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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

CITY OF GALVESTON                   §     CASE NO. 3:22-CV-00256  
  §     GALVESTON, TEXAS  
VERSUS                               §     WEDNESDAY,  
  §     NOVEMBER 9, 2022  
SONYA PORRETTO                   §     9:00 A.M. TO 9:59 A.M.

**INITIAL CONFERENCE (VIA ZOOM)**

BEFORE THE HONORABLE ANDREW M. EDISON  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:                               SEE NEXT PAGE  
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1        **GALVESTON, TEXAS; WEDNESDAY, NOVEMBER 9, 2022; 9:00 A.M.**

2                THE COURT: Good morning. It is 9:00 a.m. sharp  
3 and time to begin initial scheduling conferences for  
4 Wednesday, November 9, 2022.

5                Good morning, everyone. I'm Judge Andrew Edison.  
6 Glad for you to be able to join.

7                Do me the favor, for all those that are on Zoom,  
8 this is a court proceeding. So, please put the video on  
9 unless you have received special dispensation from my Case  
10 Manager. I will just go up in a few minutes and knock  
11 everyone who's on video off, which I don't usually enjoy  
12 that much but sometimes apparently I do.

13                Okay. For those of you -- we got a big group. I  
14 know a bunch of you have been through initial scheduling  
15 conferences before with me. You know how it works. There's  
16 nothing secret. I'm basically going to go over our  
17 procedures that we have here in Galveston, that Judge Brown  
18 and I have in Galveston. Then after we do that, I have a  
19 little PowerPoint, as many of you know, that I go through  
20 for simplicity's sake. I'm going to go through each case  
21 with you individually.

22                Obviously, everything's being recorded. So,  
23 please make sure you make your introductions for the Record.

24                For those of you, for the most part, who turned in  
25 timely Joint Case Management Plans, my Case Manager has sent

1 you a draft Docket Control Order. I want to make sure we  
2 put the Docket Control Order in place, see if there's any  
3 issues, and then if you wouldn't mind letting me know are  
4 there any issues that we should expect coming down the  
5 pipeline, Judge Brown and I, in the case so we are best  
6 prepared to handle it.

7           With that said, I'm not going to waste any more  
8 time. Let's jump right into it. And okay, who am I  
9 obviously? I'm Judge Andrew Edison. And Judge Brown is the  
10 District Court Judge. I'm a Magistrate Judge in Galveston.  
11 Together, we've known each other for a long, long time.  
12 We're good friends and at the same time, our goal really is  
13 to try to make the Galveston Bench the best place for both  
14 Plaintiffs and Defendants to try a case.

15           When I became a judge four and a half years ago, I  
16 put together these rules of judging. I was lucky enough to  
17 try cases all over the country on both the Plaintiff and  
18 Defense side. I saw a lot of judges I really liked and a  
19 lot of judges -- how do I say this nicely -- I hated. And  
20 as a result, I put together this list of sort of those  
21 things I would like to emulate, and I call them my "Rules of  
22 Judging." I promised myself and my court staff that I would  
23 go over those every time I had an initial scheduling  
24 conference to let you all know about me and also as a good  
25 refresher course. I should also say that Judge Brown and I

1 think the exact same way on this. This really addresses to  
2 both of us.

3 First of all -- and some of these are blatantly  
4 obvious, right? You want a judge to be fair. You want a  
5 judge who has no appearance of favoritism or impropriety.  
6 That is extremely important, especially on the Galveston  
7 Bench which historically does not have that. And obviously,  
8 I'm talking a number of judges ago. But even if you reach  
9 the right result, if there's any hint or taint of  
10 favoritism, impropriety, it doesn't give us the confidence  
11 that all of us need and want in our justice system.

12 You want a judge that follows the law. There were  
13 a lot of judges I didn't necessarily think did that. And  
14 you want a judge who rules promptly.

15 Judge Brown and I do our best to try to get things  
16 done as quickly as possible. As a trial lawyer, that is one  
17 thing that just bothered me, when I showed up at pretrial  
18 conferences and there's be six motions for summary judgment  
19 pending. We obviously want to reach the right result, but  
20 we also want to do it as quickly as possible.

21 I give everyone a full and fair opportunity to  
22 argue. As I always say, as a trial lawyer, I liked state  
23 court a lot better than federal court because I thought that  
24 federal court -- state court is easy to argue, federal  
25 court, everything was decided on the papers. Granted, the

1 papers are important, but at the same time, Judge Brown and  
2 I very much enjoy oral argument and if a case is referred  
3 over to me or sent to me, any motion, I'll give the parties  
4 an opportunity If they want to argue it. And I know Judge  
5 Brown likewise is very, like the opportunity.

