

COPY

1. United States District Court
2. District of Nevada
3. Las Vegas, Nevada

4. NEVADA POWER COMPANY
5. Plaintiff
6. vs
7. MONSANTO COMPANY; GENERAL
8. ELECTRIC COMPANY; etc et al
9. Defendants
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Case No. CV-S-89-555-LDG (LRL)
Las Vegas, Nevada
September 27, 1989
9:35 o'clock a.m.

Scheduling and Planning Conference
Before the Honorable Lloyd D. George, District Judge
Transcript Ordered by: John L. Thorndal, Attorney

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CAROL O'REILLY
U.S. District Court

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EXHIBIT B

PROCEEDINGS BEGIN AT 9:35 A.M.

(Court is Called to Order)

THE CLERK: This is the time set for scheduling and planning conference in Civil S-89-555-LDG, Nevada Power Company versus Monsanto Company. Would counsel please note their appearance for the record.

MR. JONES: Yes, Randall Jones, for the plaintiff, Nevada Power.

THE COURT: Thank you, Mr. Jones.

MR. JONES: For the record, too, Chuck McCrea, also Nik Skrinjaric.

THE COURT: Okay, thank you.

Let me ask, before we go further, have you had an opportunity --I guess Mr. Thorndal provided you a copy of his proposal to the Court, with respect to the schedule in limiting the initial discovery to statute of limitations questions, and related problems.

MR. JONES: That's correct, Your Honor. Yes, we have had several telephonic conversations, with Mr. Alverson present also.

THE COURT: Okay. Perhaps I can ask you -- you know, I've read the pleadings; it sounds like an extremely interesting case, if you get to the merits of it. But does it make sense to you, to conserve your effort, to limit it as Mr. Thorndal suggests, initially? He's suggesting sixty days.

1. Are you having a hard time hearing me, Mr. McCrea?

2. MR. MCCREA: I am, thank you.

3. THE COURT: Okay. He suggests that we limit the
4. initial discovery to sixty days, to those areas that were dealt
5. with by the other court -- I have a copy of that opinion. Does
6. that seem prudent to you?

7. MR. JONES: Your Honor, it does, in the sense that
8. none of us, I think, feel that we should waste our client's
9. time. When we filed this, the Chattanooga case had not been
10. decided. Since then, obviously it's put a twist to this; even
11. though we disagree with the reasoning in that case, it is there.

12. We have discussed, just this morning, maybe a few additions
13. to this discovery schedule. When Mr. Thorndal suggested
14. limiting this to statute of limitations issues, the only
15. qualification I would have to that is that, because we don't
16. necessarily agree with the decision in the Chattanooga case,
17. there may be some other issues related to statute of limitations
18. that are not as directly related to the Chattanooga case as they
19. might want to limit this to -- that we would also want to get
20. into.

21. They have suggested we get a written discovery to them by
22. the 6th of October, and that will maybe clarify our position a
23. little bit better, but I think everything can be done within the
24. parameters of Mr. Thorndal's suggested schedule. Again, with
25. the addition of some depositions that we'd like to take, that I

1. don't believe the defendants have any objection to.

2. MR. ALVERSON: That's correct, Your Honor.

3. THE COURT: Okay. Well, that's wonderful. If we can
4. get you to agree to take that approach, initially, and you're
5. suggesting that it may go beyond the scope suggested by Mr.
6. Thorndal originally, but they will be, in effect, appendages of
7. that same question. And that the limit, initially -- the
8. discovery is sixty days, and then take a look, and it may then
9. invite a motion that you would want me to deal with, and
10. depending upon how we deal with it, we could then go from there.

11. Is that the idea that all of you have in mind?

12. MR. JONES: Yes, Your Honor.

13. MR. THORNDAL: Yes, that is the idea, Your Honor, with
14. certain, I guess, clarifications of that. Mr. Jones has
15. mentioned, this morning, that they might want some discovery.
16. Mr. Alverson and I had a -- initiated a telephone conference
17. yesterday with/

18. THE COURT: I think we're having a hard time hearing
19. you. Why don't you come to the podium, if you would, Mr.
20. Thorndal?

21. MR. THORNDAL: Okay. Mr. Alverson and I initiated a
22. telephone conference yesterday and again this morning, with Mr.
23. Jones and Mr. McCrea, and then we talked briefly before court
24. started this morning, and we -- this morning Mr. Jones mentioned
25. that they would want some discovery. We don't know what that

1. discovery is; we don't know the reason for that discovery; we
2. had not made a provision for that in here.

