

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
3470 Twelfth Street, Riverside, CA 92501
CIVIL MINUTES -- GENERAL

Case No. CV 04-08400-SGL (RZx)

Date: July 8, 2009

Title: JOANNE SIEGEL, an individual; and LAURA SIEGEL LARSON; an individual -v- WARNER BROS. ENTERTAINMENT INC., a corporation; TIME WARNER INC., a corporation; DC COMICS INC., a corporation; and DOES 1-10

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PRESENT: HONORABLE STEPHEN G. LARSON, UNITED STATES DISTRICT JUDGE

Cindy Sasse
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None present

None present

PROCEEDINGS: **IN CHAMBERS (NO PROCEEDINGS HELD)
ORDER SCHEDULING PRE-TRIAL CONFERENCE AND TRIAL DATES;
ORDER REGARDING APPOINTMENT OF SPECIAL MASTER/COURT-
APPOINTED EXPERT FOR UPCOMING ACCOUNTING TRIAL**

Pursuant to the discussion during the Court ordered status conference on July 6, 2009, the Court hereby sets the following pre-trial conference and trial dates for accounting bench trial in this matter.

Pre-Trial Conference November 9, 2009, at 11:00 a.m.

Trial December 1, 2009, at 9:30 a.m.

Moreover, as disclosed at the status conference on July 6, 2009, and in light of the concerns noted in the Court's Order resolving the fair market value trial (concerning both the nature and quality of the evidence presented (or not presented) and the film industry experts proffered), the Court has decided to invoke the mechanisms set forth in Federal Rule of Civil Procedure 53 and Federal Rule of Evidence 706 to assist the Court in resolving the issues left to be tried in this matter. See Students of California Sch. for the Blind v. Honig, 736 F.2d 538, 548

(9th Cir. 1984)("the judge could not decide the merits of the students' seismic safety claims on the basis of evidence presented at trial, so he reopened the case and appointed a neutral expert to evaluate the adequacy of seismic testing at the Fremont site"), vacated on other grounds, 471 U.S. 148 (1985); Eastern Air Lines, Inc. v. McDonnell Douglas Corp., 532 F.2d 957 (5th Cir. 1976); 4 WEINSTEIN FEDERAL EVIDENCE § 706App.100 at 706App.-5 (2nd ed. 2009) (noting that legal commentators' "imprecations against the parties' 'battle of experts'", not the potential for such a battle, "led to the drafting of the Uniform Expert Testimony Act in 1937," the precursor to Federal Rule of Evidence 706).

The Court envisions that the Court-appointed special master/expert will not only submit a report in advance of trial, be subject to being deposed prior to trial, and proffer testimony at trial on the issues in question, but will also, in preparing for such tasks, be afforded the authority to appoint experts and other specialists to assist him or her in performing those duties.

The Court provides the parties an initial opportunity to stipulate amongst themselves who the said special master/court-appointed expert should be, subject to Court approval. Any such stipulation shall be submitted to the Court on or before July 31, 2009.

In the absence of such a stipulation by that date, the Court will thereafter submit names of proposed candidates and provide counsel an opportunity to submit any conflict-related objections, as well as any preferences expressed by the parties, with said objection/submission of preferences being submitted in camera and under seal with the Court.

IT IS SO ORDERED.