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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

<p>R. WAYNE KLEIN, as Receiver,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MATTHEW SHEPARD, an individual,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">ATTORNEY PLANNING MEETING REPORT</p> <p style="text-align: center;">Civil No. 2:19-cv-00533-HCN-CMR</p> <p style="text-align: center;">District Judge Howard C. Nielson, Jr.</p> <p style="text-align: center;">Magistrate Judge Cecilia M. Romero</p>
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Pursuant to Rule 26(f) of the *Federal Rules of Civil Procedure*, Plaintiff R. Wayne Klein as receiver (“Receiver”) and Defendant Matthew Shepard (“Matthew”), by and through their counsel, hereby submit the following report of their attorney planning meeting:

1. PRELIMINARY MATTERS:

a. This case arises as an ancillary action to Case No. 2:15-cv-00828. The Receiver has brought claims seeking avoidance of fraudulent transfers made by Receivership Entities to Matthew and asserting a claim for unjust enrichment.

b. This case is _____ not referred to a magistrate judge
 X referred to magistrate judge Cecilia M. Romero
 X under 636(b)(1)(A)
_____ under 636(b)(1)(B)

_____ assigned to a magistrate judge under General Order 07-001
and
_____ all parties consent to the assignment for all
proceedings or
_____ one or more parties request reassignment to a district
judge

c. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on 09/17/19 via telephone.
The following attended:

Jeffery A. Balls, counsel for the Receiver

Steven R. Paul, counsel for Matthew Shepard

d. The parties will exchange by 10/07/2019 the initial disclosures required by Rule 26(a)(1).

e. Pursuant to Fed. R. Civ. P. 5(b)(2)(D), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by either (i) notice of electronic filing, or (ii) email transmission. Such electronic service will constitute service and notice of entry as required by those rules. Any right to service by USPS mail is waived.

2. **DISCOVERY PLAN:** The parties jointly propose to the court the following discovery plan:

a. Discovery is necessary on the following subjects: All claims and defenses pled by the parties.

b. **Discovery Phases:** Discovery will not be conducted in phases.

c. **Discovery limitations:** The parties agree that the following limitations on written discovery are reasonable and should apply to fact discovery:

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|--|----|
| (1) Maximum interrogatories by any party to any party: | 25 |
| (2) Maximum requests for production by any party to any party: | 25 |
| (3) Maximum requests for admission under Rule 36(a)(1)(A) by any party to any party: | 25 |

- | | |
|--|-----------|
| (4) Maximum requests for admission under Rule 36(a)(1)(B) by any party to any party: | Unlimited |
| (5) Maximum number of percipient witness depositions ¹ by any party: | 10 |
| Maximum number of hours per deposition | 7 |
| (6) Maximum number of subpoenas a party may serve: | 20 |

d. Discovery of electronically stored information should be handled as follows: At this time, the parties do not anticipate extensive electronic discovery will be necessary. Instead, electronic discovery will consist primarily of the collection, review, and production of certain email from a few custodians and certain accounting records. The parties will meet and confer within fourteen (14) days following the completion of their initial disclosures to consider an appropriate electronic discovery protocol.

e. The parties have agreed to an order regarding claims of privilege or protection as trial preparation material asserted after production, as follows: The inadvertent disclosure or production of any information or documents that is subject to an objection on the basis of attorney-client privilege or work-product protection, will not be deemed to waive a party's claim to its privileged or protected nature or estop that party or the privilege holder from designating the information or document as attorney-client privileged or subject to the work product doctrine at a later date.

Any party receiving such information or document shall return it upon request from the producing party. Upon receiving such a request as to specific information or documents, the receiving party shall return the information or documents to the producing party within five (5) business days, regardless of whether the receiving party agrees with the claim of privilege and/or work-product protection. Disclosure of the information or document by the other party prior to such

¹ A deposition of an entity, taken under Rule 30(b)(6), will be counted as a single deposition, regardless of the number of individuals designated to testify.

later designation shall not be deemed a violation of this agreement or any Court Order incorporating this agreement.

f. Last day to file written discovery: 03/13/20

g. Close of fact discovery: 04/17/20

3. AMENDMENT OF PLEADINGS AND ADDITION OF PARTIES:

a. The cutoff date for filing a motion to amend pleadings is: 12/20/19

b. The cutoff date for filing a motion to join additional parties is: 12/20/19

(NOTE: Establishing cutoff dates for filing motions does not relieve counsel from the requirements of Fed. R. Civ. P. 15(a)).

4. EXPERT REPORTS:

a. Deadline for Party bearing burden of proof to make initial expert disclosures under Rule 26(a)(2): 4/24/20

b. Deadline for Party not bearing burden of proof to make counter expert disclosures under Rule 26(a)(2): 5/25/20

c. Deadline for Party bearing burden of proof to make rebuttal expert disclosures under Rule 26(a)(2): 06/15/20

5. OTHER DEADLINES:

a. Expert Discovery cutoff: 07/10/20

b. Deadline for filing dispositive² or potentially dispositive motions: 07/17/20.

c. Deadline for filing partial or complete motions to exclude expert testimony: 07/17/20

6. ADR/SETTLEMENT:

a. The potential for resolution before trial is: ___ good ___ fair X poor

b. The parties will re-evaluate the case for settlement/ADR resolution on (*specify date*): 05/01/20

² Dispositive motions, if granted, resolve a claim or defense in the case; nondispositive motions, if granted, affect the case but do not resolve a claim or defense.

7. TRIAL AND PREPARATION FOR TRIAL:

- a. The parties should have 14 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).
- b. This case should be ready for trial by: 12/21/20
Defendants have requested a jury trial.
- c. The estimated length of the trial is: 3 days

/s/ Jeffery A. Balls
Signature and typed name of Plaintiff(s) Attorney

Date: 09/27/2019

/s/ Steven R Paul
Signature and typed name of Defendant(s) Attorney

Date: 09/27/2019

NOTICE TO COUNSEL

Instructions to file the Attorney Planning Meeting Report can be found on the court's [Civil Scheduling](#) webpage.