

# Exhibit F

1 ALL THE PARTIES EXPECT TO FILE MOTIONS FOR  
2 SUMMARY JUDGMENT BEFORE THE TRIAL IN ALL  
3 CLAIMS.

4 I DON'T KNOW IF YOU WERE IN COURT FOR THE LAST CASE  
5 MANAGEMENT CONFERENCE. BUT IF YOU DO FILE CROSS MOTIONS, I WANT  
6 YOU TO TALK IT OVER AMONGST YOURSELVES; IDENTIFY THE ISSUES.  
7 AND I WANT FOUR BRIEFS RATHER THAN SIX, IF THERE IS GOING TO  
8 CROSS MOTIONS.

9 SO, AN OPENING MOTION FOR SUMMARY JUDGMENT AND  
10 RESPONSE; AN OPENING MOTION FOR THE OTHER PARTY, AND SO ON. SO,  
11 THAT THERE IS ONLY FOUR RATHER THAN SIX BRIEFS.

12 NOW, YOU STATE THAT:

13 KM KATZER ANTICIPATE THAT NEW PARTIES WILL BE  
14 ADDED.

15 IT SAID:

16 JACOBSEN MAY ALSO ADD PARTIES AND CLAIMS.

17 I WILL START WITH PLAINTIFFS. I WOULD LIKE TO IMPOSE  
18 A DEADLINE FOR THIS HAPPENING.

19 MISS HALL: YES.

20 THE COURT: SO, WHAT DEADLINE CAN YOU LIVE WITH?

21 MISS HALL: AUMM, THE END OF OCTOBER.

22 THE COURT: ALL RIGHT. WHAT ABOUT YOU, FROM YOUR  
23 SIDE?

24 MR. JERGER: JUST TO CLARIFY, THIS IS FOR THE  
25 PLAINTIFF TO FILE ANOTHER AMENDED COMPLAINT?

1 THE COURT: THIS IS ADDING NEW PARTIES AND CLAIMS,  
2 CORRECT. FOR WHICH, AT THIS POINT, A MOTION WOULD HAVE TO BE  
3 FILED.

4 MR. JERGER: CORRECT.

5 THE COURT: SO, ANY SUCH MOTION HAS TO BE FILED BY THE  
6 END OF OCTOBER.

7 MISS HALL: OH, WITH A MOTION FOR PLAINTIFF TO AMEND  
8 WITH THE AMENDED COMPLAINT?

9 THE COURT: RIGHT.

10 MISS HALL: OKAY.

11 THE COURT: THAT IS RIGHT.

12 SO, MISS OTTOLINI, WHAT IS THE LAST WORK DAY IN  
13 OCTOBER?

14 THE CLERK: OCTOBER 31ST.

15 THE COURT: WHAT ABOUT THE DEFENDANTS, WHEN WOULD YOU  
16 BE ADDING NEW PARTIES, WHAT DEADLINE IS APPROPRIATE FOR YOUR  
17 SIDE?

18 MR. JERGER: WELL, I -- YOU KNOW, I THINK, ASSUMING WE  
19 AREN'T GOING TO BE FILING MORE 12 (B) (6) MOTIONS, WHICH I DON'T  
20 THINK IS A SAFE ASSUMPTION AT THIS POINT, WE WILL BE HAPPY TO  
21 FILE AN ANSWER TWENTY DAYS AFTER THE AMENDED COMPLAINT.

22 BUT, I WOULD IMAGINE THAT WE WOULD PROBABLY BE FILING  
23 ANOTHER MOTION TO DISMISS, JUST GIVEN THE HISTORY OF THIS CASE.

24 THE COURT: WELL, THIS IS WHAT I'M TALKING ABOUT. I  
25 AM TALKING ABOUT ADDING NEW PARTIES.

1 MR. JERGER: I THOUGHT WE WOULD DO THAT WITH OUR  
2 ANSWER TO THE COUNTER CLAIMS.

3 THE COURT: WELL, ALL RIGHT. WELL, THAT IS FINE,  
4 THEN. YOU HAVE TWENTY DAYS FROM THE DATE OF THE FILING.

5 AGAIN, THE COURT MIGHT NOT ALLOW YOUR AMENDED  
6 COMPLAINT TO BE FILED; IT HAS TO BE BY LEAVE OF COURT.

7 SO, THE DEFENSE WILL HAVE TWENTY DAYS, AFTER THE COURT  
8 -- IF THE COURT DOES ALLOW ANY AMENDED COMPLAINT TO BE FILED,  
9 AND FOR THE NEW PARTIES WITH THEIR RESPONSE.

