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

D.T., et al.,  Plaintiffs,  v.  Dr. Cara Christ, et al.  Defendants.	No. CV-20-484-TUC-JAS  <b>SCHEDULING ORDER</b>
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The Court has reviewed the parties' joint report (Doc. 84) and held a case management conference with the parties on 8/11/21. As noted at the end of this Order in regard to class action issues, the deadlines (and this Court) are flexible to accommodate the parties' needs. The parties should not be reluctant to agree to procedures, deadlines, or other matters for fear that they will be sandbagged, there will be a trial by ambush, or similar unfairness; the Court will not let that happen and can extend deadlines, make exceptions, or otherwise adjust whatever is necessary to allow both sides to have a full and fair opportunity to support or defend their positions throughout this litigation.

**IT IS HEREBY ORDERED as follows:**

- A. **Initial disclosures** are due by **9/10/21**.

1 B. The last day for **adding parties or amending pleadings without leave** is  
2 **8/11/21.**

3  
4 C. All **fact discovery** shall be completed by **2/25/22.**

5 D. Plaintiffs shall submit any **expert disclosures and reports** by **3/1/22.**  
6 Defendants shall submit any expert disclosures and reports by **4/1/22.** Plaintiffs shall  
7 submit any rebuttal expert disclosures and rebuttal reports by **5/1/22.**<sup>1</sup> Expert discovery  
8 ends on **6/6/22.**

9  
10 \*Interrogatories must be submitted sufficiently in advance to permit the opposing  
11 party to answer before the discovery deadline, thereby giving the party submitting the  
12 interrogatories sufficient time to undertake discovery made necessary by the answers.

13  
14 \*The parties are directed to LRCiv 7.2(j), Rules of Practice of the United States  
15 District Court for the District of Arizona, which prohibits filing discovery motions unless  
16 the parties have first met to resolve any discovery difficulties. If the parties are unable to  
17 resolve a discovery dispute and Court action is required, the parties shall file a written  
18 motion with the Court; the parties shall not contact the Court telephonically to resolve their  
19 dispute.  
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22 E. \*\*\*

23 F. **Dispositive motions (i.e., such as a motion for summary judgment – not**

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25 \_\_\_\_\_  
26 <sup>1</sup> The Court notes that the parties disagreed as to the process for expert disclosures; the  
27 process included in this Order is the typical process this Court follows and it appears  
28 appropriate in this case. If it becomes necessary, the Court can adjust the deadlines or  
procedures referenced herein; the Scheduling Order is not set in stone and this Court  
routinely extends deadlines and adjusts other matters based on the parties' stipulations or  
motions.

1 **Daubert motions or other motions in limine**) shall be filed by **7/11/22**. If a decision as  
2 to a *Daubert* issue or other motion in limine is not necessary to resolve summary  
3 judgment issues, the parties are **prohibited** from filing *Daubert* motions or other  
4 motions in limine prior to the Court’s ruling as to summary judgment. *Daubert*  
5 motions and other motions in limine may only be filed no earlier than the date listed  
6 below for *Daubert* motions and motions in limine. If the parties agree that the Court’s  
7 ruling on specific *Daubert* motions or other motions in limine are necessary to resolve  
8 summary judgment issues, they may submit a stipulation and proposed order  
9 granting leave to file such a motion; if no agreement is forthcoming, a party may file  
10 a motion for leave to file *Daubert* motions and motions in limine; the other side shall  
11 file a response, but no reply is permitted. The Court notes that only in rare  
12 circumstances are rulings on *Daubert* motions or other motions in limine necessary to  
13 resolve summary judgment issues; the Court typically considers these issues only  
14 after summary judgment has been denied (at least in part) and the parties have  
15 submitted their proposed Joint Pretrial Order (“PTO”) (the PTO is due 30 days after  
16 summary judgment has been denied, and *Daubert* motions and other motions in  
17 limine are due 14 days after the PTO is filed).

