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

Johnny Wheatcroft, et al.,
Plaintiffs,
v.
City of Glendale, et al.,
Defendants.

**NO. CV-18-02347-PHX-DWL
PRELIMINARY ORDER**

The parties are advised of the following preliminary policies and procedures that will govern these proceedings.

Governing Rules

Both counsel and *pro se* litigants must abide by the [Rules of Practice of the U.S. District Court for the District of Arizona](#) (“Local Rules”) and the [Federal Rules of Civil Procedure](#).

Case Management Conference

The Court will schedule a Rule 16 case management conference after Defendant(s) have been served or appeared. As will be directed in the order setting the conference, the parties will be required to engage in a Rule 26(f) meeting and submit a joint Rule 26(f) case management report. Outstanding motions or requests to continue the conference will not excuse the requirement to hold a Rule 26(f) meeting or submit the joint filing.

The Court will issue a case management order following the conference. The order will reflect the parties’ input and the Court’s considered assessment of the time necessary

1 to complete discovery and all pretrial submissions, and will set forth additional policies
2 and procedures that will apply in this case. The parties should keep in mind that civil trials
3 ordinarily should occur within 18 months of the filing of the complaint. *See* 28 U.S.C. §
4 473(a)(2)(B).

5 **Mandatory Initial Discovery Pilot Project (“MIDP”)**

6 This case is subject to the MIDP, which was approved by the Judicial Conference
7 of the United States, has been implemented in the District of Arizona by General Order 17-
8 08, and is adopted by this Court.¹ The MIDP seeks to evaluate whether the use of
9 streamlined preliminary discovery will reduce costs and delays in civil litigation. The
10 following materials are attached to this Order:

- 11 • Notice to Parties - Mandatory Initial Discovery Pilot Project
12 • General Order 17-08 (Nov. 1, 2018)
13 • Mandatory Initial Discovery Pilot Project Checklist
14 • Mandatory Initial Discovery Users’ Manual for the District of Arizona

15 It is the responsibility of the parties to carefully read the materials attached to this
16 Order to ensure familiarity and full compliance with the requirements of the MIDP.

17 Unless the Court orders otherwise, the parties shall file with the Clerk of Court a
18 notice of service of MIDP Responses, supplemental MIDP Responses, and production of
19 ESI, rather than copies of the actual disclosures.

20 **Initial Discovery**

21 The MIDP requires the parties to exchange certain categories of preliminary court-
22 ordered discovery referred to as “Mandatory Initial Discovery Responses” (hereinafter
23 “MIDP Responses”). This requirement supersedes the initial disclosures required by
24 Federal Rule of Civil Procedure 26(a)(1) and is designed to accelerate the exchange of
25 relevant information that would otherwise be produced later in the litigation through

26 ¹ The MIDP applies to all civil cases filed on or after May 1, 2017, except to those
27 categories of cases exempted by the General Order, which include: cases listed in Rule
28 26(a)(1)(B), actions under the Private Securities Litigation Reform Act, cases transferred
for consolidated administration by the Judicial Panel on Multidistrict Litigation, and cases
under the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

1 traditional discovery requests.²

2 **Rule 12 Motions Are Discouraged**

3 Any motion under Federal Rule of Civil Procedure 12 is discouraged if the
4 challenged defect in the pleading can be cured by filing an amended pleading. The Court
5 therefore requires that: (1) before filing a Rule 12(b)(6) motion to dismiss or a Rule 12(c)
6 motion for judgment, the movant must confer with the opposing party to determine whether
7 such motion can be avoided; and (2) the movant must attach a certificate of conferral,
8 certifying that it notified the opposing party of the issues asserted in its motion and that the
9 parties conferred but were unable to agree that the pleading was curable in any part by a
10 permissible amendment offered by the pleading party. *See also* Local Rule 12(c). The
11 requirement to meet and confer and attach a certificate of conferral applies in equal force
12 to motions to dismiss amended complaints, notwithstanding earlier conferrals and
13 certificates before the complaint was amended. Any motion lacking the required
14 certification may be summarily stricken.

15 **Protective Orders**

16 As a general practice, this Court does not approve or adopt blanket protective orders
17 or confidentiality agreements, even when stipulated to by the parties. Further, the mere
18 fact the parties have designated certain materials or information as confidential pursuant to
19 an agreement or stipulation does not mean the Court will automatically order that filings
20 containing such information be placed under seal. *See Ctr. for Auto Safety v. Chrysler*
21 *Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). In the event that discovery requires
22 disclosure of specific, harmful, confidential material, the Court will entertain a request for
23 a protective order at that time if it is tailored to protect the particular interests at hand in
24 accordance with Rule 26(c) of the Federal Rules of Civil Procedure. An exemplar is
25 available on the [Judges' Orders, Forms & Procedures page](#) on the Court's internet site.

26 **Emergencies and Expedited Consideration**

27 ² The MIDP sets forth two circumstances in which MIDP Responses may be excused
28 or deferred. However, unlike initial disclosures required by the federal rules, *see* Fed. R.
Civ. P. 26(a)(1)(A)-(C), the parties may not opt out of the requirement to provide MIDP
Responses, or the MIDP itself.

1 Any party desiring expedited consideration of a motion or other matter pending
2 before the Court may make such a request by filing a separate *Notice for Expedited*
3 *Consideration*. This notice should set forth the grounds warranting accelerated resolution
4 and identify the dates of the imminent events pertinent to the request. A request for
5 expedited consideration that is simply mentioned in the caption/title of the related filing
6 will not be considered—a separate notice must be filed.

7 **Noncompliance**

8 The parties are specifically advised that failure to prosecute, to comply with court
9 orders, or to comply with the Local and Federal Rules may result in dismissal of all or part
10 of this case, default, imposition of sanctions, or summary disposition of matters pending
11 before the Court. *See also* Local Rule 7.2(i) (“If a motion does not conform in all substantial
12 respects with the requirements of [the Local Rules], or if the [opposing party] does not
13 serve and file the required answering memoranda, . . . such noncompliance may be deemed
14 a consent to the denial or granting of the motion and the Court may dispose of the motion
15 summarily.”).

16 Dated this 30th day of November, 2018.

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22 Dominic W. Lanza
23 United States District Judge
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