6           So, sometimes, we might not think oral argument's  
7 necessary, but if you want oral argument, please let us  
8 know. We try our best to give people oral argument to be  
9 able to be heard.

10           **Importantly, no black robe disease.** I always say  
11 it's amazing. You become a judge, and you become good-  
12 looking, smart, and funny overnight. I was very fortunate  
13 that I have a wonderful wife and terrific daughter who make  
14 sure that it does not get to my head. And for those of you  
15 that know Judge Brown, although he's been on the State  
16 District Court Bench, State Appellate Court Bench, Texas  
17 Supreme Court, and now the Federal District Bench, he is  
18 really one of the most humble and just genuine people  
19 around.

20           Put yourselves in the shoes of the lawyers. We'll  
21 discuss later you have busy personal and professional lives.  
22 We understand that, and it's important for both Judge Brown  
23 and I to make sure that, you know, we appreciate that.  
24 Sometimes certain arguments or certain things that are going  
25 on and there are other things that might be going on in the

1 background, and we have to understand that.

2           Also, let the lawyers try the case. Our job is  
3 simply that of an umpire or a referee. We're going to make  
4 sure the rules are enforced, that both sides are treated  
5 fairly, but it's not our job to decide how to try the case.  
6 Believe me, there's been many of times in this job where you  
7 look and you say, "Man, I don't believe that's the right  
8 strategic decision," but that's not my job, that's not Judge  
9 Brown's job. That's your job to decide how to try the case.  
10 Our job is simply to enforce the rules, as they say, as  
11 written.

12           And then the last item on my list is the only one  
13 I've added since I became a judge, and that is take the job  
14 seriously, but don't take yourself seriously. And as I say  
15 every time, those that know me or have been with me, I like  
16 to joke around, have a good time, but please -- as does  
17 Judge Brown, but please don't misunderstand or misappreciate  
18 that. We take this job very seriously. We are honored to  
19 have it. We work hard. And no matter -- I know it sounds  
20 corny but no matter whether the case is a billion dollar  
21 case or a ten dollar case, it's important to the litigants  
22 and we take that very, very seriously.

23           Okay. With all that said and done, let me jump  
24 into my list of things you need to know about practicing  
25 here in the Galveston Division.

1           Number one, please read Judge Brown's local  
2 procedures. They're five pages long, just five pages. You  
3 know, I always tell people that to me -- as a trial lawyer,  
4 by the way, I never read a judge's procedure. In 25 years,  
5 never did it once. Biggest mistake I ever made. It's  
6 amazing. Although the rules are only 5 pages long, how many  
7 people screw it up and violate the rules, and it really  
8 sends the wrong signal. I tell everyone no matter what  
9 court you're in, you should read the local procedures.

10           In the Southern District of Texas in Houston, for  
11 example, we have judges that require different font size,  
12 one judge doesn't want you to have footnotes. Make sure you  
13 read the local procedures. As I've said, they're five  
14 pages, they're easy. Read Judge Brown's procedures.  
15 They're on his website.

16           There are a couple of the rules that I want to  
17 highlight for you, though. The first is our rule concerning  
18 Rule 12 motions, and we call this "Ground Rule Six." And  
19 I've put the text on the screen, but let me explain the  
20 purpose behind the rule and then what the rule is, and give  
21 you an opportunity to read it.

22           As many of you know, the 5th Circuit has stated  
23 emphatically that a Plaintiff has an absolute right to  
24 replead at least once. As a result, it doesn't make a lot  
25 of sense to Judge Brown and I that we have a Motion to



1 Dismiss, a response, a reply, maybe oral argument, judicial  
2 resources putting together an opinion. If the best we can  
3 do is grant the motion, but give the Plaintiff the right to  
4 replead, then we're back right into that mix. Another  
5 motion, another response, waste of your resources, waste of  
6 our resources, and then we're nine months down the line  
7 before we can give a thumbs up on whether the case will  
8 proceed or a thumbs down on whether the case will dismiss.