3. Of course, I'm not one to tell them how they're going to
4. run their case, but the issue here, Your Honor, is that we have
5. a road map, so to speak, with the Chattanooga case, and the
6. basis of the Chattanooga case is that, what was the knowledge of
7. the plaintiff, what was the knowledge of the power company, in
8. this case. And it seems that that's an issue for us to
9. discover; and that's what our interrogatories, our request for
10. admissions, and our request to produce have all been directed
11. towards.

12. I've heard nothing yet from Mr. Jones, either yesterday or
13. today, as to, you know, what these additional areas are, and I
14. think unless we pin some of this down, we could end up back here
15. in a dispute, very rapidly. And I guess that's one of the
16. reasons, that is one of the reasons, as far as the
17. interrogatories go, that we put in a proposed status check
18. within a few weeks.

19. Interrogatories -- discovery responses to Westinghouse,
20. were originally due in early September, and we gave an extension
21. to yesterday. GE had discovery responses due, I think about ten
22. days ago, and GE gave an extension to yesterday. Monsanto has
23. discovery requests due, from the plaintiffs in, I believe two
24. days or three days.

25. And yesterday there was a request for some additional time;

1. we had put in the October 6th date in this proposed request,
2. assuming that we would have the responses on time, and we would
3. then have until October 6th to resolve any differences that we
4. have over the extent of the discovery responses.

5. THE COURT: Let me ask. Mr. Jones, do you have a
6. problem with that October 6th date? If I understood correctly,
7. you don't really have a problem; you may want to do some
8. discovery of your own within those parameters, and I don't know
9. that anybody can tell you at this point that it's going to be
10. unnecessary or -- and so forth.

11. MR. JONES: Your Honor, we don't. And Mr. Thorndal's
12. correct. We have some discovery that's due, and we've already
13. made our apologies. We are attempting to do -- to get that to
14. them; we talked to the clients this morning -- in-house counsel,
15. Mr. Gene Matteucci, about the status of that.

16. We had given them a great many documents, prior to the
17. initiation of litigation, that relate to some of the things
18. they'd requested, but there is a great deal more they have
19. requested, and we asked Mr. Matteucci this morning, when we were
20. going to get that. Apparently, they had one of the people that
21. was given this task out of their offices for a week, which
22. obviously is our problem, but the point is, he wasn't there and
23. we haven't got them yet.

24. They've asked for documents going back to 1960, and
25. unfortunately, it just appears to be a great volume of

1. information. We're trying to get that to them, though.

2. THE COURT: Then obviously it will take you some time
3. to/

4. MR. JONES: We asked Mr. Matteucci this morning what
5. time frame we could expect, knowing that the defendants have a
6. right to get that stuff, and get it on time, and we're already
7. late, so we've informed him of that. He said that he was
8. comfortable saying he could have it all within ten days. That
9. would put that up to, about the time, on their schedule, of
10. October 6th.

11. I have informed both counsels for the various defendants
12. that we have looked at that discovery, and on its face, we have
13. no objection to it. I couldn't say across the board we object
14. to anything because -- or that we are going to give them
15. everything because I haven't seen it yet, but the questions
16. themselves I have no immediate objection to. So we're trying to
17. be as candid with them as we can be and supply them the
18. information as quickly as we get it.

19. I told them that within a day of me receiving it, I hope to
20. be able to get it over to them. I'm going to do everything I
21. can to, once I get in my hands, to get it through to them very
22. quickly.

23. THE COURT: Okay. Well, let me tell you, I'm doing
24. this with all cases that have any level of difficulty -- matter
25. of fact, I'm not sure that Rule 16 doesn't pretty much require

1. us to do it anyway; we haven't, but it makes a great deal of
2. sense. And I think what you've done has been very helpful at
3. this point.

4. I don't know that you -- and if you'd prefer, and can give
5. me some good reason, I'll be happy to conduct these status
6. conferences, but you're dealing with Judge Leavitt and, if you
7. do have difficulties, I think they can be resolved by Judge
8. Leavitt.

9. I would hope you would exercise a great deal of patience
10. with one another, not to the extent of wasteful and unnecessary
11. waiting, but if you're talking about documents that go back that
12. far, I can appreciate that sometime it may take some time.

13. I would like then to establish these proposed dates as firm
14. dates at this point, with the clear understanding that, either
15. by stipulation or if you can't resolve it, by coming to the
16. court, either to Magistrate Leavitt or to me, that we would
17. resolve these things so that you can move quickly, and then deal
18. with these motions sometime in February. That's what you have
19. in mind, I take it.

