26(f)(3)(D), Federal Rules of Civil Procedure.

1. _____ There is no indication that this will be an issue.
2. _____ The parties have entered into a confidentiality agreement.

3. X The parties will file their proposed confidentiality agreement on or before: ***December 14, 2018.***

F. Limitations on Discovery. See Rule 26(f)(3)(E), Federal Rules of Civil Procedure.

1. X The limitations contained in Rules 26(b), 30, and 33, Federal Rules of Civil Procedure, will apply except as indicated below.
2. The maximum number of depositions by each party will not exceed ***[number]***.
 - (a) Depositions will not exceed ***[number]*** hours as to any deponent.
 - (b) Depositions will not exceed ***[number]*** hours as to non-party deponents.
 - (c) Depositions will not exceed ***[number]*** hours as to party deponents.
3. The maximum number of interrogatories posed by each party will not exceed ***[number]***.
4. The maximum number of requests for admissions posed by each party will not exceed ***[number]***.
5. Other limitations: ***[insert other limitations]***.

G. Supplementation of Disclosures and Discovery Responses. Please refer to Rule 26(e)(1) and (e)(2), Federal Rules of Civil Procedure. Do the parties request

that the Court enter an order that is different from these rules (*e.g.* supplementation at 30 day intervals)?

Yes _____ No X *[If yes, explain:]*

III. Pretrial Motions.

A. Are there preliminary motions as to jurisdiction, venue, arbitration, and/or statutes of limitation that should be filed within 60 days?

Yes X No _____ *Plaintiff intends to file motions regarding jurisdiction and abstention.*

B. Motions must be served and filed within the times specified in applicable rules. Complete the following only if the parties are proposing deadline(s) that are different from the applicable rules:

1. Motions to amend pleadings or add parties will be filed not later than **January 25, 2019**. Thereafter, a party must seek leave of the Court to modify this deadline. *See* Rule 16(b)(3)(A) and (4), Federal Rules of Civil Procedure.
2. Motions under the discovery rules will be filed not later than **October 19, 2019**.
3. Dispositive motions (including motions for summary judgment) will be filed not later than **November 22, 2019**.
4. Motions to exclude expert testimony shall be filed and served not later than **November 22, 2019**.

IV. Trial.

- A. The case is expected to take *[5]* days to try.
- B. Has a jury trial been demanded? Yes _____ No X
- C. Is the right to jury trial disputed? Yes _____ No X
- D. The parties X do / _____ do not request the scheduling of a trial date at this time.²

1. If a trial date is requested at this time, the parties' report shall include a minimum of three alternative dates for the start of the trial, at least two of which are 5 to 7 months from the close of all discovery.

The parties currently have the following dates available for trial of this case: April 8, 2020, April 15, 2020, or April 22, 2020.

2. If a trial date is not established at this time, the court will call upon the parties to certify that the case is ready for trial as provided in Local Rule (Civil) 40.3(b).

V. Other Provisions.

- A. **Court Conference.** The parties _____ do / X do not request a conference with the court before entry of a scheduling order.

[If requested, explain:]

² The decision of whether to establish a trial date at this stage of the proceedings rests with the discretion of the assigned judge. Counsel and self-represented parties are advised to contact the assigned judge's Data Quality Analyst (DQA) to determine the judge's practice for establishing a trial date.

B. Consent to Proceed before a Magistrate Judge.

The parties ____ do / X do not consent to trial before a magistrate judge.

C. Early Settlement / Alternative Dispute Resolution.

1. ____ Do the parties request immediate assistance by way of a settlement conference or alternative dispute resolution?

Yes ____ No X [If yes, explain:]

2. ____ Do the parties wish to consider private mediation or a settlement conference with a judicial officer of this court at a later date? Yes ____ No X

D. Related Cases. Are the parties aware of any related cases as defined

by Local Rule (Civil) 40.2? Yes ____ No X *The Hope Center received in the mail a summons without a copy of the complaint, with the style "Case No. 3AN-18-9533CI; Mr. Samantha A. Coyle vs. Dountoun Soup Kitchen Executive Director Sherrie Laurie."*³ Plaintiff will file a separate Notice of Related Case if necessary.

VI. Report Form.

A. Have the parties experienced a problem in using this form?

Yes ____ No X [If yes, explain:]

B. Are there additional subjects that the parties would propose to add to this form?

Yes ____ No X [If yes, explain:]

³ The style of the case as in original.

Dated: November 9, 2018.

By: /s/ Ryan J. Tucker

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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2018, the foregoing was filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Meagan Carmichael
Assistant Municipal Attorney
Municipal Attorney's Office
P.O. Box 196650
Anchorage, Alaska 99519-6650

/s/ Ryan J. Tucker
Ryan J. Tucker
Attorney for Plaintiff