

**CAUSE NO. 03-01-00267-CV**

EMERSON HOME BUYERS ASSOCIATION, AS INFORMAL ASSOCIATION OF APRIL UNDERWOOD, ET AL,	§	IN THE DISTRICT COURT
	§	
	§	
	§	
	§	
Plaintiffs,	§	
	§	410TH JUDICIAL DISTRICT
V.	§	
	§	
EMERSON MANUFACTURED HOMES, LTD., ET AL,	§	
	§	
	§	
Defendants	§	MONTGOMERY COUNTY, TEXAS

**CASE MANAGEMENT ORDER**

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## CASE MANAGEMENT ORDER

The purpose of this Case Management Order (CMO) is to promote the expeditious and efficient process of preparing these cases for trial.

### **I. DEFINITIONS**

The following definitions apply and are incorporated by reference:

**Lawsuit** – Lawsuit refers the suit, styled as above, pending in the 410<sup>th</sup> District Court of Montgomery County, Texas.

**Coordinated Cases** – Coordinated Cases are the individual cases that have been designated with a unique individual plaintiff identification number and have been noticed to counsel either by the plaintiffs' original petition, by amendment, supplement, or by Rule 194 Disclosure, prior to such amendment or supplement.

**Expedited Cases** – Expedited Cases are those Coordinated Cases that have been specifically selected, by agreement among plaintiff and defense counsel, to be set for Jury Trial on February 7, 2005. The Expedited Cases are listed in Exhibit A of this CMO.

**Extended Cases** – Extended Cases are those Coordinated Cases that have not been designated as Expedited Cases.

**Emerson or Raybon Defendants** – Emerson or Raybon Defendants are any of the businesses entities, currently represented by Michael Hord, Hirsch & Westheimer.

**Lodge or Lipar Defendants** – Lodge or Lipar Defendants are Lodge Homes, Inc., Lodge Mortgage, Inc. the Lipar Group, Inc., Lipar Red Creek Joint Venture, and Eric Lipar, individually, currently represented by Michael Fleming.

**Plaintiff Grouping** – The Plaintiffs shall be grouped into three categories: 1) homes purchased through refinance loans, 2) homes purchased through purchase loans, and 3) homes purchased by direct loans.

**Defendant Grouping** – The Defendants shall be grouped into nine categories: 1) Emerson Defendants, 2) Lodge Defendants, 3) Mortgage Broker Defendants, 4) Hazard

Insurance Agent Defendants, 5) Hazard Insurance Underwriter Defendants, 6) Title Company Escrow Agent Defendants, 7) Title Company Underwriter Defendants, 8) Charitable Gift Foundation Defendants, and 9) Appraiser Defendants.

**Core Issues** - Core Issues are those fact issues which are common to the coordinated cases.

**Case Specific Issues** – Case Specific Issues are those fact issues that pertain to a specific plaintiff’s case.

**Steering Committee** – Both Plaintiffs and Defendants shall form a Steering Committee. For the Plaintiffs, the members are those counsel who have been designated to represent each Plaintiff Grouping. For the Defendants, the members are those counsel, who are designated to represent each Defendant Grouping. The purpose of the Steering Committees is to coordinate discovery and other pretrial matters with opposing counsel.

**Plaintiffs’ Steering Committee** – The Plaintiffs counsel, if more than one, shall form a steering committee.

**Co-Liaison Counsel** – Attorneys representing each Plaintiff and Defendant Grouping are termed Co-Liaison Counsel.

**Liaison Counsel** – A Plaintiffs’ and Defendants’ Liaison Counsel shall be designated. The Liaison Counsel shall coordinate discovery and pre-trial matters between Plaintiffs’ and Defendants’ Steering Committees and among the Co-Liaison Counsel.