23 \*The parties must comply with LRCiv 12.1(c) in regard to motions to dismiss. *See*  
24 LRCiv 12.1(c) (“No motion to dismiss for failure to state a claim or counterclaim, pursuant  
25 to Federal Rule of Civil Procedure 12(b)(6), or motion for judgment on the pleadings on a  
26 claim or counterclaim, pursuant to Federal Rule of Civil Procedure 12(c), will be  
27 considered or decided unless the moving party includes a certification that, before filing  
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1 the motion, the movant notified the opposing party of the issues asserted in the motion and  
2 the parties were unable to agree that the pleading was curable in any part by a permissible  
3 amendment offered by the pleading party. The movant may comply with this rule through  
4 personal, telephonic, or written notice of the issues that it intends to assert in a motion. A  
5 motion that does not contain the required certification may be stricken summarily.”). If  
6 any Defendant files a motion to dismiss under Rule 12(b)(6) or 12(c) and if Plaintiff  
7 contends any further amendment of the Complaint can cure any alleged deficiency,  
8 Plaintiff must submit, no later than the time Plaintiff files a response to a motion to dismiss,  
9 a proposed amended complaint containing all further allegations Plaintiff could make. In  
10 the event a motion to dismiss is granted in any part, no leave will be granted to amend the  
11 Complaint beyond what is offered in that proposed amended complaint.  
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15 \*A party filing a dispositive motion shall file only one dispositive motion which  
16 incorporates all relevant arguments. The dispositive motion shall be limited to 17 pages as  
17 required by LRCiv 7.2(e); responses are limited to 17 pages and replies are limited to 11  
18 pages.<sup>2</sup> See LRCiv 7.2(e). Parties are prohibited from simultaneously filing multiple  
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21 <sup>2</sup> The Court notes that all motions and filings must comply with the Local Rules, and non-  
22 compliant filings may be disregarded or stricken as an attempt to subvert the Local Rules  
23 which encourage the parties to be concise in their arguments. See LRCiv 7.1(b)(1)(“The  
24 body of all documents shall be typed, double-spaced and shall not exceed 28 lines per page;  
25 they shall not be single-spaced . . . All pleadings, motions and other original documents  
26 filed with the Clerk shall be in a fixed-pitch type size no smaller than . . . 10 letters per inch  
27 . . . or in a proportional font size **no smaller than 13 point**, including any footnotes. Pages  
28 of the document must be numbered. The left margin shall not be less than 1 ½ inches and  
the right margin shall not be less than ½ inch.”)(emphasis added). Requests to exceed page  
limits (whether in the form of a motion, unopposed motion, or stipulation) will likely be  
denied, and as such, the parties should plan to be concise in their arguments and comply  
with the Local Rules on page limits and formatting. See LRCiv 7.2(e), 7.1(b)(1).

1 dispositive motions directed at separate counts or issues in a case.

2 \*While it is proper to file one motion to dismiss early in the litigation and one  
3 motion for summary judgment after discovery has been completed, it is not proper to  
4 simultaneously file multiple motions to dismiss or multiple motions for summary judgment  
5 directed to separate counts or issues. The parties shall raise all of their arguments for  
6 dismissal in one motion to dismiss as early as possible in the case, and raise all of their  
7 arguments for dismissal in one motion for summary judgment after discovery has closed.  
8  
9 The Court views the filing of such multiple motions as an attempt to subvert the Local Civil  
10 Rules establishing page limits which encourage the parties to be concise in their arguments;  
11 if necessary, the parties may seek leave to exceed page limits to include all of their  
12 arguments in one motion to dismiss or one motion for summary judgment. Furthermore,  
13 filing successive motions to dismiss or motions for summary judgment after the Court has  
14 already resolved such a motion is extremely inefficient and often causes long and  
15 unnecessary delays as a case is essentially halted during the period between the filing of a  
16 dispositive motion and the Court's ultimate ruling on a dispositive motion after it has been  
17 fully briefed.  
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22 \*If a party files a successive motion to dismiss or motion for summary judgment  
23 after such a motion has been resolved by the Court, the successive motion to dismiss or  
24 motion for summary judgment will likely be summarily denied as a motion for  
25 reconsideration.  
26

27 \*The Court also notes that if a party files an early summary judgment motion before  
28 discovery has closed, the Court will likely grant an opposing party's request to complete

1 necessary discovery to properly oppose the motion; in such circumstances, the early motion  
2 for summary judgment would be denied without prejudice pending completion of  
3 necessary discovery. In light of the foregoing, the parties should strive to include all of  
4 their arguments in one motion to dismiss early in the case and one motion for summary  
5 judgment upon the close of discovery.  
6

7 \*The parties have leave of the Court, pursuant to LRCiv 7.2, to file a motion,  
8 opposition, and reply. No other (supplemental) pleading will be considered by the Court,  
9 unless a motion for leave to file said pleading is granted by the Court.  
10

11 \*All pleadings submitted for the court's review must comply with the filing, time,  
12 and form requirements of the Local Rules.  
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14 \*Any motion, pleading, or other document which is submitted with more than one  
15 exhibit must be accompanied by a Table of Contents; any exhibits must be indexed with  
16 tabs which correspond to the Table of Contents. The Court will not consider documents  
17 which do not conform to these requirements.  
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19 G. The parties shall file a **proposed Joint Pretrial Order by 8/12/22**, which  
20 shall include, but not be limited to, that prescribed in the form of Joint Pretrial Order  
21 attached. **Pre-trial disclosures are due 14 days before the deadline to file a proposed**  
22 **Joint Pretrial Order.**  
23

24 \***If dispositive motions are filed, the proposed Joint Pretrial Order shall be filed**  
25 **thirty (30) days from the filing date of the Court Order issuing a non-dispositive<sup>3</sup>**  
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<sup>3</sup> If a non-dispositive decision is issued, any party may file a motion seeking to stay the remaining deadlines in the case pending a settlement conference. In addition, the Court

1 decision on said motion(s).