9           So, our view is it makes a heck of a lot better  
10 sense to allow the Plaintiff to replead up front, and then  
11 we can tee up a Motion to Dismiss once either as granted,  
12 case dismissed, or it's denied and case proceeds. So, this  
13 is the rule we've put into effect here in Galveston. And we  
14 don't like to strike pleadings. So, we try to avoid a rule  
15 that just says we're going to strike the pleadings if you  
16 file a Motion to Dismiss, but the rule is this: If you want  
17 to file a Rule 12(b) motion, send a letter to the other  
18 side, confer with the other side telling them, "Here is the  
19 basis for my motion. I want to file a Rule 12 motion, I  
20 think the facts alleged are insufficient because," give them  
21 details, and then we're going to give the Plaintiff a chance  
22 to replead.

23           If they can cure the alleged deficiency, great.  
24 More power to them. They obviously don't have to replead.  
25 But then we can tee up a Motion to Dismiss and get it

1 decided once. And so, the rule, that's the rule in a  
2 nutshell. There's a little more technicalities to it.  
3 Basically, the Defendant needs to let the Plaintiff know,  
4 tell the Plaintiff they have the opportunity to replead. If  
5 they don't replead, file your Motion to Dismiss. If they do  
6 replead, you can still file a Motion to Dismiss. You just  
7 have to make sure it's identified in the Certificate of  
8 Conference that you followed the procedure.

9           Importantly, the last line of this rule at the  
10 very bottom, "If a party does not follow this rule before  
11 filing a Motion to Dismiss, the Court will *sua sponte* grant  
12 an opportunity to amend. We don't want to do that, meaning  
13 we don't want anyone to go through the time and expense of  
14 filing a Motion go to Dismiss and then having to explain to  
15 your client why the judge *sua sponte* grant an opportunity to  
16 amend.

17           So, please follow this rule. That's sort of the  
18 reason behind it. We want to make sure we save judicial  
19 resources, we save your resources, and we get to an end  
20 result on the Motion to Dismiss sooner rather than later.

21           Okay, next rule, Ground Rule 7 is our discovery  
22 procedure. And I always like to say that, in Galveston, you  
23 can't file a Motion to Compel. And it's true. People  
24 always get a little concerned and worried about it, but let  
25 me explain. Here's our rule, short, sweet on discovery

1 disputes. And sort of the basis behind it is, you know,  
2 look, it wasn't that long ago that I was in your shoes. I  
3 know how it works, right? You file a Motion to Compel,  
4 there's a response and a reply, maybe you have an oral  
5 argument set. 20 minutes before the oral argument, you  
6 confer with the other side, maybe on your way into the  
7 courtroom. You resolve 80 percent of the issues, and then,  
8 you know, you're 8, 9 weeks down the line and you have very  
9 little to give results. We don't want that to happen.

10           As I'm going to talk about in a few minutes, our  
11 trial dates are going to be real dates, and the only way  
12 we're going to be able to keep the train running on time, as  
13 they say, is if we get your discovery disputes resolved  
14 quickly and efficiently.

15           So, here's our rule: Don't file a Motion to  
16 Compel. If you do -- and by the way, the last sentence  
17 says, "Parties should not file a Motion to Compel without  
18 first exhausting this procedure." We will strike the Motion  
19 to Compel. We don't want to do it.

20           Instead, get together and file a joint two-page  
21 letter. And I emphasize "joint." It's bolded in the rule  
22 for a reason. Get together and file a joint letter that  
23 identifies, "Hey, here's our discovery issue. We think that  
24 this is too broad, over-encompassing," and have the other  
25 side respond. So, each party gets basically a paragraph to

1 explain their position.

2           As soon as you do that -- and I should say, for  
3 the most part, right now in Galveston, I'm handling all the  
4 discovery disputes. So, as soon as Judge Brown refers over  
5 the discovery dispute with me -- to me, I will set up a Zoom  
6 call. And I am doing it within 24 to 48 hours of it being  
7 referred over to me. So, if you file a letter, be ready  
8 because we're going to have a Zoom call to address the  
9 discovery issues.

10           And I want to emphasize. This is not a free  
11 motion conference where you're going to file a Motion to  
12 Compel. The discovery zoom hearing is to resolve the  
13 dispute. So, if you file a motion, or I should say the  
14 joint letter, on Monday, I hope by the end of the day  
15 Wednesday we've got your discovery dispute resolved.

16           Now, sometimes, I might take additional time to  
17 review documents in camera or if it's a particularly issue  
18 to ask for additional briefings, but that's few and far  
19 between. For the most part, we're going to set up a Zoom  
20 call and we're going to get your discovery dispute resolved.