**Master Discovery** – Plaintiffs and Defendants are entitled to serve Master Interrogatories that consist of 15 questions directed to each Plaintiff and each Defendant group, that are relevant to Core Issues. In addition, Plaintiffs and each Defendant Group are entitled to serve 15 Requests for Production that are relevant on core issues. Also, each Plaintiff and Defendant are entitled to serve up to 10 additional Interrogatories and 10 additional Requests for Production directed to each separate Plaintiff and Defendant. The original 15 Interrogatories and 15 Requests for Production shall be e-filed on or before

**September 1, 2004. All responses to master discovery are due on or before October 1, 2004.**

**I. CONSOLIDATION AND COORDINATION**

**A. Coordinated Cases and Discovery Level**

By order of the Presiding Judge of the 410<sup>th</sup> District Court, Montgomery County, Texas, the individual cases under Cause Number 03-01-00267-CV are designated as Coordinated Cases.” Discovery in the Coordinated Cases shall proceed under level 3.

**B. Expedited Cases**

By order of the Presiding Judge of the 410<sup>th</sup> District Court, Montgomery County, Texas, the Plaintiffs and Defendants have jointly designated not more than 15 of the Coordinated Cases that will be scheduled for jury trial on February 7, 2005, attached hereto as Exhibit “A.”. These cases will be designated as “Expedited Cases.” Preparation for trial, to include but not limited to, Rule 194 Disclosures, interrogatories, request for admissions, document productions, depositions, and mediation, shall be expedited for those designated Expedited Cases as set forth below. By Order of the Court, any verdicts rendered in the Expedited Cases shall not constitute grounds for Res Judicata or Collateral Estoppel for the remaining Extended Cases. Discovery in the Expedited Cases shall proceed under level 3.

**C. Extended Cases**

By order of the Presiding Judge of the 410<sup>th</sup> District Court, Montgomery County, Texas, those cases that are not designated Expedited Cases will be designated “Extended Cases.” The Extended Cases will be set for jury trial at a later time. By agreement of counsel and Order of this Court, on or before March 11, 2005, liaison counsel for the Plaintiffs and Defendants shall meet in order to prepare a CMO and a plan for the disposition of the Extended Cases. Discovery relating to the Extended Cases shall be abated until the adjudication of the Expedited Cases. The Court will conduct a hearing on the CMO for the Extended Cases on March 21, 2005 at 9:00 am..

**D. Applicability of Order**

The terms of this Order shall apply to coordinated cases and automatically apply to all other plaintiff cases that become a part of this proceeding.

**E. Dissemination of this Order**

Within five (5) days of the date of this Order, Plaintiffs' Liaison Counsel shall post this Order through File and Serve (LexisNexis), pursuant to the E-Filing Standing Order. Upon receipt of notice of the appearance of counsel, Defendants Liaison Counsel shall promptly send (by facsimile or overnight delivery) a copy of this Order to such counsel.

**F. Standing Orders**

The Standing Orders of the Presiding Judge of the 410<sup>th</sup> District Court, which are maintained on its website, shall be adhered to by all parties appearing in this case.

**III. GENERAL MATTERS**

**A. Form of Submissions and Hearing Settings**

All submissions to the Court shall be in the form of motions, captioned, formatted, filed and served as set forth in this Order. Settings for hearings with the Court may be obtained through the Court Coordinator for the Presiding Judge and shall be posted on LexisNexis on File and Serve.

**B. Plaintiffs Master Website**

A username and password protected website for the benefit of the Court and litigants will be set up by the Plaintiffs for the purpose of posting the Plaintiffs' digitized documents, disclosures, and exhibits through Register.Com at

<http://www.emerson-lonestar-lawsuit.com>

The username/password protected discovery files themselves may be accessed directly through the ftp server at:

<ftp://ftp.emerson-lonestart-lawsuit.com>

In addition to the scanned copies of the Plaintiffs' Closing Documentation, Plaintiffs will post any notice of supplementary materials from time to time. Plaintiffs will provide notice to Defendants' counsel to the website, by E-filing through LexisNexis File & Serve contemporaneously with such posting.