2 H. It is the responsibility of Plaintiff's counsel to initiate the communication  
3 necessary to prepare this joint filing.  
4

5 I. **Motions in limine (which includes *Daubert*/Rule 702 motions) shall be**  
6 **filed no later (and no earlier) than fourteen (14) days after the filing of the proposed**  
7 **Joint Pretrial Order.** Responses to motions in limine and *Daubert* motions are due  
8 fourteen (14) days after the filing of the motions in limine and *Daubert* motions. **Unless**  
9 **otherwise ordered by the Court, no replies are permitted and motions in limine and**  
10 ***Daubert* motions (and responses) thereto shall not exceed five (5) pages.** Typically,  
11 after the Court has issued an Order addressing motions in limine and *Daubert* motions, the  
12 Court will then issue Orders pertaining to dates for the **trial, pretrial conference, and the**  
13 **filing of proposed jury instructions, voir dire, and verdict forms.** Motions in limine  
14 and *Daubert* motions are discouraged if the parties can informally resolve the issues  
15 without Court intervention. Therefore, the parties must confer prior to the filing of a  
16 motion in limine or *Daubert* motion to determine whether it can be avoided. Motions in  
17 limine and any *Daubert* motions must be accompanied by a notice of certification of  
18 conferral indicating that the parties have conferred to determine whether a motion in limine  
19 or *Daubert* motion can be resolved through agreement, and have been unable to agree on  
20 a resolution of the motion. Motions in limine and *Daubert* motions that do not contain the  
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notes that it can set up a settlement conference with a Magistrate Judge at no cost to the parties.

1 required certification may be stricken by the Court.

2 NOTE: The parties cannot, without Court approval, extend the deadlines imposed  
3 by the Court.  
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5 All motions/requests for extension of time shall comply with LRCiv 7.3.

6 All motions/requests for extension of discovery deadlines must also include a  
7 summary of the discovery conducted to date, the anticipated discovery to be done if the  
8 request is granted, and the reasons why discovery has not been completed within the  
9 deadline.  
10

11 \*To avoid the appearance of impropriety by the Court or the parties and to preserve  
12 a proper record in the event of any appeal, all communication with the Court shall occur  
13 via a written motion filed into the official docket. The parties shall not contact the Court's  
14 staff (i.e., Law Clerks or the Judicial Assistant) telephonically or by e-mail to ask questions  
15 or express concerns regarding cases pending before the Court, and the Court has directed  
16 its staff not to entertain any such informal communication. While the parties may give the  
17 Court's staff a courtesy call to give them notice of an emergency motion, settlement, or  
18 last-minute stipulation to adjust deadlines, all other communication with the Court shall  
19 occur via a written motion.  
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23 \*The parties must file a proposed order with any motion or stipulation filed with the  
24 Court and such documents must comply with the applicable requirements in the local  
25 rules.<sup>4</sup> See, e.g., LRCiv 5.4, 5.5, 7.1, 7.2; Electronic Case Filing Administrative Policies  
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28 <sup>4</sup> Pro se parties are exempt from this requirement; a proposed order is not required in  
relation to dispositive motions.

1 and Procedures Manual in the United States District Court for the District of Arizona  
2 (“Manual”).<sup>5</sup> All proposed orders must be **emailed** to chambers  
3 (**soto\_chambers@azd.uscourts.gov**) in either Word or Word Perfect format. *See id.*;  
4 Manual at 12-13 (describing pertinent e-filing procedures in detail).<sup>6</sup> In addition, if a  
5 motion is opposed, the opposing party shall file and email to chambers a proposed order  
6 denying the motion. **To the extent the parties file any motions, responses, or replies as**  
7 **to substantive matters (such as motions for: injunctive relief, to dismiss, for summary**  
8 **judgment, to compel, sanctions, etc.), the parties shall email Word or Word Perfect**  
9 **copies of the motions, responses, or replies to chambers. Lastly, the parties shall also**  
10 **email Word or Word Perfect copies of any separate statement of facts in support of,**  
11 **or in opposition to, summary judgment or other motions.**

