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

Helen Roe, et al.,
Plaintiffs,
v.
Don Herrington, et al.,
Defendants.

No. CV-20-00484-TUC-JAS
ORDER

A review of the record reflects that the parties filed their initial joint case management report on 8/9/21 (Doc. 85), the Court held a case management conference with the parties on 8/11/21 (Doc. 86), and the Court issued its initial Scheduling Order on 8/12/21 (Doc. 87). Pursuant to the parties’ stipulations, Plaintiffs filed their motion for class certification on 8/25/21 (Doc. 89), and the parties agreed to consult thereafter as to the best way to proceed as to class action issues and submitted a follow-up joint case management report (Doc. 91). Pursuant to the joint request of the parties, the Court held a follow-up case management conference with the parties on 9/14/21 where case management issues as to class certification were discussed.

Upon review of the parties’ follow-up joint case management report (Doc. 91) and further discussion, the Court agrees with Defendants’ position that a brief period of class action discovery is warranted prior to them filing a response to the motion for class certification. Accordingly, IT IS ORDERED as follows:

- (1) The parties shall have 60 days from the filing date of this Order to conduct class action

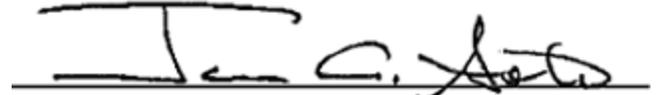
1 discovery, 30 days to propound written discovery, and 30 days from the date of the last
2 written response to take the depositions of Lizette Trujillo and the parents/next friends of
3 the three named Plaintiffs. The written discovery and depositions shall primarily focus on
4 class certification issues. The Court notes, however, that in this Court's experience,
5 oftentimes class certification issues overlap with merits issues. As such, attempting to
6 draw a bright line between class certification issues and merits issues in an attempt to
7 streamline discovery has the opposite effect as it often leads to unnecessary satellite
8 litigation (and long delays related thereto) as to whether discovery is solely related to the
9 merits or class certification issues. To avoid this wasteful litigation, the Court typically
10 directs the parties to simultaneously conduct both merits and class certification discovery
11 leading up to a motion for class certification and briefing related thereto. While the class
12 discovery in this case shall be primarily focused on class certification issues, to the extent
13 there is any potential overlap with merits issues, it shall be allowed via both written
14 discovery requests and during the depositions. If this directive is insufficient to avoid
15 written and oral disputes as to whether certain areas are related to class issues versus merits
16 issues, the Court will likely amend its Order to direct that class action discovery and merits
17 discovery occur simultaneously leading up to a response and reply as to class certification
18 in this case.

19 (2) Defendants shall have 30 days—from the date of the last deposition—to prepare and
20 file their opposition to the Motion for Class Certification.

21 (3) Within 7 days of Defendants filing their response to class certification, the parties shall
22 confer again as to how best to proceed moving forward. The parties shall discuss what, if
23 any discovery, either party may still need relating to Plaintiffs' reply and any other potential
24 briefing related thereto, a proposed schedule for any additional discovery and briefing, and
25 any other suggestions the parties have as to how to proceed moving forward. Within 7
26 days after conferring, the parties shall file another joint report reflecting their discussions,
27 agreements, and suggestions as to how to proceed. Shortly after receiving this joint report,
28 the Court will hold another telephonic case management conference with the parties, and

1 will issue another case management Order as to additional discovery, class action briefing,
2 and deadlines related thereto.

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4 Dated this 15th day of September, 2021.

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8 Honorable James A. Soto
9 United States District Judge
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