21           Obviously, the benefit to you all is you don't  
22 have to spend a bunch of time, effort, money drafting,  
23 revising, working on Motions to Compel, responses, replies.  
24 You get your answer a lot quicker. And I will say this,  
25 because we require the parties to get together and submit

1 the joint letter, we eliminate a lot of what I would call  
2 idiotic discovery disputes, meaning, "Where's the deposition  
3 going to be? Does it start at 8:00 a.m. or 8:05 a.m.?" And  
4 the discovery disputes we get are, generally speaking,  
5 genuine discovery disputes that need to get resolved, and we  
6 are happy to do it and eager to do it in a very quick  
7 process. So, please, do not prepare the Motion to Compel.  
8 No Motions to Compel in Galveston, but we can promise you  
9 you're going to get your discovery disputes resolved as  
10 quickly as possible.

11           Okay. Number 4, we're here to help. Don't wait  
12 to contact us. My Case Manager is Ruben Castro. He's been  
13 with the courts a long time. He's great. Judge Brown's  
14 Case Manager, George Cardenas, was actually with him back at  
15 the State Court Bench in Harris County. He's great.  
16 They're great resources. Some judges say, "Don't contact  
17 our Case Manager." We're exactly the opposite. Reach out  
18 to them. Obviously, you can send an email, CC the other  
19 side, no ex parte communications.

20           But if there's anything we can do, you want a  
21 status conference, you need anything, let us know. If  
22 you're in a deposition and you have a discovery dispute,  
23 don't threaten to file a Motion to Compel because as I've  
24 just explained, we don't have Motions to Compel in  
25 Galveston. Call us, email my Case Manager.

1           Judge Brown and I, if we're available, we'll get  
2 on Zoom or the telephone as quickly as possible to resolve  
3 your dispute. We had a case a couple months ago, parties  
4 were in the middle of a deposition, had an issue. Within  
5 14 minutes, we were on Zoom getting it resolved. That's  
6 what we want to do, make your job easy, efficient. I always  
7 loved in depositions when I was a lawyer, threatening to  
8 call the Judge because you knew the Judge was never going to  
9 be available. We'll be available. We'll make ourselves  
10 available. Threaten it and we'll be available. So, please  
11 let us know if there's anything we can do to help you all in  
12 getting your case to trial.

13           Number 5, the Docket Control Orders contain real  
14 trial dates. And I want to emphasize this. Obviously,  
15 COVID has thrown everything and everybody for a loop. We  
16 sincerely are trying now going forward that our trial dates  
17 are going to be real trial dates. Now, I'm going to give  
18 you plenty of time to conduct the discovery you need to  
19 prepare for trial. This is not going to be a rocket docket,  
20 but at the same time -- and a lot of people are used to  
21 State Court where they have a lot more cases, and trial  
22 dates just can't be real.

23           You know, I always joke that a lot of times in  
24 State Court, your first court appearance, your first trial  
25 date's really the first time you get a continuance. We

1 don't work that way. We're going to have these trial dates  
2 real.

3           That said, and Judge Brown's rules state this  
4 clearly but if you want to move your expert deadline, if you  
5 want to move your discovery deadline, if the parties are in  
6 agreement, we're not going to stand in the way. You don't  
7 even need us to decide anything. The parties are free to  
8 move discovery and expert deadlines. The two dates that  
9 will not move, however, are the trial date and also the  
10 dispositive motion deadline. And I'll talk about that a  
11 little more later, but the dispositive motion deadline we  
12 have months before the docket call. And the reason is to  
13 give us a time to have the briefing fully done on any  
14 dispositive motion, review it, maybe oral argument, and  
15 hopefully, issue an opinion before you come down for docket  
16 call.

17           So, if we move the dispositive motion deadline,  
18 we'd have to move the trial date. That's why if we're not  
19 going to move the trial date, we're not going to move the  
20 dispositive motion deadline. So, please remember, Docket  
21 Control Order contains real trial dates.

22           Number 6, stuff happens, and I think this is one  
23 of Murphy's Laws. Look, my mentor missed the birth of his  
24 first child because a trial judge would not allow him out of  
25 trial. That is not going to happen with Judge Brown and I

1 in Galveston. I promise you. We understand, as I said at  
2 the outset, you've got busy, personal, professional lives.  
3 Things happen. And if you have -- if it's something great,  
4 a wedding, a birthday, a vacation, something terrible,  
5 illness, funeral, let us know. We'll work with you. We  
6 will accommodate you.