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15 \*Paper copies of all filings must be mailed (except as noted below) to chambers  
16 (LRCiv 5.4); any motion, pleading, or other document which is submitted with more than  
17 one exhibit must be accompanied by a Table of Contents and the exhibits must be indexed  
18 with tabs which correspond to the Table of Contents. Anytime a party files a motion,  
19 response, reply, or other brief with the Court, the party must mail the Court paper copies  
20 of all authority cited in the brief which shall be included in a binder with a table of contents  
21 and exhibit tags corresponding to the authority cited. Such authority includes, but is not  
22 limited to, case law, rules, statutes, regulations, and treatises. To the extent case law, rules,  
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27 <sup>5</sup> The Manual is on the District of Arizona Website; the specific link to the manual is:  
[http://www.azd.uscourts.gov/azd/cm-ecf.nsf/files/\\$file/adm+manual.pdf](http://www.azd.uscourts.gov/azd/cm-ecf.nsf/files/$file/adm+manual.pdf)

28 <sup>6</sup> Unless otherwise ordered by the Court, e-filing is mandatory for attorneys, but is  
inapplicable to pro se parties. *See* LRCiv 5.5.

1 statutes, or regulations are cited, the entire case, rule, statute, or regulation shall be included  
2 in the binder. The case law shall be organized in alphabetical order. To the extent treatises  
3 are cited, only the section(s) relied upon shall be included in the binder. As to all of the  
4 authority cited which must be included in the binder, the parties shall also tag (with a post-  
5 it) the specific page(s) cited in their briefs and highlight (by circling with a pen or using a  
6 highlighter) the portion of the case, rule, statute, regulation, or treatise that supports the  
7 citations of authority relied upon in their briefs. Within seven days after a document is  
8 filed, the parties shall provide the Court with paper copies in strict compliance with this  
9 Order and file a notice that they have strictly complied with the requirements in this Order;  
10 failure to timely file this required notice will be viewed as a party's admission that they  
11 have failed to comply with this Court's Order.<sup>7</sup> If an emergency motion is filed (including,  
12 but not limited to, a motion for a temporary restraining order, preliminary injunction,  
13 emergency stay, or other motion that warrants expedited action) that requires more  
14 immediate attention from the Court, the parties shall provide the required paper copies no  
15 later than one business day (or sooner if possible) after the motion, response or reply is  
16 filed pertaining to any emergency motion. If a party fails to submit the required authority  
17 binder and other paper copies required by this Order<sup>8</sup>, the Court may summarily deny or  
18 grant a motion as applicable to the party that failed to comply with this Order, and the  
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25 <sup>7</sup> The parties are not required to provide paper copies of stipulations and unopposed  
26 motions to continue, and need not provide authority binders as to stipulations and  
27 unopposed motions to continue.

28 <sup>8</sup> On rare occasions, the Court may find it necessary to issue an Order before the deadline  
to submit the required binders expires; in these circumstances, the binder requirement  
becomes moot, and the parties are not required to submit binders.

1 Court may dismiss the case with prejudice or enter a default judgment as to the non-  
2 complying party.<sup>9</sup>

3  
4 \*\*\***Class Action Issues:** Plaintiffs shall file their motion for class certification by **8/25/21**.

5 The parties shall meet and confer by **9/2/21** and submit a joint report by **9/6/21**. Unless the  
6 parties can reach a stipulation in the interim, any response, reply, and discovery related to  
7 class certification is held in abeyance until the Court reviews the 9/6/21 report and issues  
8 an Order related to the issues therein. If the parties think it could be helpful, the Court can  
9 hold another telephonic status conference after receipt of the 9/6/21 joint report; likewise,  
10 the parties could meet and confer again after Defendants file their response to class  
11 certification, file another joint report as to how best to proceed, and the Court could hold  
12 another telephonic case management conference to discuss the remaining issues with the  
13 parties leading up to Plaintiffs' eventual reply.

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17 As noted above, the deadlines in the Scheduling Order are flexible, and the Court  
18 intends to give all parties a full and fair opportunity to support their positions. The parties  
19 should not be overly concerned about getting sandbagged, a trial by ambush, or some other  
20 unfair action in this litigation; if a party needs discovery, additional time to address issues,  
21 or needs some other form of relief from the Court such that everyone has a full and fair

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25 <sup>9</sup> As to pro se parties, the Court notes that the full text of most legal authority is available  
26 via numerous internet sites, including Google Scholar (<http://scholar.google.com/>), which  
27 is available to the public and completely free. In addition, most legal authority can be  
28 found and copied for a limited charge in various libraries located in most cities such as the  
law libraries located at the University of Arizona College of Law and the various  
courthouses in Pima County. Legal authority can also be found and printed out for a limited  
charge at sites such as westlaw.com and lexis.com.

