

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Rule 26-1 of the Local Rules of Practice for the United States District Court for the District of Nevada, and the Court's Order dated January 6, 2009, Plaintiff, The SCO Group, Inc., and Defendant AutoZone, Inc., by and through their undersigned counsel, respectfully submit this Discovery Plan and Scheduling Order for the Court's approval.

On January 9, 15, and 16, 2009, pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 26-1(d), counsel for the parties discussed the possibilities for promptly settling or resolving the case, the timing of initial disclosures required by Rule 26(a)(1), the preservation of discoverable information, and the discovery plan set forth herein.

Discovery Plan

The parties intend to conduct depositions of the principal witnesses involved in the conduct, events, agreements, discussions, and correspondence underlying the claims and defenses in the present case. As many such witnesses reside outside Nevada, the parties anticipate conducting depositions outside the District of Nevada to preserve testimony. The witnesses will be examined by deposition between the date of this Plan and the discovery cutoff. Discovery will be conducted in accordance with the Federal Rules of Civil Procedure.

1. **Pre-Discovery Disclosures**: The parties will serve their respective initial disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure on February 27, 2009.
2. **Subject to Discovery**: Discovery will be needed on all facts relating to the allegations in the parties' pleadings, claimed damages, and applicable defenses. Expert testimony will likely be needed.

3. Electronic Discovery: Where practicable, the parties will produce documents electronically or via CD to avoid unnecessary expense and effort. Where possible, originals will be made available for inspection upon request.
4. Privileged or Confidential Documents: Any produced document that a party claims as privileged, including all copies made thereof, will be returned immediately upon the request of the disclosing party without the need to show that the production of the document was inadvertent. The parties anticipate that documents produced in this case will contain confidential information. The parties agree promptly to enter into an appropriate confidentiality agreement and submit a proposed protective order before the exchange of such documents.
5. Discovery Limitations: The following limitations and conditions shall apply:
 - a. The number of fact depositions taken by Plaintiff shall not exceed twenty-five (25).
 - b. The number of fact depositions taken by Defendant shall not exceed twenty-five (25).
 - c. The maximum number of hours for each fact deposition shall be seven (7) hours, except that two depositions per party may extend to fourteen (14) hours and except as otherwise extended by agreement of the parties.
 - d. Plaintiff proposes twenty-five (25) interrogatories, including subparts; Defendant proposes fifty (50) interrogatories, including subparts.
 - e. For purposes of calculating the number of depositions a party has taken, each separately noticed Rule 30(b)(6) deposition shall constitute a separate deposition.
 - f. All deposition exhibits will be numbered sequentially, regardless of the identity of the deponent or the side introducing the exhibit. The same numbers will be used in pretrial motions.

6. Discovery Cutoff Date: The parties propose a discovery cutoff date of January 15, 2010, a deadline beyond the 180-day presumptive limit provided by Local Rule 26-1(e)(1). The parties believe that such time beyond the presumptive limit will be required because they anticipate that deposition discovery will be largely conducted in several states outside Nevada, written and document discovery will include a substantial number of discovery requests and the production of large volumes of documents, the issues relevant to the case in many instances are related to events that occurred five years ago and much longer, and there are complex and technical facts at issue. By proposing the longer discovery period, the parties aim to provide adequate time for such discovery and to avoid or otherwise limit applications to the Court for extensions of time.
7. Amending Pleadings and Adding Parties: The parties shall have until July 1, 2009, to file any motions to amend the pleadings or to add parties. This deadline is not later than ninety (90) days before the discovery cutoff date and thus conforms to the presumptive limit set by Local Rule 26-1(e)(2) of ninety (90) days before the discovery cutoff date for filing such motions.
8. Rule 26(a)(2) Expert Disclosures: In light of the complex and technical nature of facts at issue, the parties anticipate that expert testimony will be necessary. The parties propose a deadline for initial expert reports of February 15, 2010, and for rebuttal expert reports of March 15, 2010. These deadlines extend beyond the presumptive limits set by Local Rule 26-1e(3) of sixty (60) and thirty (30) days before the discovery cutoff, respectively. The parties propose deadlines beyond the discovery cutoff because expert testimony will likely be based in part on facts ascertained through deposition and document discovery.

Expert discovery shall be completed by April 9, 2010, and depositions of experts shall be taken where the expert resides unless otherwise agreed.

9. Dispositive Motions: The parties shall have until May 10, 2010, to file dispositive motions. This deadline is thirty one (31) days after close of expert discovery and extends beyond the presumptive limits set by the Local Rules of thirty (30) days after the discovery cutoff date. The parties propose deadlines beyond those set by the Local Rules because dispositive motions will likely include significant evidence gathered from the parties' experts, and expert discovery must be completed before these motions can be fully briefed.
10. Pretrial Order: The joint pretrial order shall be filed by June 9, 2010. This deadline is thirty (30) days after the deadline for dispositive motions and thus within the limit of thirty (30) days following the deadline for dispositive motions that Local Rule 26-1(e)(5) presumptively sets for filing the joint pretrial order. Pursuant to Local Rule 26-1(e)(5), in the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after decision of the dispositive motions or further order of the Court.
11. Pretrial Disclosures: Pursuant to Local Rule 26-1(e)(6), the disclosures required by Rule 26(a)(3) of the Federal Rules of Civil Procedure and any objections thereto shall be included in the joint pretrial order.

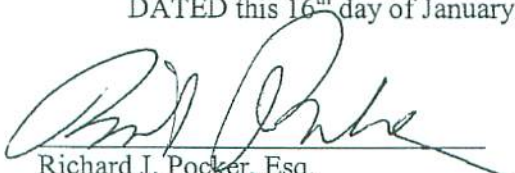
12. Other Items.


- a. Interim Status Report: The parties shall file the interim status report required by Local Rule 26-3 by November 16, 2009. This date is not later than sixty (60) days before the discovery cutoff date and thus falls within the presumptive limit that Local Rule 26-3 sets for filing interim status reports.
- b. Settlement: A settlement of this dispute is possible but the possibilities cannot be evaluated at this time.
- c. Court Conference: The parties do not request a conference with the Court before entry of the scheduling order. A longer-than-usual discovery period has been requested, but the parties believe the amount of time requested is reasonable and would be prepared to justify their request at any hearing set by the Court.
- d. Later-Appearing Parties: A copy of this Discovery Plan and Scheduling Order shall be served upon any person served after it is entered or, if additional defendants should appear, within five (5) days of their first appearance. This Discovery Plan and Scheduling Order shall apply to such later-appearing parties, unless the Court, on motion and for good cause shown, orders otherwise.

- e. Extensions or Modifications: Local Rule 26-4 governs modifications or extensions of this Discovery Plan and Scheduling Order. Any Stipulation or Motion must be made no later than twenty (20) days before the discovery cutoff date and comply fully with Local Rule 26-4.

APPROVED AS TO FORM AND CONTENT:

DATED this 16th day of January, 2009.


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ORDER

IT IS SO ORDERED:


GEORGE W. FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE

DATED: January 21, 2009