7           Now, don't wait until the night before trial to  
8 let us know your child's getting married the next day, but  
9 give us notice. We'll work with you. I don't understand,  
10 in all candor, why a lot of judges don't work with the  
11 parties on that. And we fully expect and I know it will  
12 happen that the lawyers will work together as well to try to  
13 make accommodations for anything, as I say, good or bad that  
14 happens in people's lives. You got to put it all into  
15 perspective.

16           Okay. Number 7, standing protective order. I'm  
17 always amazed every single initial scheduling conference, I  
18 mean, it's just like clockwork, probably 3 or 4 people  
19 mention in their Joint Case Management Plans that they want  
20 a protective order to protect the disclosure of documents  
21 during the discovery process. More power to you if you do.  
22 We'd actually -- I would say -- during -- when I practiced,  
23 I probably spent untold hours drafting, revising, looking at  
24 protective orders. Don't waste your time. We have put  
25 together a standard protective order for you to use. It is



1 on my website. Go use it. We spent a lot of time on it. I  
2 think it's pretty good. If you got any changes or  
3 suggestions, we're always willing to listen and add.

4 But there's a standing protective right there to  
5 use it for this case, any case you're in. I do want to  
6 emphasize though it is one thing for the parties in a case  
7 to say, "Hey, if we exchange documents during the discovery  
8 process, we don't want those to be disseminated freely," and  
9 it is a totally separate thing to seal documents in the  
10 Court's records.

11 Judge Brown and I are very much about  
12 transparency, open courts. The 5th Circuit in the last  
13 couple years has issued some opinions that are pretty --  
14 setting new precedents in terms of how open the Court should  
15 be. There's a case from the spring of 2021, Binhoa,  
16 B-I-N-H-O-A. I would highly encourage all of you to read  
17 it. It says the District Court should be ungenerous in what  
18 is sealed, that we should do a document-by-document, page-  
19 by-page, line-by-line evaluation.

20 And I say that because as a trial lawyer, look, a  
21 lot of times, I'd just say, "Party's marked confidential,  
22 let's just file it under sealed." We're not going to do  
23 that. You know, there are certain things that should be  
24 sealed, social security numbers, bank account numbers, real  
25 trade secrets, but simply because there's a reference in one

1 page, doesn't mean the whole document or the whole motion is  
2 sealed. That'll be redacted.

3           So, please take a look before you try to seal  
4 anything at the 5th Circuit precedent, especially these  
5 recent cases. And we're more and more having -- you know,  
6 we're unsealing things sort of left and right. And we're  
7 certainly going to be very ungenerous as the 5th Circuit has  
8 dictated we be in sealing documents. So, just a word to the  
9 wise there. And once again, I'd highly encourage you go  
10 read the 5th Circuit's recent case law on the subject.

11           Number 8, Andrew Edison mediation services. One  
12 of the things I've enjoyed much about this job is helping  
13 people resolve disputes through mediation. Judge Brown and  
14 I feel the same about mediation, which is, generally  
15 speaking, we're not going to order it. There might be some  
16 limited times where we do, but generally speaking, no  
17 ordering mediation because we're a trial court and we're not  
18 going to browbeat people into settling.

19           That said, if there's anything we do to help  
20 amicably resolve your dispute, we want to do it. If you  
21 want to go get a mediator or private mediator, there's a  
22 bunch of great mediators out there. And one service we  
23 provide if both parties agree, and I emphasize that both  
24 parties have to agree, I'll mediate your case. The price is  
25 right. It's free, just your tax dollars. All you need to

1 do is send a letter, beginning, middle, end of the case.  
2 File a letter, "Parties would jointly request Judge Edison  
3 mediate." I'll immediately send an email to you and we'll  
4 set up a mediation date. I think I can be helpful.

5           Judge Brown and I have been friends for over  
6 25 years. You know, I always tell people when he was on the  
7 Bench and I was in private practice, I hired his law clerk  
8 three years in a row at my firm. I think I know how he'll  
9 see things and I think I can offer a good perspective.

10           Once again, that's totally if you want. If you  
11 don't want to mediate, that's fine. If you want to go  
12 somewhere else, there's great mediators. It's just a  
13 service we provide. Happy to do it. And the added benefit  
14 -- it's free, but the additional benefit of asking me to  
15 mediate is that if I mediate, then I will recuse myself from  
16 any participation in the case obviously -- well, I shouldn't  
17 say obviously.