1 opportunity to support or defend their positions, they can seek a stipulation or file a motion  
2 with the Court, and satisfactory relief for all parties will likely be attainable.  
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4  
5 Dated this 12th day of August, 2021.  
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8 A handwritten signature in black ink, appearing to read "James A. Soto", written over a horizontal line.

9  
10 Honorable James A. Soto  
11 United States District Judge  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

<p>***,  Plaintiff(s),  v.  ***,  Defendant(s).</p>	<p>No. CV ***-TUC-JAS  <b>PROPOSED JOINT PRETRIAL ORDER</b></p>
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Pursuant to the Scheduling Order previously entered, following is the proposed Joint Pretrial Order which shall, upon approval of the Court, become the Final Pretrial Order.

**I.**

**IDENTIFICATION OF PARTIES AND COUNSEL**

**II.**

**STATEMENT OF JURISDICTION**

Briefly state the facts and cite the statutes which give this Court jurisdiction.

**III.**

**NATURE OF ACTION**

1  
2 Provide a concise statement of the type of case, the cause of action, and the relief sought

3  
4 **IV.**

5 **STIPULATIONS AND UNCONTESTED FACTS**

6  
7 **V.**

8 **CONTESTED ISSUES OF FACT**

9 The following are issues of fact to be tried and determined upon trial. Each issue of  
10 fact must be stated separately and in specific terms, followed by the parties' contentions as  
11 to each issue.  
12

13 Issue:

14 Plaintiff(s) contends:

15 Defendant(s) contends:  
16

17 **VI.**

18 **RELEVANT UNCONTESTED ISSUES OF LAW**

19 (i.e. burdens of proof; standards of review)  
20

21 **VII.**

22 **RELEVANT CONTESTED ISSUES OF LAW**

23  
24 The following are issues of law to be tried and determined upon trial. Each issue of  
25 law must be stated separately and in specific terms, followed by the parties' contentions as  
26 to each issue.  
27

28 Issue:

1 Plaintiff(s) contends:

2 Defendant(s) contends:

3 **VIII.**

4 **LIST OF WITNESSES**

5 Each party shall provide a list of witnesses intended to be called at trial. Each  
6 witness shall be indicated as either fact or expert. A brief statement as to the testimony of  
7 each expert witness shall also be included.  
8

9 **IX.**

10 **LIST OF EXHIBITS**

11 Each party shall provide a list of numbered exhibits. A statement of either  
12 UNCONTESTED or CONTESTED shall follow each listed exhibit. If contested, a brief  
13 statement of the objection by the opposing party shall follow the listed exhibit.  
14

15 (i.e., - 1. Laboratory Report from the Clinical Immunology Diagnostic Laboratory dated  
16

17 \*\*\*. CONTESTED - Relevance, foundation and hearsay.)  
18

19 **X.**

20 **LIST OF DEPOSITIONS**

21 Portions of depositions that will be read at trial must be listed by page and line  
22 number. A statement of either UNCONTESTED or CONTESTED shall follow. If  
23 contested, a brief statement of the objection by the opposing party shall follow the listed  
24 portion of the deposition to be offered.  
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26 **XI. MOTIONS IN LIMINE**

27 Plaintiff(s) have filed the following Motions in Limine:  
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Defendant(s) have filed the following Motions in Limine:

**XII. JURY TRIAL or BENCH TRIAL**

**For a Jury Trial**

Trial briefs (only upon request of the Court), proposed voir dire, interrogatories to the jury, stipulated jury instructions and instructions which are not agreed upon, shall be filed as ordered by the Court.

**For a Bench Trial**

Trial briefs (only upon request of the Court), shall be filed as ordered by the Court day. Parties are referred to LRCiv 52.1 regarding the filing of proposed findings of fact and conclusions of law.

**XIII. PROBABLE LENGTH OF TRIAL**

**CERTIFICATION**

The undersigned counsel for each of the parties in this action do hereby approve and certify the form and content of this proposed Joint Pretrial Order.

\_\_\_\_\_  
Attorney for Plaintiff(s)

\_\_\_\_\_  
Attorney for Defendant(s)

This proposed Joint Pretrial Order is hereby approved as the Final Pretrial Order on this \_\_\_ day of \_\_\_\_\_, 2\*\*\*.

\_\_\_\_\_  
Honorable James A. Soto  
United States District Judge