20. I would think you would probably want to schedule
21. arguments, and I think because they could be dispositive, that
22. we may save time if you have them here rather than before the
23. magistrate.

24. But in any event, it may be well to schedule some kind of a
25. status conference; I wouldn't require out-of-state counsel, and

1. I would be happy to conduct these telephonically if it's just a
2. matter of reporting and updating. I don't want to waste a lot
3. of time.

4. Is that agreeable?

5. MR. JONES: Your Honor, it is if I could add one thing
6. to the proposed schedule. I have discussed this with opposing
7. counsel this morning. We would, we may -- they have provided
8. for written discovery from the plaintiffs to be propounded by
9. the 6th of October, which we can comply with, which would give
10. it back to us in the middle of November.

11. We would like to have at least the opportunity within the
12. schedule, to have some depositions as well/

13. THE COURT: Of your own/

14. MR. JONES: /of our own. That would be -- I discussed
15. this morning with opposing counsel, the week of the 4th of
16. December. That week -- they have that week as part of their
17. schedule already.

18. They said they didn't have any problem with two tracks, if
19. necessary. And then if possible the next week, and then maybe
20. we wouldn't even have to have two tracks. If they finish up
21. that week, then we could/

22. THE COURT: That would be the week of the 4th and the
23. 11th/

24. MR. JONES: That's correct, Your Honor.

25. THE COURT: /of December.

1. MR. ALVERSON: Your Honor, if I may interrupt. When
2. we set the schedule for November 13th to December 8th, you know
3. that does not mean that we can't work in some other depositions
4. that they may want to take during -- anytime during that period
5. of time. There is Thanksgiving week in there, and that's why we
6. established the four weeks, but/

7. THE COURT: I suppose some of their concern may be
8. that matters raised by the depositions you take, may invite
9. their taking depositions, and so -- is that the idea?

10. MR. JONES: That's correct, Your Honor.

11. THE COURT: Do you have any problem with this schedule
12. and -- it wouldn't preclude them from doing it earlier, if you
13. could agree to it -- but the week of the 4th and the week of the
14. 11th of December?

15. MR. ALVERSON: That's fine with me, Your Honor.

16. MR. JONES: Your Honor, since we are here, maybe it
17. would be best to clarify some of the issues that are going to
18. come up during this so-called limited scope of discovery. We
19. have multiple claims, all of which I assume they're going to
20. attack, they talk about the road map, this Chattanooga case.
21. Obviously, its our position that has no precedence in this
22. circuit/

23. THE COURT: Oh, it doesn't. Everybody understands
24. that.

25. MR. JONES: And so that's -- but it's certainly a case

1. on similar issues. However we have raised claims, or made
2. claims, in fraud and some other areas that, if they intend to
3. bring a motion for summary judgment, all we have to do is to
4. raise a material issue of fact on one of those claims.

5. And if the statute of limitations is going to be the
6. primary focus for the defendants, it's our position that we have
7. the right to rebut that, within any of the claims we've made. I
8. just want the Court to be aware of that, that/

9. THE COURT: Oh, I don't think anyone expects you --
10. not to lay down and die. If there's a position to be asserted
11. -- that you obviously will assert that position and if you --
12. and I have not read the Chattanooga case, but if your cause of
13. action's different, and based upon a tort question that may
14. start or create a tolling, there may be some totally different
15. kinds of questions. And I think counsel appreciate that and
16. would expect you to address those, and I presume you have no
17. difficulty with that.

18. MR. THORNDAL: Oh, I think if there's anything left
19. after a decision on the motions, Your Honor, that would be an
20. issue that would be addressed at that time. But it's our
21. intention that we'll be disposing of the case by motions.

22. THE COURT: Well, I understand that. But what I'm
23. suggesting is that because they may have couched their causes of
24. actions differently than somebody else did, it may raise
25. questions that would invite a different consideration, indeed

1. perhaps a different result than the statute of fraud of question
2. -- or the statute of limitations question. I don't know if it
3. will, but that's I think what Mr. Jones is saying.

4. MR. ALVERSON: Yeah, I think that's correct; and I
5. agree with that; I think we can deal with that in February. And
6. if all of those issues are not dealt with at that time, we can
7. do it at a later date. I agree with that.

