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To <i>Cathy Harris, Esq.</i>	From <i>A. J. Schreffler</i>
Dept./Agency	Phone #
Fax # <i>(297) 289-1249</i>	Fax #

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5088-101

GENERAL SERVICES ADMINISTRATION

OF AMERICA  
 OPPORTUNITY COMMISSION  
 DISTRICT OFFICE

ANNIE M. HARRISON-GRAY and  
 BEVERLY HATCHER,  
 Class Agents,

v.

R. JAMES NICHOLSON, Secretary,  
 U.S. Department of Veterans Affairs,  
 Agency.

NOV 22 2005

EEOC Hearing No. 120-2003-00508X

Date: November 22, 2005

**JOINT STIPULATION AND SCHEDULING ORDER**

This matter comes before the Commission on joint stipulation of the parties to set specific procedures and deadlines in place for management of this class action. The case has been certified as a class action under 29 C.F.R. § 1614.204. Accordingly, this case merits special scheduling consideration as it falls within the realm of complex class litigation. For good cause shown, **IT IS HEREBY ORDERED:**

1) Phased Discovery. Discovery shall be completed subject to the rules and limits imposed by 29 C.F.R. Part 1614 and EEOC Management Directive 110, except as set forth in this order. Discovery shall be conducted with regard to liability only in preparation for the Phase I liability hearing. No discovery with regard to Phase II damages may be conducted until after a decision on liability becomes final. If the parties enter into mediation, specific discovery for this purpose may occur pursuant to a stipulation or order.

The parties must initiate discovery within thirty (30) days of the date this order is signed. Except for good cause shown, the following discovery limits will apply: (a) discovery, except for

expert discovery as set forth in numbered paragraph 3 herein, shall be completed 180 days after the issuance of this order; (b) no more than 40 interrogatories, 75 requests for production of documents and 40 requests for admissions, including subparts, may be propounded to any party, except that this clause shall not prejudice either party's leave to file additional discovery requests for good cause shown; (c) no more than 10 depositions (except for expert depositions) may be taken by either party, and no single deposition (other than of experts) may take more than 5 hours, except that this clause shall not prejudice either party's leave to take additional depositions or extend the length of a deposition for good cause shown; (d) depositions must be conducted during workdays between 9 a.m. and 5 p.m., except with consent of both parties; (e) to the extent applicable, the agency is responsible for arranging for official time for current employees to attend their own deposition, and the agency will allow reasonable official time for class members to prepare for their own depositions; (f) all depositions will take place at the Richmond VA Medical Center, unless other arrangements are mutually agreed to; (g) counsel may elect, but may not be forced, to participate at any deposition by telephone and/or to have another attorney from their office participate by phone or in person.

2) Hearing Date for Liability Hearing and Prehearing Schedule. The initial liability phase hearing, limited to the common issues of the Class, will be scheduled after the close of discovery. *See* 29 C.F.R. § 1614.204(h). On or before February 1, 2006, the parties will submit an Initial Witness List (for non-expert witnesses), which may be modified or supplemented by the close of discovery. Prehearing Statements will include final Witness Lists and a copy of all documents the parties intend to rely on at the hearing.

3) Experts. Thirty (30) days after the close of non-expert discovery, the parties will identify, briefly describe the anticipated testimony of, and describe the subject matter expertise

of the expert witness (including all evidence and documentation to support whether the witness should be considered an "expert") they propose to call at the liability hearing, including statistical experts and personnel system experts, if any, excluding rebuttal experts. The parties will have an additional 30 days to modify or supplement their expert witness list, based on opposing counsel's submissions. Forty-five (45) days after the identification of experts, the Complainant shall submit copies of all expert reports and all documentation intended to be used at the hearing by, or in support of, the experts' testimony and reports. The Agency must submit its expert reports 30 days after receipt of the Complainant's expert reports. Except as provided herein, expert disclosures and reports shall comply fully with the requirements of Federal Rule of Civil Procedure 26(a)(2).

Within 30 days of the disclosure of the Agency's expert reports, the parties will identify, briefly describe the anticipated testimony of, and describe the subject matter expertise of any rebuttal expert witness (including all evidence and documentation to support whether the witness should be considered an "expert") they propose to call at the liability hearing, including statistical experts and personnel system rebuttal experts, if any. Thirty days after the identification of rebuttal experts, the parties shall submit copies of all rebuttal expert reports and all documentation intended to be used at the hearing by, or in support of, the rebuttal expert testimony and reports. Except as provided herein, Rebuttal Expert disclosures and reports shall comply fully with the requirements of Federal Rule of Civil Procedure 26(a)(2). All expert depositions shall be taken no later than 30 days after the submission of rebuttal expert reports.

4) Expansion of Time frames. The following time frames will apply: a) the parties will have 30 days by which to respond to discovery requests; b) any motions to compel discovery may be filed within 25 days of receipt of such discovery, and must include a statement reflecting

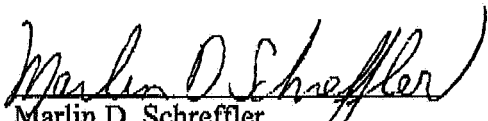
that opposing counsel was contacted 10 days prior to the motion to compel being filed in an attempt to resolve the discovery dispute informally; c) the non-moving party will have 20 days after receipt, by which to respond to any non-dispositive motion filed, and 30 days after receipt, by which to respond to any dispositive motion; and d) objections to specific discovery requests shall be made no later than at the time of the discovery responses.

5) Filing and Service Times. The parties are encouraged to electronically transmit all pleadings, files and correspondence. For purposes of the computation of time, any document delivered by hand delivery or by electronic means (FAX or e-mail) after 5:30 p.m. Eastern Standard Time shall be deemed to have been received on the following business day. Filings with the Commission exceeding twenty (20) pages shall not be sent by facsimile without prior permission.

6) Regular Status Conferences. The administrative judge will hold monthly status calls to discuss progress in the case and to resolve any outstanding disputes. The parties will make every effort to give one another prior notice of all issues that will be raised during the monthly status conferences. The next status conference shall be held on **JANUARY 6, 2006, at 1:30 P.M.**

It is SO ORDERED.

For the Commission:

  
Marlin D. Schreffler  
Administrative Judge