18           We, here, in the Southern District of Texas, don't  
19 think it's right if a judge mediates and then tries to  
20 decide issues in a case. Obviously, it creates some, in my  
21 mind, ethical issues. Not all judges in the country think  
22 that way. But if you want me to mediate, let me know. If  
23 you want to try to get me off your case, you can ask me to  
24 mediate as well. Happy to do it.

25           Okay. Number 9, Docket Control Orders. And let

1 me walk through, for those of you that received, most of  
2 you, a Docket Control Order. Let me talk about some of  
3 these. And obviously, this is going to be different for the  
4 patent case we have. The structure, on all of these Docket  
5 Control Orders you have, you're going to see, unless there's  
6 already been an amended complaint filed, I'm going to give  
7 you a date within the next two weeks, basically, 10 days  
8 from now, to file an amended complaint.

9           And people always look at that and get worried.  
10 "Woah, woah, woah. That's really, really quick." Let me be  
11 clear. This is just a free shot that we're giving you to  
12 file an amended complaint. You always can file an amended  
13 complaint or amended pleading if you can show, as the  
14 Federal Rules of Civil Procedure provide, good cause.

15           Well, what does that mean and why is this? Well,  
16 if, as I said, our trial dates are going to be real, we  
17 can't let you willy-nilly amend at any time. And I know  
18 State Courts have procedures, sometimes you can amend up to  
19 7 days before trial, but if we're going to set expert  
20 deadlines or try to keep the train running on time, it's  
21 hard to just let people amend at any time, add new parties,  
22 add new claims. It really screws up with our trial  
23 schedule.

24           So, we're giving you a free shot. In the next  
25 10 days, amend -- and our thought is this: If you had the

1 knowledge in your possession, custody or control to add new  
2 parties or to add new claims, do it now. That being said,  
3 if you don't have that knowledge with you, you obviously  
4 have your ethical obligations, no fear. If you learn during  
5 the course of discovery and you promptly come to us and ask  
6 to amend, that's good cause. You can always amend for good  
7 cause.

8           So, the example I give is, every single time we  
9 have these initial scheduling conferences, we had a case.  
10 It was a personal liability case. An individual got hurt on  
11 an elevator. The deadline to add new parties and amend the  
12 pleadings passes. They're in the discovery process and the  
13 Plaintiff learns that there's an elevator maintenance  
14 company that was supposed to do some work or inspections on  
15 the elevator and failed to do so.

16           Plaintiff comes to us within days and says,  
17 "Judge, I know the deadline to amend new parties and add new  
18 claims has passed. I just learned this during the discovery  
19 process. I'd like to add a claim and add the party in this  
20 case." No brainer. That's obviously good cause. We're  
21 going to give you the opportunity to do that. But as I  
22 said, if you have the (glitch in the audio) right to it for  
23 good cause in the future.

24           Also, you will note you have expert deadlines,  
25 discovery deadlines. As I mentioned before, we are

1 always -- if you want to agree to move those dates, you can.  
2 You're then going to see, after the discovery deadline,  
3 usually a week later, you're going to have a dispositive  
4 motion deadline, and then there's going to be 3 or 4 months  
5 until the docket call.

6           As I mentioned, the reason we have that time  
7 period is to allow us to look at, review, consider any  
8 dispositive motions before you come down for docket call.  
9 All that said, if you want to move the discovery deadline  
10 and you're in agreement, you can do it.

11           You will all see we also have a docket call at the  
12 beginning of the month. And you don't have a trial date.  
13 You just have a docket call, and it will say the trial is  
14 sometime during the next two months. Here's how that works.  
15 You have, let's say, a docket call September 2nd, beginning  
16 of September. We're doing docket calls right now by phone,  
17 but generally speaking, get on the horn, "Hey, we're at  
18 docket call. Everyone ready?"

19           "Yep."

20           "Okay, what's your schedule look like? Do you  
21 have any vacations? Do you have any conflicts, other trial  
22 settings? Does your witnesses have any conflicts? What's  
23 the Court's schedule?"

24           And then we find a date that works on your  
25 calendars and our calendar for the next two months. When

1 you leave docket call, in my example, the beginning of  
2 September, you'll know for sure when you're going to trial.  
3 Right now, you know it's sometime during October, November.  
4 When you leave docket call, you'll know October 7th,  
5 November 15th, whatever it is. So, you now know two months  
6 when it'll be, but you'll know 30 to 45 days ahead of time  
7 when the exact date is, and we do that to try to really be  
8 responsive to you all that it works.