Plaintiffs counsel shall receive and pay the monthly hosting invoice as it becomes due from the website hosting company: Hosting by Register.Com. The cost of maintaining the website shall be shared by Plaintiffs and Defendants, as follows:

- a. The Plaintiffs and Defendant shall contribute to the cost of hosting and maintaining the website. The estimated monthly cost is \$849.00 for 8.0 GB of uploaded file storage.
- b. Contributions from the Plaintiffs and Defendants shall be made in the following percentages:
  - i. From the Plaintiffs: 50%
  - ii. From the Defendants: 50% (Defendants shall agree as to the amount of contribution from each defendant, and the manner of payment, and all payments from the various Defendants shall be made through attorneys Lanza and Burrows on a quarterly basis).
- c. The Defendants' Contribution shall be due and payable on a quarterly basis, following the receipt of an invoice from plaintiffs' counsel to attorneys Lanza and Burrows.
- d. The cost of this website shall be treated as recoverable costs of prosecution of the lawsuit if so awarded at trial or by agreement of the parties.

**C. Digitized Discovery Documents.**

The Plaintiffs and Defendants shall digitize their discovery documents. The Plaintiffs' electronically scanned documents are stored on the website described above. The Plaintiffs will be

responsible for the cost of scanning their own documents. The Defendants will be responsible for the cost of scanning their own documents. The cost of scanning shall be treated as recoverable costs of prosecution of the lawsuit if so awarded at trial or by agreement of the parties. All documents produced by a Defendant shall be bates stamped with a unique number for that Defendant.

**IV. ORGANIZATION OF COUNSEL**

**A. Plaintiffs' Management Structure**

Plaintiffs' Liaison Counsel are as follows:

William H. Piper	Boyd, Munoz, & Piper <a href="mailto:whpiper@piperlaw.org">whpiper@piperlaw.org</a> Tel: 936-756-3030	Liaison Counsel Lead Attorney,
Ellis Munoz Charles Boyd	Boyd, Munoz, & Piper Boyd, Munoz, & Piper	

Should other plaintiffs' counsel file an appearance, the order contemplates the formation of plaintiffs' steering committee within 30 days of the notice of such appearance.

In the eventuality of the formation of a plaintiffs' counsel steering committee, William H. Piper shall be designated as the liaison counsel on behalf of all Plaintiffs. Plaintiffs' Liaison Counsel is specifically charged with the responsibility for negotiating and drafting a proposal for a Case Management Order and such further orders as may flow from such Case Management Order; coordinate and schedule non-party specific depositions and general discovery matters; and coordinate hearing settings on issues that affect all coordinated cases.

William H. Piper is designated as the Plaintiffs' Liaison Counsel for the Plaintiffs and for the Plaintiffs Steering Committee and Co-Liaison Counsel, in the event such is formed.

**B. Defendants' Management Structure**

A Defendants' Steering Committee of the following lawyers is hereby approved to coordinate on behalf of all Defendants' counsel. This committee is comprised of lawyers representing the defendants, as divided by grouping ("Defendant Grouping"), under this cause of

action. The Defendant Groupings consist of

1. Insurance (Casualty/Hazard) Underwriter Defendants,
2. Insurance (Casualty/Hazard) Agent Defendants,
3. Title Underwriter Defendants,
4. Title Escrow Agent Defendants,
5. Mortgage Broker Defendants,
6. Appraiser Defendants
7. Charitable Gift Foundation Defendants,
8. Lipar Defendants, and
9. Raybon Defendants.

These lawyers are as follows:

Richard Griffin	Jackson Walker <a href="mailto:rgriffin@jw.com">rgriffin@jw.com</a> Tel: (713) 752-4200	Casualty Insurance Underwriter Defendants
Nicholas Lanza,	Burck, Lapidus, & Lanza, PC <a href="mailto:nlanza@blllaw.com">nlanza@blllaw.com</a> Tel: 713-400-6000	Casualty Insurance Agent Defendants
Matt Rubin	Williams, Birnberg, & Andersen, LLP <a href="mailto:mrubin@wba-law-com">mrubin@wba-law-com</a> Tel: 713-981-9595	Title Escrow Agent Defendants
To Be Determined	Tel:	Title Underwriter Defendants
Matthew Hoeg	mhoeg@andrewskurth.com Tel: 713-220-4012	Mortgage Broker Defendants
Bill Book	stayler@tbml.com Tel: 713-222-9542	Appraiser Defendants
Bridget Brinson	bbrinson@heardmedackpc.com Tel: 713-772-6440	Charitable Gift Defendants
Michael Fleming	In House Counsel, Lipar Group	Lipar Defendants

[mfleming@mpfpc.com](mailto:mfleming@mpfpc.com)  
Tel: 281 296 9544

Michael Hord

Hirsch & Westheimer  
[mhord@hirschwest.com](mailto:mhord@hirschwest.com)  
Tel: 713-220-9182

Raybon Defendants.

