

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michael Tate, Joseph Shuster and Jack
Ayers, individually and on behalf of all other
individuals similarly situated,

CIVIL NO. 09-2076 (MJD/JJG)

Plaintiffs,

**PRETRIAL SCHEDULING ORDER
(CLASS ACTIONS)**

v.

Restaurant Technologies, Inc., Jeffrey R.
Kiesel, John C. Rutherford, Jonathan O.
Grad, Phillip A. Clough, and Robert E. Weil,

Defendants.

Pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Local Rules of this Court, and in order to secure the just, speedy and inexpensive determination of this action, the following schedule shall govern these proceedings. This schedule may be modified only upon formal motion and a showing of good cause as required by Local Rule 16.3.

CLASS CERTIFICATION MOTION

1. Plaintiffs shall file their motion for class certification on or before **April 1, 2010**.
2. Defendants shall file papers in opposition on or before **May 3, 2010**.
3. Plaintiffs' reply shall be filed on or before **May 17, 2010**.

All class certification motions shall be filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and Local Rule 7.1. Class certification motions shall be scheduled for a hearing by calling **Kristine Wegner**, Calendar

Clerk for the Honorable Michael J. Davis at (612) 664-5073. Counsel are reminded that they must anticipate the time required for obtaining hearing dates.

DISCOVERY SCHEDULE/DEADLINES

1. All pre-discovery disclosures required by Rule 26(a)(1) have been completed.
2. Fact discovery shall be commenced in time to be completed on or before July 1, 2010.

DISCOVERY LIMITATIONS

1. For the purposes of this order, Plaintiffs as a group are one party.
2. No more than a total of **twenty-five (25) interrogatories**, counted in accordance with Rule 33(a), shall be served by each side.
3. No more than **twenty-five (25)** depositions, excluding expert witness depositions, shall be taken by either side. Defendant may depose every named Plaintiff notwithstanding this limit. If this matter becomes a class action, the parties will first attempt to agree to modify this limit by submission of a stipulation and proposed order. If no agreement is reached, the parties shall e-file a letter with the Court informing the Court of their respective positions.

EXPERTS

The parties anticipate that they will require expert witnesses for class certification and at the time of trial.

1. Each side may call up to **two (2)** expert witnesses. Accordingly, each party may take one deposition per expert.
2. Disclosure of the identity of expert witnesses under Rule 26(a)(2)(A) and the full disclosures required by Rule 26 (a)(2)(B), accompanied by the written report prepared and signed by the expert witness, shall be made as follows:

Identification by the Party bearing the burden of proof on or before **June 15, 2010.**

Report by the Party bearing the burden of proof on or before **June 15, 2010.**

Identification by the Rebuttal party on or before **August 2, 2010.**

Report by the Rebuttal party on or before **August 2, 2010.**

3. Expert discovery, including depositions, shall be completed by **August 16, 2010**.

NON-DISPOSITIVE MOTIONS

All non-dispositive motions shall be scheduled, filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota, with Local Rules 7.1 and 37.1, **and in the form prescribed by Local Rule 37.2**. The “Meet and Confer” requirement should include attempts to do so through personal contact, rather than solely through correspondence. All non-dispositive motions shall be scheduled for hearing by calling Judith Kirby, Judicial Assistant to Magistrate Judge Graham, at (651) 848-1890, prior to filing, except when all parties are in agreement that no hearing is required. Such an agreement shall be expressly set forth in the notice of motion.

1. All motions which seek to amend the pleadings or to add parties must be filed and served on or before **April 1, 2010**.
2. Non-dispositive motions and supporting documents, including those which relate to pre-class certification fact discovery, shall be filed and served on or before **July 15, 2010**.
3. All non-dispositive motions and supporting documents which relate to pre-class certification expert discovery shall be filed and served on or before **August 16, 2010**.
4. Counsel are advised not to notice additional motions for hearing on an already existing hearing date without first contacting the Court for permission to do so. All motions must be filed and served within the time periods set forth in the local rules.

INFORMAL DISPUTE RESOLUTION (IDR)

Prior to scheduling any non-dispositive motion, parties should consider whether the motion may be informally resolved through Informal Dispute Resolution (IDR). There is no transcript or other recording of IDR proceedings. Therefore, all parties should be in

agreement to participate in IDR and the Court will first determine whether the matter may be handled informally. The “moving party” shall electronically file a letter representing that the parties wish to engage in IDR and setting forth the well-defined issue to be resolved. If it is determined that IDR may be used, the parties will be contacted by the Court to schedule a telephone conference and allow for position letters to be filed by each party.

For leave to proceed in a manner other than that outlined above, the requesting party shall electronically file a letter setting forth the specific request.

DISPOSITIVE MOTIONS

All dispositive motions shall be filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and Local Rule 7.1. Dispositive motions shall be scheduled for a hearing by calling **Kristine Wegner**, Calendar Clerk to the Honorable Michael J. Davis, at **(612) 664-5073**. Counsel are reminded that they must anticipate the time required for obtaining hearing dates. All dispositive motions shall be filed and served on or before **October 1, 2010**.

TRIAL

This case shall be ready for a **jury** trial on **February 1, 2011**. The anticipated length of trial is **ten (10)** days.

Dated: October 20, 2009

s/ Jeanne J. Graham
JEANNE J. GRAHAM
United States Magistrate Judge