8. MR. JONES: That's all -- I wanted to make sure I
9. wasn't misunderstanding Mr. Thorndal when he said, we're going
10. to limit this to the statute of limitations. That's fine; I
11. understand that; that's their defense to our claims. Our
12. defense to that defense, if you will, may go into other areas,
13. as a matter of course.

14. THE COURT: And if -- and I'm suggesting that they
15. take a practical view of, you know, going beyond something that
16. has been described here, so that the total matter can be
17. resolved. If they feel that you're going too far afield,
18. certainly that can be addressed to either Judge Leavitt or to
19. me.

20. But in any event, I think it may be well for us to -- do
21. you want to schedule a status conference sometime in early
22. December just to let me know how close you're coming to being in
23. comport with the schedule that/

24. MR. THORNDAL: I think that would be a good idea, Your
25. Honor. If I may also, I'd like to introduce to the Court Mr.

1. Jeffrey Klein, who's an attorney, admitted to the bar of New
2. York, and who's been admitted in this particular case. And he
3. would like to address something that Mr. Jones just brought up.

4. THE COURT: Fine. Mr. Klein?

5. MR. KLEIN: Your Honor, thank you very much for the
6. privilege of appearing before the Court.

7. THE COURT: Delighted to have you.

8. MR. KLEIN: With regard to the scope of discovery as
9. it relates to the statute of limitations. It's the position of
10. the defendants that the statute of limitations issues are case
11. dispositive, and notwithstanding the fact that the plaintiffs
12. here may have attempted to plead the claims in a somewhat
13. different way/

14. THE COURT: I understand.

15. MR. KLEIN: /we believe that the statute of
16. limitations issues and limiting discovery on that basis make
17. sense regardless of how they're going to meet that.

18. And the fact that the plaintiffs may have asserted a fraud
19. claim, as the 6th Circuit recognized, notwithstanding any
20. allegations -- even if taken as true with regard to concealment,
21. if in fact the plaintiffs had knowledge of the facts which form
22. the basis for their claim/

23. THE COURT: That would preclude/

24. MR. KLEIN: /that would preclude them, and on that
25. basis, Your Honor, and given the experience that we've had in

1. other cases, we believe that discovery limited to the statute of
2. limitations is appropriate, and we would respectfully request
3. that that discovery be limited in that regard.

4. To the extent that we're not successful, to the extent that
5. they have facts that they seek to raise in issue, then that
6. would be a basis for Your Honor's considering a denial of the
7. motion.

8. However, at this time, we didn't include anything with
9. regard to the plaintiff's discovery, because we really don't see
10. any basis, other than the statute of limitations issues. And we
11. believe that if we're successful in that discovery, then the
12. case should be disposed of.

13. THE COURT: I understand that. But I would be
14. somewhat reluctant to say, without knowing anything more about
15. the case now, that they may not have some reason to conduct some
16. of their own discovery. And I think what Mr. Jones is saying,
17. is that, what you have said may be accurate and the issues may
18. be limited to that, but if they make an assessment that there
19. are questions that should be addressed that are at least
20. obliquely related to the statute of limitations question, they
21. would like to be able to ask those questions.

22. Now you may take -- dispute that, not be terribly concerned
23. over them. You may say it's an absolute waste of time, and in
24. that event we'll address that. But I'm reluctant to preclude
25. them from at least raising some of these issues, and I would

1. like, if -- would like you to take a rather soft approach to
2. begin with, if it's even obliquely related.

3. But I don't want, as you don't want, for there to be a
4. great deal of waste of time, and for us to pursue unnecessary
5. questions that it becomes obvious need not be addressed. And so
6. what we'll try to do is take a very practical approach to it and
7. you obviously know a good deal more than I do.

8. Were you involved in the other case?

9. MR. KLEIN: Yes, Your Honor, I represented
10. Westinghouse in connection with the other case.

11. THE COURT: I see.

12. MR. KLEIN: It was not, and didn't mean to be the
13. position of the defendants, that the plaintiff should not be
14. entitled to discovery here. That's not our position at all.

15. The point is that with regard to the discovery, we believe
16. it should be limited for all parties to the issues of the
17. statute of limitations, and within -- we would request the Court
18. to direct that, and within those bounds we'll try and work
19. reasonably with each other, to schedule discovery limited to
20. that basis.

21. THE COURT: Okay. Now I understand Mr. Jones doesn't
22. have any objection to that. He just wants to decide what is
23. within the bounds of the statute of limitations.