The above designated counsel will serve as Defendants' Co-Liaison counsel on behalf of all Defendants within their individual defendant grouping. Defendants' Co-Liaison Counsel is specifically charged with the responsibility for negotiating and drafting a proposal for a Case Management Order in conjunction with the Plaintiff. Defendants' Co-Liaison Counsel is specifically charged with the responsibility for negotiating and drafting such further orders as may flow from the Case Management Order; coordinate and schedule depositions and general discovery matters; and coordinate hearing settings on issues that affect all coordinated cases.

Nicholas Lanza and Dan Burrows are designated as Liaison Counsel for the Defendants Steering Committee and and Co-Liaison Counsel.

## **V. GENERAL DISCOVERY RULES**

### **A. Applicability of Rules**

Except as otherwise provided in this Order, the Texas Rules of Civil Procedure and the Local Rules of the 410<sup>th</sup> District Court shall apply in this proceeding.

### **B. Discovery Dispute Resolution**

To avoid unnecessary litigation concerning discovery disputes, counsel are directed to confer in person or by phone before filing any motion on discovery issues.

### **C. Abatement of Discovery for Extended Cases**

Discovery is hereby abated for all Extended Cases, until the Expedited Cases have been adjudicated by the Trial Court, as stated above. This abatement will terminate 45 days after such adjudication. Excepted from the Extended Cases Abatement is

1. Master Disclosures under Rule 194 **that is not case specific**, and

2. Discovery exchange by agreement of counsel.

**VI. RULES APPLICABLE TO DISCOVERY FOR EXPEDITED CASES**

**A. JOINDER: 09/01/04**

All parties must be added and served, whether by amendment or third party practice, by this date. THE PARTY CAUSING THE JOINDER SHALL PROVIDE A COPY OF THIS CASE MANAGEMENT ORDER AT THE TIME OF SERVICE.

**B. EXPERT WITNESS DESIGNATION:**

- (1) 09/10/04 Experts for parties seeking affirmative relief.  
(2) 10/17/04 All other experts.

Expert witness designations are required and must be served by the above dates. The designation must include the information listed in Rule 194.2(f) and a written report prepared by the expert setting forth the substance of the expert's opinion. Failure to timely identify will be governed by Rule 193.6

**C. DISCOVERY LIMITATIONS:**

All discovery will be conducted in accordance with this CMO and the Texas Rules of Civil Procedure, except as follows:

Counsel for Plaintiffs and Counsel for Defendants (per Defendant group) are to prepare fifteen (15) Master Interrogatories and (15) Master Requests for Production, in accordance with the Master Discovery definition identified in Section I above. In addition to the Master sets that will be served, each party has the right to serve ten (10) additional Interrogatories and ten (10) additional Requests for Production as stated in that definition.

**D DISCOVERY PERIOD ENDS: 01/07/05**

All discovery must be completed before the end of the discovery period or same shall be waived. Parties seeking discovery must serve requests sufficiently far in advance of the end of the discovery period that the deadline for responding will be within the discovery period. Counsel may conduct discovery beyond this deadline by agreement. Incomplete discovery will not delay the trial.

**E. ALTERNATIVE DISPUTE RESOLUTION: 12/15/04**

By this date, the parties must advise the Court of the name of the agreed mediator, and the proposed mediation date or dates. If counsel cannot come to an agreement as to either the identification of the mediator or the dates for the proposed mediation then the Court is to be notified and the Court will designate the mediator and date of mediation.

01/14/05 Mediation is to be completed by this date. The Court will execute an approved Order of Protection for the week of January 10, 2005 for counsel to conduct mediation.