9           We don't have a two-week rolling trial docket. I  
10 was never a fan of those. I understand why courts do them,  
11 because they're so loaded with cases, but we're going to  
12 give you date certain trial dates at the docket call.

13           Trial dates, Judge Brown and I filed 9:00 to 5:00,  
14 take a lunch break, morning break, afternoon break. For  
15 those of you who have tried a case with myself or Judge  
16 Brown, you know we very much respect the jury's time and the  
17 parties' time. And when we say we start at 9:00, we're dead  
18 serious. As you can see from today, we start at 9:00.  
19 We're not wasting time. Okay, I think that's all I have on  
20 sort of the Docket Control Order.

21           Let me tell you something about consent. You all  
22 should have a consent form. If you would like to consent to  
23 me to handle your case, I'd be honored and I'd be humbled.  
24 I offer three what I call inducements to get you to consent.  
25 Inducement 1 -- we have three people do this before today --

1 you don't have to attend the initial scheduling conference.  
2 I know many of you think, "Why is that a benefit?" You love  
3 this, but nonetheless, in the future, you won't have to come  
4 to the initial scheduling conference.

5           Number 2, I let the parties pick any dates they  
6 want on the Docket Control Order. If after today you decide  
7 you want to consent, you can just tear up the current Docket  
8 Control Order for whatever dates, no matter how ridiculous  
9 are asinine they are, if the parties have agreed, I'll be  
10 agreed.

11           And then the third inducement, I like the  
12 procedure that Judge Brown and I have for trial dates, but  
13 if the parties want, I will give them, since I don't have as  
14 busy a trial schedule, I'll give you a date certain,  
15 preferential setting, whatever you want to call it and we  
16 can start that at the beginning.

17           If both parties want to consent, simply turn in  
18 the consent form. Don't tell me one party did, one party  
19 didn't. If you do, great. If you don't, no worries.  
20 That's absolutely your right and I look forward to working  
21 with you if we have particular motions, discovery issues, or  
22 if the entire case is referred over to me. So, I look  
23 forward to it.

24           Okay. Next, for those of you that know me or have  
25 been -- and I see a number of you have been here before -- I



1 always like to end with a little trivia. I won't lie to  
2 you. My trivia's gotten a little stale. You know, you do  
3 this over and over and over, you get the same trivia  
4 questions. So, I'm going to go with a new trivia question.  
5 So, I know there's some of you that have been around and are  
6 thinking, "Oh, man. I've seen them all." I'm going to give  
7 you a new one.

8           The trivia question is this: How many living  
9 members of the Galveston Federal Bench are there?

10           Okay, and I guess, I really need to narrow this.  
11 I was thinking when I was asking how many living District  
12 Court Bench members. There are, as many of you know, there  
13 are actually two living Magistrate Judges in Galveston,  
14 Judge Froeschner and myself, but I'm putting that aside.  
15 **How many living members of the District Court Bench are**  
16 **there?**

17           **And the reason I think this is such an interesting**  
18 **question -- as you know, Galveston's a single District Court**  
19 **Bench. It's a lifetime appointment. So, you'd think**  
20 **there'd be very few.**

21           **The answer is -- and I'm confident that there are,**  
22 **as a single District Bench, there are more living members of**  
23 **the Galveston Federal Bench than any single District Bench**  
24 **in the United States of America. The answer is five, and**  
25 **the five are this: The first one is Finis Cowan, and this**

1 is his portrait that actually hangs up in the 6th floor  
2 courtroom in Galveston.

3 Finis Cowan was appointed by President Carter in  
4 1977. He was a lawyer at Baker Botts, took the Bench in  
5 Galveston, was there about a year and decided he didn't want  
6 to do it anymore, he'd rather be a trial lawyer. He stayed  
7 until a replacement was appointed, but he sat on the Bench  
8 from '77 to '79 and is still living, and the first living  
9 member of the Bench.

10 The second living member is actually not the  
11 person that was after him, but is Judge Sam Kent, who many  
12 of you know, and what can I say? He, you know, he did not  
13 leave in a particularly good light as I will say.

14 The third living member of the Galveston Federal  
15 Bench is Gregg Costa. Judge Costa, actually a college  
16 classmate of mine, was appointed to the Galveston Bench and  
17 then to the 5th Circuit. And many of you might know he  
18 recently retired at the age of 50 from the 5th Circuit to go  
19 back into private practice. He's the third member.

20 The fourth living member is Judge George C. Hanks,  
21 Jr. Judge Hanks was appointed to replace Judge Costa in  
22 Galveston, and he moved up to Houston a couple years ago.