24. MR. JONES: That's correct, Your Honor. I just --
25. it's been my experience that courts are hesitant to restrict

1. discovery. At this early a stage of litigation, there may be a
2. benefit to all parties, in a sense that we don't want to waste
3. either this court's time or our client's time, but they're
4. certainly, at least in my mind, somewhat ambiguous as to what
5. that means, where those parameters are as to -- limited to the
6. scope of the statute of limitations.

7. THE COURT: What I think -- counsel has just indicated
8. that that may be so, and by ordering this schedule that's been
9. proposed, doesn't mean to prevent you from addressing something
10. that you may think clearly addresses the statute of limitations
11. question, that counsel for the defense may wonder about to begin
12. with, and then may agree or may not agree. And obviously, those
13. kinds of questions will arise, and if you can work them out
14. between yourselves, all the better.

15. MR. JONES: Very good, Your Honor. I believe you were
16. also about to set a date for a status check in December.

17. THE COURT: Yeah, why don't we try to pick a time near
18. -- early December.

19. THE CLERK: December 8th, Your Honor, is a Friday, at
20. 10:30?

21. THE COURT: December 8th?

22. THE CLERK: It's a Friday, too.

23. THE COURT: I don't know that this needs to be on the
24. record, but someone sent me a copy of an order. You will not
25. likely see an order of this nature from this Court, but you may

1. be entertained as I was, and you will know that even though not
2. all judges write orders of this nature, they think thoughts of
3. the same nature as this order.

4. This was in a case out of the Western District of Oklahoma.
5. "Defendants motion to dismiss or in the alternative to continue
6. trial is denied. If the recitals in the brief from both sides
7. are accepted at face value, neither side has conducted discovery
8. according to the letter and spirit of Oklahoma County Bar
9. Association's Lawyers Creed. This is an aspirational creed not
10. subject to enforcement by this court, but violative conduct does
11. call for judicial disappropriation at least. If there is a hell
12. to which disputatious, uncivil, vituperative lawyers go, let it
13. be one in which the damned are eternally locked in discovery
14. disputes with other lawyers of equally repugnant attributes."

15. With that in mind, proceed with your discovery process.

16. MR. THORNDAL: Two items, Your Honor -- first, a
17. question. That didn't happen to be written by Judge Thompson?

18. THE COURT: No, it wasn't.

19. MR. THORNDAL: I know a Judge Thompson in the Western
20. District.

21. Two, we could expedite matters if we could agree among
22. local counsel to do notices and responses by receipt of copy,
23. rather than by mailing.

24. THE COURT: Oh, yes, let's not play games with that.

25. MR. THORNDAL: I don't think we have any problem with

1. that.

2. And three, we have not resolved the discovery response date
3. fully. We've got October 6th, but discovery responses to both
4. Westinghouse and GE were due yesterday. Now there was a request
5. made yesterday afternoon by telephone for some more time; and
6. since the request was made within the time limit, I'm not one
7. to/

8. THE COURT: Now maybe I misunderstood, but I thought
9. that you had indicated you would be able to respond by October
10. 6th.

11. MR. THORNDAL: He can respond by October 6th, and
12. we're willing to extend the time for that; but as far as
13. objections to any of the discovery responses, we would like an
14. earlier date on that. I don't see any reason why they can't
15. tell us before October 6th, if they have any objections to any
16. of those responses. They've had them now for fifty-five days,
17. or fifty-four days as far we're concerned; and for GE, they've
18. had them for approximately forty-five days, I believe.

19. THE COURT: I see. Okay.

20. MR. JONES: Your Honor, maybe I didn't clarify that
21. well enough, that I had tried to indicate to counsel that we
22. have no objections to any specific questions that I can see now.
23. The problem, as I indicated this morning on the telephone in
24. response to a question by Mr. Alverson, that there may be some
25. privileged documents in there, or documents that there may be a

1. claim of privilege about/

2. THE COURT: That's what counsel is saying, he would
3. like a date certain -- what were you going to suggest, the 2nd
4. or something of that nature, to assert any objections/

5. MR. THORNDAL: Number one, I guess he's already agreed
6. that Nevada Power has no objections to the discovery requests,
7. as requests. He only wants to protect the right of privilege in
8. case there is something he does not want to produce.

9. THE COURT: Anything other than privilege you're
10. talking about?

11. MR. JONES: Your Honor, again without seeing the
12. documents, it's hard for me to say. The only thing I'd like to
13. do is reserve objections to specific pieces of paper, until I
14. get a chance to see them.