**F. DISPOSITIVE MOTIONS AND PLEAS:**

By this date any such motion or plea must be set for hearing or submission as follows:

09/20/04 (a) Summary Judgments may not be set before this date.

01/03/05 (b) Summary Judgments may not be set after this date.

**G. CHALLENGES TO EXPERT TESTIMONY: 01/17/05**

All motions to exclude expert testimony and evidentiary challenges to expert testimony must be filed by this date, unless extended by Order of the Court.

**H. PLEADINGS: 12/17/04**

All amendments and supplements must be filed by this date, except by leave of court. This order does not preclude prompt filing of pleadings directly responsive to any timely filed pleadings.

**I. PRE-TRIAL CONFERENCE OR DOCKET CALL: February 2-3, 2005**

Parties shall be prepared to discuss all aspects of trial with the Court on this date. Before the pretrial conference, the parties shall exchange with each other the items below:

- (a) Proposed jury instructions and questions
- (b) Proposed findings of facts and law
- (c) Motion for Limine
- (d) Exhibit List
- (e) Labeled and numbered exhibits. Before pretrial conference, the parties shall exchange all exhibits they intend to introduce at trial and to make good faith efforts to reach an agreement on the admissibility of each exhibit. The parties should be prepared to discuss at the pretrial conference objections to exhibits that the parties do not agree are admissible.
- (f) Witness lists stating each witness's name, address, and phone number and whether the witness is a party, a fact witness, or an expert witness. The parties should be prepared to discuss at the trial conference any scheduling problems relating to witnesses and any objections to improperly designated experts or fact witnesses.

**J. Requests for Rule 194 Disclosure**

**General.**

It is Ordered that all parties who enter an appearance are deemed to have been served with requests for disclosure in accordance with Texas Rule of Civil Procedure 194, and as set forth below

Defendants and Plaintiffs shall file master responses, when feasible, to any or all of the subparts of the standard requests for disclosure, pursuant to the Texas Rules of Civil Procedure. In answering requests for disclosure propounded in individual cases, a party thereafter may simply refer to the master responses in lieu of repeating the information stated in the master responses.

**Expedited Cases**

Defendants and Plaintiffs who have entered an appearance shall serve their master responses no later than August 15, 2004 and shall supplement as required.

**Extended Cases**

Defendants and Plaintiffs who have entered an appearance or enter an appearance shall serve their master responses in accordance with this CMO and Rule 194 of the Texas Rules of Civil Procedure and shall supplement as required.

**K. Pending Discovery Requests**

All pending discovery requests are vacated, without prejudice, except to the extent the court has entered an Order relating thereto, and except for discovery requests touching the Expedited Cases.

**L. Trial (Expedited Cases): February 7, 2005, 9:00 a.m.**

**VII. RULES APPLICABLE TO DEPOSITIONS**

**A. General**

The scheduling and conduct of depositions, including resolution of any disputes arising during depositions, shall be in accordance with the procedures set forth in the Texas Rules of Civil Procedure. Counsel are expected to cooperate with, and be courteous to, each other and deponents.

**B. Scheduling of Depositions**

1. The Presiding Judge expects that witness depositions in this matter will commence

in due course. The Presiding Judge's objective is to avoid the repeated depositions of any person. Plaintiffs' Co-Liaison Counsel (and/or their designated representatives) and Defendants' Co-Liaison Counsel (and/or their designated representatives) therefore shall attempt to establish by mutual agreement a schedule for depositions in this proceeding and all other coordinated proceedings that reflects a sequencing that is consistent with (a) the availability of documents from among those produced by the parties and third parties; (b) the objective of avoiding the need to subject any person to repeated depositions; and (c) the need to preserve relevant testimony. Disputes concerning the timing and scheduling of depositions may be presented to the Presiding Judge.

