



September 16, 2011 - Deadline for Respondent's Counsel to provide expert witness reports. Respondent's expert report shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).

September 28, 2011 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondent's expert reports. If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek

appropriate relief (such as striking Complaint Counsel's rebuttal expert reports or seeking leave to submit sur-rebuttal expert reports on behalf of Respondents).

September 30, 2011 - Complaint Counsel provides to Respondent's Counsel its final proposed witness and exhibit lists, including designated testimony to be presented by deposition, copies of all exhibits (except for demonstrative, illustrative or

Counsel's basis of admissibility for each proposed exhibit

provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).

October 19, 2011

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Deadline for depositions of experts (including rebuttal

Counsel may present any objections to the final proposed witness lists and exhibits. Trial exhibits will be admitted or excluded to the extent practicable. To the extent the parties

shall receive a Joint Exhibit Exhibit 11/1/11 11/1/11

4. Each motion (other than a motion to dismiss or a motion for summary decision) shall be accompanied by a separate signed statement representing that counsel

[REDACTED]

8. Motions *in limine* are allowed. However, the filing of motions *in limine* is not encouraged. Motion *in limine* refers “to any motion, whether made before or during trial, to exclude anticipated prejudicial evidence before the evidence is actually offered.” *In re Daniel Chapter One*, 2009 FTC LEXIS 85, \*18-20 (April 20, 2009) (citing *Luce v. United States*, 469 U.S. 38, 40 n.2 (1984)). Evidence should be excluded in advance of trial on a motion *in limine* only when the evidence is clearly inadmissible on all potential grounds. *Id.* (citing *Hawthorne Partners v. AT&T Technologies, Inc.*, 831 F. Supp. 1398, 1400 (N.D. Ill. 1993); *Sec. Exch. Comm’n v. U.S. Environmental, Inc.*, 2002 U.S. Dist. LEXIS 19701, at \*5-6 (S.D.N.Y. Oct. 16, 2002)). Moreover, the risk of prejudice from giving undue weight to marginally relevant evidence is minimal in a bench trial such as this where the judge is capable of assigning appropriate weight to evidence.

9. Compliance with the scheduled end of discovery is required. [REDACTED]

[REDACTED]

time a non-party provides documents in response to a subpoena *duces tecum* to a party, and 3 days after the party provides those documents to the other party, unless a shorter time is required by unforeseen logistical issues in scheduling the deposition, or a non-party produces those documents at the time of the deposition as agreed to by all parties involved.

14. The final witness lists shall represent counsels' good faith designation of all potential witnesses who counsel reasonably expect may be called in their case-in-chief.

completion of discovery within the dates of the scheduling order. The final proposed witness list may not include additional witnesses not listed in the preliminary witness lists

(c) It shall be the responsibility of a party designating an expert witness to ensure that the expert witness is reasonably available for deposition in keeping with this Scheduling Order. Unless otherwise ordered by the court, the deposition of an expert witness shall be held at the residence of the expert witness.

Administrative Law Judge, expert witnesses shall be deposed only once and each expert deposition shall be limited to one day for seven hours.

19. Properly admitted deposition testimony and properly admitted investigational hearing transcripts are part of the record and need not be read in open court. Videotape deposition excerpts that have been admitted in evidence may be presented in open court.