15. And I understand -- he makes a good point. If I was in his
16. position I would want to know before the 6th, what the objection
17. would be. I'm somewhat hamstrung, in the sense that I can't
18. tell him until I see them, and if I don't get them until the 4th
19. or something, then I'm going to need some time to go through
20. them.

21. I'm somewhat at a loss as to how to resolve that; I have to
22. protect my client to the greatest extent that I can, and I can't
23. now make a statement that there won't be anything in there that
24. we would believe we have a legitimate objection to. I went as
25. far as I thought I could by looking at the questions, each

1. individual question, and I think/

2. THE COURT: What you're saying, as I understand it, is
3. you don't have any objection, just on the face of the questions
4. and the production, but you may have some objections once you
5. see the documents, that could conceivably address questions of
6. privilege and so forth.

7. MR. JONES: Your Honor, may I suggest this. That I
8. would be willing to, within a twenty-four hour period, to
9. respond as to whether or not we had a specific objection, once I
10. get the documents, and try to get the documents as quickly as I
11. can; we will keep after our client to get those documents to us.

12. THE COURT: Is that satisfactory?

13. MR. ALVERSON: That proposal is fine with me, Your
14. Honor.

15. MR. KLEIN: Your Honor, I guess what we thought we
16. proposed in the conversations yesterday, was that -- and I
17. thought we understood Mr. Jones to say that he had no objections
18. to the written discovery request, save for objections as to
19. privilege. And based on that, maybe what we could propose is
20. that he would serve written discovery requests indicating that
21. he'll produce the documents requested subject to reservation of
22. privilege and work product; and I think that's really what we're
23. asking for.

24. MR. JONES: I think that's what I've said, Your Honor.

25. MR. KLEIN: There's no reason why we can't get that

1. sooner; we'd just like some comfort that, notwithstanding the
2. period of time, and I appreciate/

3. THE COURT: You're saying you don't have any
4. objections to giving it to him, though you may sometime later
5. address -- raise the question of privilege, or you don't want to
6. give it to him until you -- that's been resolved.

7. MR. JONES: Well, Your Honor, I think that once you
8. give them the document that you claim a privilege in, it's no
9. longer privileged; so I have a little problem with that one.

10. I -- the one thing I certainly don't like to do, and I
11. think that our firm has a policy not to do, is be
12. obstructionists in discovery, to try to delay things. I have
13. found, on both sides of the issue, that the party that does that
14. tends to pay for it later on. So, it's just a matter of this
15. being potentially a huge case.

16. THE COURT: Now, Mr. Alverson has said that he doesn't
17. have any problem with what you've proposed and what you're
18. saying is that within twenty-four hours after you see the
19. documents, that if there is any objection, and there may be
20. none, you will make the objection and then if we have to deal
21. with it, we'll have to deal with it.

22. MR. JONES: And I will put that in writing to them as
23. to what specific objections I had as to what document, and I'll
24. go so far as, I've done this before, where I named the --
25. somehow described the document, and if we have to have an in

1. camera review by a magistrate or something -- again, our purpose
2. here is not to obstruct discovery, just to protect our client's
3. interest.

4. THE COURT: Okay, why don't we leave it at that, and
5. again, as well provide that, in each case, if such an issue is
6. raised, you will attempt to resolve it between yourselves. If
7. you cannot, then those matters will be referred to the
8. magistrate. And you probably won't see me again until December
9. -- what date did we pick?

10. THE CLERK: Your Honor, that was December the 8th.

11. THE COURT: December the 8th. At what time?

12. THE CLERK: At 10:30.

13. THE COURT: You let me know if you want to have that
14. status report taken in the courtroom or just telephonically; it
15. would be fine with me either way. We'll make a record of it.

16. MR. JONES: Thank you, Your Honor.

17. MR. ALVERSON: One thing from a mechanical standpoint,
18. Your Honor, would you prefer that my office, or someone else's
19. office, reduce this schedule to a written order, or/

20. THE COURT: I was going to suggest that one of you
21. propose that, and submit it to Mr. Jones and his associates and
22. then submit it to me, and have it executed so that we have an
23. order in the file.

24. MR. ALVERSON: Thank you.

25. THE COURT: I really appreciate your taking this kind

1. of approach. I think if it were done more often, we could serve
2. all of you better and I would anticipate that there would be no
3. reason to -- the judge is Judge Alley -- to invite him to come
4. in as visiting judge.

5. Thank you.

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(PROCEEDINGS CONCLUDED AT 10:08 A.M.)

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