10 ALL RIGHT. NOW, THE NEXT POINT I WANT YOU TO MOVE  
11 DOWN TO IS A.D.R.

12 THE DEFENDANTS BELIEVE THAT FURTHER A.D.R.  
13 WILL NOT BE PRODUCTIVE UNTIL SUMMARY JUDGMENT  
14 MOTIONS ARE HEARD...

15 AND MY QUESTION IS.

16 ... OR AFTER A CLAIM CONSTRUCTION.

17 AND THE QUESTION IS: WHY NOT NOW? YOU HAVE GOT YOUR  
18 CLIENTS FACING, RESPONDING TO AN APPEAL WHERE YOU CAN GET  
19 MANDATORY A.D.R.

20 THERE ARE LOTS OF THINGS THAT ARE GOING TO BE  
21 OCCURRING IN THIS CASE. IT IS A COMPLICATED CASE; WHY NOT GO TO  
22 A.D.R. NOW?

23 MR. JERGER: WELL, I THINK WE FELT THAT THE FIRST  
24 A.D.R. SESSION WAS NOT PRODUCTIVE AT ALL IN ANYWAY. BUT I WILL  
25 DEFINITELY BRING IT UP WITH MY CLIENT AND BE OPEN TO DISCUSSIONS

1 WELL, IT CAN BE IN THE SAME DOCUMENT.

2 ONE CAN BE A PLANNING -- MAGISTRATE JUDGE FOR ALL  
3 PURPOSES; YEAH OR NAY.

4 AND THE OTHER ONE WILL BE A PARTICULAR MAGISTRATE  
5 JUDGE FOR THE SETTLEMENT PURPOSES OR FOR A SMALLER UNIVERSE FOR  
6 ALL OF THEM, IF YOU CAN AGREE.

7 IF YOU CAN'T AGREE ON A PARTICULAR ONE, YOU KNOW, IF  
8 YOU ARE HAPPY WITH ANY THREE OF THEM, WE WILL CHOOSE FROM THAT  
9 GROUP.

10 BUT I NEED TO KNOW BOTH OF THOSE THINGS BY NEXT  
11 FRIDAY.

12 ALL RIGHT. ANYTHING FURTHER?

13 MR. JERGER: JUST A POINT OF CLARIFICATION, YOUR  
14 HONOR.

15 PLAINTIFF HAS UNTIL OCTOBER 31ST TO FILE PERMISSION  
16 FOR A LEAVE TO AMEND, AND THEN DEFENDANTS HAVE TWENTY DAYS FROM  
17 THE DATE OF THE ORDER TO FILE, DEPENDING ON WHAT THE ORDER SAYS,  
18 EITHER A RESPONSIVE PLEADING OR A MOTION?

19 THE COURT: CORRECT, THAT IS CORRECT.

20 MISS HALL: SO, THEY WILL FILE -- THEY WILL FILE AN  
21 OPPOSITION ORDER --

22 THE COURT: WAIT. THEY WILL OPPOSE, THEY WILL FILE AN  
23 OPPOSITION, IF APPROPRIATE.

24 FIRST OF ALL, LET ME GO BACK BECAUSE THAT IS A GOOD  
25 POINT.

1 I WOULD PREFER IF YOU, MISS HALL, BEFORE YOU FILE YOUR  
2 MOTION, LET'S SAY, TEN DAYS BEFORE YOU FILE YOUR MOTION, TO SEND  
3 THEM A COURTESY COPY OF YOUR OPEN COMPLAINT.

4 I DON'T LIKE MOTIONS TO AMEND, EVEN WHEN THEY ARE  
5 MANDATORY, BECAUSE THE GROUNDS FOR, AS YOU KNOW, IN THIS CIRCUIT  
6 AND EVEN RULE 15 OF THE FEDERAL RULES ARE PRETTY LIBERAL, AND  
7 THE NINTH CIRCUIT IS PRETTY LIBERAL ON ALLOWING AMENDMENTS IN  
8 THE ABSENCE OF PREJUDICE, BAD FAITH OR FUTILITY.

