

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

HILEX POLY COMPANY, LLC,	)	C/A: 3:11-cv-116-JFA
SUPERBAG OPERATING, LTD.,	)	
ADVANCE POLYBAG, INC.,	)	
	)	
Plaintiffs,	)	SECOND AMENDED
vs.	)	SCHEDULING ORDER
	)	
CHICOECO, INC., doing business as	)	
CHICOBAG,	)	
	)	
Defendant.	)	
	)	

The court has noted a discernible and disturbing trend wherein counsel, sometimes by agreement, disregard the deadlines set forth in the Court’s scheduling order. The Court takes this opportunity to advise counsel that a scheduling order “is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril.” Forstmann v. Culp, 114 F.R.D. 83, 85 (M.D.N.C. 1987).

Except where permitted by federal or local rule, the court will not recognize “gentlemen’s agreements” among counsel to disregard the deadlines. The Court also frowns upon motions to amend the scheduling order absent extraordinary circumstances; counsel’s heavy workload does not constitute an extraordinary circumstance.

The Court directs counsel to pay close heed to the instructions provided in the attached SPECIAL NOTICE TO COUNSEL WITH CASES BEFORE JUDGE ANDERSON.

Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules, the Court establishes the following schedule for this case. This order is entered to administer the trial of this case in a manner consistent with the ends of justice, in the shortest possible time, and at the least possible cost to litigants. Discovery may begin upon receipt of this order.

1. Rule 26(f) Conference: The parties shall conduct a conference pursuant to Rule 26(f) no later than **April 8, 2011**.¹

¹ Plaintiff's counsel shall initiate the scheduling of the Rule 26(f) conference.

2. Rule 26(a)(1) Initial Disclosures: The parties shall exchange the required initial disclosures under Rule 26(a)(1) by **April 22, 2011**. Judge Anderson does not permit counsel to waive these disclosures.
3. Rule 26(f) Report: The parties shall file a Rule 26(f) Report by **April 22, 2011**, in the form attached to this order and shall answer the additional queries required by Local Rules 26.02 and 26.03.
4. Amendment of Pleadings: Any motions to join other parties and to amend the pleadings shall be filed by **June 17, 2011**.²
5. Discovery Status Report: 60 days from the date of this scheduling order, the court will issue an order requiring the parties file a report on the status of discovery.
6. Expert Witness Disclosures: *(See footnote below for important changes in this Rule)* The parties shall file and serve the witness disclosures required by Rule 26(a)(2)(B) and (C) by the following dates:³

Plaintiffs: **June 30, 2011**
Defendant: **August 15, 2011**
Plaintiffs' Rebuttal: **August 31, 2011**

7. Discovery: All discovery shall be completed by **September 19, 2011**. The parties shall serve all discovery requests in time for the responses thereto to be made by this deadline.
8. Dispositive Motions: The parties shall file any dispositive motions by **October 3, 2011**.

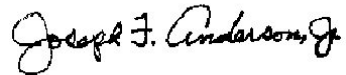
² This is the earliest deadline for a very important reason: to allow discovery to address all issues and all potential parties. Late requests to amend are, therefore, strongly discouraged, especially if the amendment would add a party. Any request to amend after the scheduling order deadline should include an explanation of why the amendment could not have been sought earlier. Parties who delay seeking to amend until late in the litigation, especially as to known potential parties, risk denial of their motions.

³ The rules governing expert witness disclosures changed effective December 1, 2010. Rule 26(a)(2)(B) or "2B" witnesses are those traditional expert witnesses who must prepare a written report (for example, a witness retained or specially employed to provide expert testimony in the case or one whose duties as the parties' employee regularly involves giving expert testimony). The new category of expert witnesses covered by 26(a)(2)(C) or "2C" witnesses are not experts in the traditional sense of being retained specifically to provide expert testimony. Rather, they are witnesses such as a treating physician or an employee who may have certain expert-type information and who may offer some type of expert opinion testimony along with his or her fact testimony. As to these "2C" witnesses, new Rule 26(a)(2)(C) requires a summary disclosure be made by the attorney (not the witness) of the subject matter on which the witness is expected to present expert testimony and a summary of the facts and opinions to which the witness is expected to testify.

9. Trial: This case will go to trial during the two-month term of Court beginning **January 4, 2012**.⁴ Note: this is not a “subject to being called on or after” date. This is a firm trial date. Counsel, parties and witnesses should plan their schedules, including vacations, accordingly.

IT IS SO ORDERED.

May 17, 2011
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

⁴ The Court exempts this case from the pretrial disclosure requirements of Rule 26(a)(3). However, the Court expects strict compliance with Local Rule 26.07 (obligation to meet, mark, and exchange exhibits) and Local Rule 26.05 (pretrial briefs).