2. The Presiding Judge expects, to the extent practicable, that the use of formal notices of depositions or subpoenas with respect to party witnesses will be unnecessary in this case – that is, party witnesses will be produced in accordance with whatever schedule is developed. The lead questioner for any deposition shall provide all counsel with at least ten (10) days written notice of each deposition to be taken. The parties will work together on the production of documents in lieu of the use of subpoena duces tecum on a witness by witness basis, with any disputes to be resolved by a Presiding Judge. All witnesses shall bring to the deposition any handwritten notes or logs, personal computer files, personal diaries or journals, or any other personal items kept in the regular course of business that have not previously been produced, provided that such items shall be limited to the specific subject matter designated as to the respective witness being deposed; provided, counsel shall file and serve any objections and privilege logs as to withheld documents on or before four (4) days before the deposition.

3. Plaintiffs' and Defendants' Liaison Counsel and Co-Liaison Counsel will be responsible for keeping all counsel that they represent fully apprised of the scheduling of any depositions in this proceeding.

### **C. Attendance**

Unless otherwise ordered under Tex. R. Civ. P. 199, depositions may be attended by counsel of record, members, and employees of their law firms, attorneys and experts specially engaged by

a party for purposes of the deposition, the parties or the representative of a party, and counsel for the deponent. While a deponent is being examined about any stamped confidential document or the confidential information contained therein, persons to whom disclosure is not authorized under the Confidentiality Order shall be excluded.

In order to provide appropriate accommodations, any attorneys and/or their staffs planning to attend any deposition need to provide written notice three (3) business days prior to the deposition to their respective liaison counsel, informing the liaison counsel of the number of people that will attend. If an expert is to attend a deposition, all parties shall be notified three (3) business days before the deposition or within such other time as agreed to by the parties. Unnecessary attendance by counsel is discouraged.

**D. Conduct of Depositions**

1. In any deposition, the Co-Liaison Counsel requesting the deposition shall designate a lead questioner. Questioners shall divide their time by agreement, asking the Presiding Judge to resolve any disputes in that regard (but only where absolutely necessary).

2. Reasonably in advance of the date scheduled for a deposition, any attorneys desiring to be a questioner shall coordinate with the designated Co-Liaison Counsel for time apportionment purposes and non duplication purposes. New or supplemental depositions of witnesses relating to core issues, or relating to case specific issues previously the subject of a deposition, will not be scheduled without prior leave of the Presiding Judge or by agreement of the parties.

**E. Duration of Examinations**

1. Except by agreement of counsel, party specific depositions and depositions of corporate representatives that have been designated on any specific subject matter, continue to be governed by the Texas Rules of Civil Procedure, Rule 199.5(c).

2. Except by agreement of counsel, with respect to depositions, the duration of depositions shall be limited as follows, excluding time taken for breaks, meals, and other reasons:

A. Lead examiner shall not be more than three (3) hours

B. Other examiners shall not be more than three (3) hours.

The total period for such core depositions shall not extend over more than one day. If any witness is to be presented through an interpreter, the presenting attorney shall notify the deposing attorney of same at least five (5) days prior to the deposition and the allocated time listed above will be doubled.

3. Deviation from these time limitations will be permitted only with leave of the Presiding Judge or by agreement of the parties. Any request to extend the time limit on a deposition must be accompanied by a certification that good and reasonable reasons preclude completion of the deposition during the allotted time period and that the particular information being sought cannot be elicited from a witness that is (or could be) scheduled to appear at another time.

4. It is expected that counsel will confer prior to each deposition to determine how time will be allotted to each participating attorney, consistent with the provisions set forth above. This conference should occur a sufficient time prior to the deposition to permit the resolution of any disputes regarding time allocation by the Presiding Judge, should that become necessary.

**F. Supplemental Depositions**

Witnesses shall not be subjected to more than one deposition conducted within the limitations described above, nor to repetitive and redundant questioning. Supplemental depositions will be permitted only upon motion demonstrating (a) a good and reasonable need for the information sought and (b) good and reasonable reasons why the desired lines of questioning could not have been pursued in the original deposition and why the information cannot be obtained from any persons available for future depositions. If permitted, a supplemental deposition shall be treated as the resumption of the deposition originally noticed. Examination in any supplemental deposition shall not be repetitive of any prior interrogation of that deponent.