9 SO, TEN DAYS BEFORE THE FILING DATE OF YOUR MOTION TO  
10 AMEND.

11 LET'S GET A DATE ON THAT, MISS OTTOLINI?

12 THE CLERK: TEN DAYS.

13 THE COURT: TEN DAYS BEFORE THE FILING OF THE MOTION,  
14 OF THE PLAINTIFF'S MOTION TO AMEND.

15 THE CLERK: SO, BY THAT DATE, THAT WOULD BE THE 19TH  
16 OF OCTOBER.

17 THE COURT: BY THAT DATE, MISS HALL, I WANT YOU TO  
18 SUBMIT TO THE OTHER SIDE, A COURTESY COPY OF THE COMPLAINT.

19 I WILL GIVE YOU FIVE DAYS FROM THAT DAY.

20 AND MISS OTTOLINI WILL GIVE US A DATE ON THAT?

21 THE CLERK: WHICH WOULD BE THE 26TH OF OCTOBER.

22 THE COURT: AND ALL YOU HAVE TO SAY IS YEAH OR NAY.  
23 YOU DON'T HAVE TO MAKE YOUR ARGUMENTS. YOU MAY SAY, GEE WE  
24 DON'T LIKE THIS, WE DON'T LIKE THAT, AND WE HAVE GROUNDS TO  
25 ATTACK IT.

1 BUT PERHAPS NOT IN THE IN THE CONTEXT OF A MOTION TO  
2 AMEND; YOU MIGHT STIPULATE TO IT.

3 IF NOT, JUST TELL THE PLAINTIFF, GO AHEAD AND FILE  
4 YOUR MOTION. AND THEN SHE WILL FILE; AND THEN WE WILL BE OFF  
5 AND RUNNING.

6 SO, THE PLAINTIFF WILL FILE HIS MOTION TO AMEND. YOU  
7 WILL RESPOND TO THE MOTION TO AMEND. THE COURT WILL THEN RULE  
8 ON THE MOTION TO AMEND.

9 WE WILL GIVE YOU A HEARING. DON'T WORRY ABOUT THE  
10 HEARING DATE ON THE MOTION TO AMEND. WE WILL SET THAT AT  
11 ANOTHER TIME, UNLESS IT IS FILED.

12 IF THE RULING IS TO GRANT THE MOTION TO AMEND, THEN  
13 THE ORDER WILL BE SELF-EXECUTING, COUNSEL. IT WILL STATE WHEN  
14 YOU RESPOND AND WHAT IT IS.

15 IT WILL REQUIRE THAT YOU SUBMIT THE NAMES WITHIN  
16 TWENTY DAYS OF THE ANSWER; OTHERWISE PLEAD AND NAME ANY NEW  
17 PARTIES THAT YOU WISH TO NAME.

18 DOES THAT RESPOND TO YOUR QUESTION, MISS HALL, EVEN  
19 THOUGH YOU HAVEN'T ASKED IT YET?

20 MISS HALL: YES. ACTUALLY THE DEADLINE THAT WE HAVE  
21 RIGHT NOW FOR ME TO FILE THE MOTION TO LEAVE TO AMEND, IS  
22 OCTOBER 31ST, AND HIS DEADLINE TO FILE AN OPPOSITION IS OCTOBER  
23 26TH?

24 THE COURT: NO, THAT IS HIS DEADLINE TO LET YOU KNOW  
25 WHETHER HE IS GOING TO STIPULATE TO YOUR AMENDMENT.

1 MISS HALL: OKAY, GOT IT.

2 THE COURT: AND AGAIN, I WILL LOOK UNFAVORABLY -- IF  
3 THIS WAS A SLAM DUNK, FROM THEIR PERSPECTIVE, I AM NOT SAYING IT  
4 WOULD BE, I AM NOT GOING TO BE REACTIVE THAT YOUR SIDE DID NOT  
5 STICK TO WHAT YOU FILED. BECAUSE SOMETIMES YOU MIGHT WANT TO  
6 JUST FIGHT FOR ANOTHER DAY, OR FIGHT ON ANOTHER GROUND, MAYBE ON  
7 A 12 (B) (6).

8 BECAUSE, FUTILITY AND GROUNDS OF A 12 (B) (6),  
9 ALTHOUGH PARALLEL, ARE NOT IDENTICAL.

10 SO, I AM NOT TELLING YOU WHAT YOU SHOULD -- I DON'T  
11 EVEN KNOW WHAT PLAINTIFF HAS FILED AT THIS POINT.

12 SO, I WOULD JUST LIKE COUNSEL TO TALK ABOUT THAT  
13 BEFORE WE GO FORWARD WITH THE MOTION.

14 ALL RIGHT. SO, WITH THAT SAID, ANYTHING FURTHER, MISS  
15 HALL?

16 MISS HALL: I CAN'T THINK OF ANYTHING.

17 THE COURT: ALL RIGHT. COUNSEL?

18 DEFENSE ATTY: NO, YOUR HONOR.

19 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, COUNSEL.

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21 (:WHEREUPON THE PROCEEDINGS ADJOURNED:)

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