23 And then, the fifth living member is Judge Brown,  
24 who was appointed two years ago, three years ago to the  
25 Bench. I promise you Judge Brown is not going anywhere. He

1 and his wife love Galveston, have a house there, and I'm  
2 confident that he will be here a long, long time.

3 So, there you go, you're trivia. For those of you  
4 that were looking for a new trivia question, no need to  
5 thank me. That's just the kind of service that I'm willing  
6 to provide.

7 With that said, let's jump into these cases  
8 individually. Do me a favor. Plaintiff introduce  
9 themselves first, and then the Defendant.

10 (Court attends unrelated matters from 9:32 a.m. to  
11 9:56 a.m.)

12 THE COURT: City of Galveston versus Porretto,  
13 3:22-CV-00256.

14 MR. ABRAMS: Good morning, Your Honor. Barry  
15 Abrams and Neil Young here for the City.

16 THE COURT: Hello, Mr. Abrams. It's been a while.  
17 Good to see you.

18 MS. BROWN: Your Honor, Deirdre Carey Brown on  
19 behalf of Sonya Porretto.

20 THE COURT: Hello, Ms. Brown. Good to see you as  
21 well.

22 Okay, I'm not sure what to call this case, but for  
23 lack of a better term, I'll call it a Municipal Court Code  
24 Enforcement Action, but I know probably both sides will get  
25 mad at me on how I phrase that.

1           But nonetheless, I know the parties indicated that  
2 they wanted to wait on discovery until the Motion to Remand  
3 is decided, and I am fine with that. As you probably heard  
4 me say earlier, I do want to have a schedule in place just  
5 in case -- obviously, if the case is remanded, the case is  
6 remanded. If the case stays here, I just want to make sure  
7 there's a schedule in place.

8           So, at least what I've tried to do, and I'm  
9 curious if the parties -- and I want your honesty -- think  
10 I've succeeded, is try to put the deadlines way out into the  
11 future to allow time for the Motion to Remand to be decided.

12           But thoughts, comments? Ms. Brown, Mr. Abrams?

13           MS. BROWN: I think we have the same issue with  
14 the 2023 inadvertently added instead of 2024.

15           MR. ABRAMS: Right, Paragraphs 5 through 9, Your  
16 Honor.

17           THE COURT: Yes. Yes, yes, yes. You're wondering  
18 why you have a trial date before the end of discovery, yes.  
19 My mistake. It must have been -- it was probably late at  
20 night after an Astros victory. I was, you know, high on  
21 excitement. So, I apologize. I will make those changes.

22           With those last three dates in '24 as opposed to  
23 '23, any issues?

24           MS. BROWN: The last five dates, right?

25           MR. ABRAMS: We think it's Paragraphs 5 through 9,

1 Your Honor.

2 THE COURT: Oh, okay. Got it. Got it, got it,  
3 got it. Yep, yep.

4 MR. ABRAMS: With those changes, we have no  
5 objection.

6 MS. BROWN: No objections (indiscernible).

7 THE COURT: Obviously, I know you wanted a ruling  
8 on the Motion to Remand. Hopefully, Judge Brown will get to  
9 that soon. If there's anything you want me, anything we can  
10 do, let us know.

11 Anything else we should address today, Ms. Brown,  
12 Mr. Abrams?

13 MS. BROWN: The other motion, in fact, it's the  
14 Motion to Remand which we consented to waiting to do  
15 discovery until after that, but also the Motion to  
16 Disqualify and Motions to Strike for Lack of Authority for  
17 Counsel.

18 THE COURT: I saw that. Well said. There's a  
19 whole bunch of motions that have been filed on the case. I  
20 was looking for -- the remand motion is to me the question  
21 which determines whether or not we can do anything else.

22 So, the Motion to Remand, I would expect to be  
23 decided first. But I will Judge Brown handle that, and I'll  
24 put that DCL in place.

25 Have a great day, and I look forward to working

1 with you all. Take care.

2 MR. ABRAMS: Thank you, Your Honor.

3 (Proceedings adjourned at 9:59 a.m.)

4 \* \* \* \* \*

5 I certify that the foregoing is a correct  
6 transcript to the best of my ability due to the condition of  
7 the electronic sound recording of the ZOOM/video/telephonic  
8 proceedings in the above-entitled matter.

9 /s/ MARY D. HENRY

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14 DATE FILED: JANUARY 14, 2023

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