**G. Deposition Exhibit Protocol**

1. Copies of Exhibits. Each attorney who will question a witness during a deposition shall bring one copy of the potential deposition exhibits for use during the deposition and shall make

the exhibits available to the other parties for copying prior to being tendered to the witness. Exhibits that are not included on CD Rom or posted on the Internet must be identified 5 working days prior to the deposition in question or the deposing attorney shall bring 7 additional copies of the exhibits to the deposition for use by opposing counsel.

3. Exhibits to be Provided with Transcript. It is the responsibility of the lead attorney taking the deposition to provide copies of ALL exhibits to the court reporter immediately at the conclusion of the deposition so that the exhibits can then be provided to all counsel with the transcript of the deposition.

4. Electronic Transcripts. The lead attorney taking the deposition is required to use a court reporter who can and will provide an uncertified rough draft to all counsel at their expense who request it within 24 hours after the conclusion of the deposition.

#### **H. Videotaping**

A party may record a deposition by videotape pursuant to Tex. R. Civ. P. 199.1(c). The following rules shall apply to the taking of any such deposition:

1. Interruptions. No attorney shall direct instructions to the video operator as to the method of operating the equipment. The video camera operation will be suspended during the deposition only upon stipulation by counsel and during “off the record” discussions. The video operator shall record on camera the time of suspension and any subsequent reconvening of the deposition.

2. Standards. The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at trial. Unless physically incapacitated, the deponent shall be seated at a table except when reviewing or presenting demonstrative materials for which a change in position is needed. In order to evaluate the quality of the videotaping equipment to be used, attorneys must give the name, address, and phone number of the videographer to counsel for the deponent ten (10) days in advance of the deposition. Any objections to the quality of the videotaping equipment shall be made five (5) days in advance of the deposition.

3. Certification. After the deposition is completed, the video operator shall certify on camera the correctness, completeness, and accuracy of the video tape recording in the same manner as a stenographic court reporter.

**VIII. RULES CONCERNING PRIVILEGE ISSUES**

Within forty-five days of the date of this Order, the parties will propose a supplement to the Case Management Order pertaining to rules concerning privilege issues and resolving challenges to claims of privileges. Attorneys Suzanne Pickering and Bridget Brinson shall take the lead on preparing and circulating this Order.

**IX. RULES CONCERNING AUTHENTICITY AND BUSINESS RECORDS**

Within forty-five days of the date of this Order, the parties will propose a supplement to the Case Management Order pertaining to rules concerning authenticity and business records. Attorneys Suzanne Pickering and Bridget Brinson shall take the lead on preparing and circulating this Order.

**X. EXISTING DOCKET CONTROL DEADLINES, SCHEDULING ORDER DEADLINES AND TRIAL DATES**

All existing docket control deadlines and scheduling order deadlines in the coordinated cases that were entered prior to the entry date of this Order are vacated, without prejudice.

**XI. SCHEDULING ORDER**

1. Expedited Cases.

The scheduling order incorporated in this Order applies to the Expedited Cases.

2. Extended Cases.

A CMO/ Scheduling Order for these cases shall be finalized following the resolution of the Expedited Cases. Subsequently added Defendants shall be provided a copy of this Order concurrently with service by the Plaintiffs.

**XII SETTLEMENTS**

**COUNSEL SHALL IMMEDIATELY NOTIFY THE PRESIDING JUDGE WHEN A CASE**

SETTLES.

S I G

N E D

t h i s



26th day of July, 2004.

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K. MICHAEL MAYES,  
PRESIDING JUDGE  
410<sup>TH</sup> DISTRICT COURT  
IN MONTGOMERY COUNTY, TEXAS

# EXHIBIT A

## DESIGNATED EXPEDITED CASES

ID	Last Name	First Name	Spouse/Partner
2	Adams	Lisa	
63	Brown	Ernest	Frances
104	Cook	Jonathan	Roberta
142	Edwards	Brad	Tara
158	Franklin	Robert	Joyce
204	Hammons	Joeyanne	William
220	Henry	Robert	Lea Carmichael
342	McCollum	Chad	Kelley
451	Roberts	Anita	Michael Cochrell
466	Rutledge	Mandy	
477	Schlosser	Bradley	
497	Smith	Darcy	Tammi Gay
530	Thompson	Freddie	

