

**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, et al.,

Defendants.

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

**SCHEDULING AND PLANNING ORDER**

**I. Meeting of the Parties**

Based upon information available to the Court through a status report completed by the parties pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure (Docket 11), and, if one was held, 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.

**II. Discovery Plan**

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

**A. Timing, Form, and Disclosure Requirements.** The requirements of Rule 26(f)(3)(A) shall apply to this case. 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.

**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 shall be exchanged by the parties on or before **December 7, 2018.**

2. Preliminary witness lists:

(a) \_\_\_ have been exchanged by the parties.

(b) X shall be exchanged by the parties on or before **December 7, 2018.**

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

(a) X Plaintiff is in compliance.

(b) \_\_\_ Compliance shall be accomplished on or before \_\_\_\_\_.

(c) X Rule 7.1 is not applicable to Defendants.

**C. Subjects and Timing of Discovery.**

1. The parties reported the following subjects on which discovery may be needed are: **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; any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case; and information about Plaintiff's sources of funding and any agreements or requirements for the funding.**

2. Discovery shall not be conducted in phases or limited to or focused on particular issues.
3. **Final Discovery Witness List.** A final discovery witness list, disclosing all lay witnesses that a party may wish to call at trial either by live testimony or deposition, shall be served and filed not later than: **August 23, 2019**. Each party shall make a good faith attempt to list only those lay witnesses that the party reasonably believes will testify at trial. Unless otherwise ordered for good cause shown, only those lay witnesses disclosed in this final discovery witness list, and the expert witnesses that were timely identified, will be permitted to testify at trial.
4. **Close of Fact Discovery.** Fact discovery shall be completed on or before **September 20, 2019**.
5. **Expert Discovery.** Pursuant to 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) shall be disclosed:
  - (1) By all parties on or before **August 16, 2019**; and
  - (2) Rebuttal reports on or before **30 days** from service of the report being rebutted.
- (c) Expert witness discovery (including depositions) shall be completed by **October 18, 2019**.

**D. Electronically Stored Information (ESI).**

Discovery or disclosure of electronically stored information (ESI) shall be handled as follows:

- 1. \_\_\_ In accordance with Rule 26(f)(3)(C), Federal Rules of Civil Procedure.
- 2. **X** The parties may proceed as they have proposed.

**E. Claims of Privilege or Protection of Attorney Work Product.**

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

- 1. \_\_\_ In accordance with Rule 26(f)(3)(D), Federal Rules of Civil Procedure.
- 2. \_\_\_ The parties have entered into a confidentiality agreement.

3.  The parties shall submit their proposed confidentiality agreement on or before **December 14, 2018**.

**F. Limitations on Discovery.** 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.  The maximum number of depositions by each party shall not exceed **[number]**.
  - (a)  Depositions shall not exceed **[number]** hours as to any deponent.
  - (b)  Depositions shall not exceed **[number]** hours as to non-party deponents.
  - (c)  Depositions shall not exceed **[number]** hours as to party deponents.
3.  The maximum number of interrogatories posed by each party shall not exceed **[number]**.
4.  The maximum number of requests for admissions posed by each party shall not exceed **[number]**.
5.  Other limitations: **[insert other limitations]**.

**G. Supplementation of Disclosures and Discovery Responses.**

Disclosures and discovery responses shall be supplemented under Rule 26(e)(1) and (e)(2), Federal Rules of Civil Procedure.

### III. Pretrial Motions.

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

1. \_\_\_ Not applicable.
2. X **January 11, 2019.**

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

1. X Motions shall be served and filed within the times specified by the applicable rules, except as indicated below.
2. X Motions to amend pleadings, including motions to add parties, shall be served and filed not later than **January 25, 2019**. Thereafter, a party must seek leave of the Court to modify this deadline. See Civil Rule 16(b)(3)(A) and (b)(4).
3. X Motions under the discovery rules shall be served and filed not later than **October 18, 2019**.
4. X Dispositive motions shall be served and filed not later than **November 22, 2019**.
5. X Motions to exclude expert testimony shall be filed and served not later than **November 22, 2019**.

### IV. Trial.

- A. The parties expect the case to take **5** days to try.
- B. A jury trial has not been demanded.
- C. The right to jury trial is not disputed.

D. The parties' requested trial date of **April 8, 2020** shall be the start of the trial.  
A separate trial order shall be issued.

**V. Other Provisions.**

A. **Court Conference.** The parties have not requested a conference with the court before entry of a scheduling order.

B. **Consent to Proceed before a Magistrate Judge.** The parties have not consented to trial before a magistrate judge.

C. **Early Settlement / Alternative Dispute Resolution.** The parties have considered and reported to the court regarding possible alternative dispute resolution procedures.

D. **Cases.** The parties have reported to the Court that they are unaware of any related cases as defined by Local Rule (Civil) 40.2. Plaintiff has reported receiving a summons without a complaint for an action apparently in state court that may prove to be related. Plaintiff shall file a separate Notice of Related Case if necessary.

DATED this 13th day of November, 2018 at Anchorage, Alaska.

/s/ Sharon L. Gleason  
UNITED STATES DISTRICT JUDGE