

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re:

TELEXFREE, LLC,
TELEXFREE, INC. and
TELEXFREE FINANCIAL, INC.,

Debtors.

STEPHEN DARR, LIQUIDATING TRUSTEE
OF THE CHAPTER 11 ESTATES OF EACH
OF THE DEBTORS,

Plaintiff,

v.

CARLOS WANZELER, et al.,

Defendants.

Chapter 11 Cases

14-40987-MSH
14-40988-MSH
14-40989-MSH

Substantively Consolidated

Adversary Proceeding
No. 16-4032

**CERTIFICATION OF RULE 26(f) CONFERENCE
AND PROPOSED SCHEDULING ORDER**

Pursuant to Federal Rules of Civil Procedure, Rule 26(f)(3), and this Court's Scheduling and Pretrial Order [Dkt. No. 200], Stephen Darr as Liquidating Trustee of the Chapter 11 Estates of each of the Debtors and Favio Faria (collectively, the "Parties"), having met and conferred, request the Court to enter the attached Proposed Scheduling Order.



WHEREFORE, the Parties respectfully pray that their request be granted and that the Proposed Scheduling Order be entered as an Order of the Court.

STEPHEN B. DARR, LIQUIDATING
TRUSTEE OF THE CHAPTER 11
ESTATE OF EACH OF THE DEBTORS
By his Attorneys,

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PARTIES' PROPOSED SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure, Rule 26(f)(3), applicable to this proceeding pursuant to Bankruptcy Rule of Procedure Rule 7026, Stephen B Darr as he is the Liquidating Trustee of Telexfree LLC, Telexfree, Inc. and Telexfree Financial, Inc. ("Trustee") and Fabio Faria ("Faria") (collectively, the "Parties"), having met and conferred, submit the following Proposed Discovery Plan and Pretrial Order:

1. **Cooperation:** The Parties and counsel must cooperate during all aspects of discovery. Failure by any Party or counsel to make required disclosures or cooperate in discovery may warrant the imposition of sanctions under Fed. R. Civ. P. 37.
2. **Duty to Preserve Evidence:** The Parties shall preserve evidence relevant to the issues raised by the pleadings, including electronically stored information. Each counsel shall

confer with his or her client regarding the duties of Parties to preserve evidence and the provisions of Fed. R. Civ. P. 37(e).

3. **Proportionality in Discovery:** Pursuant to Fed. R. Civ. P. 26(b)(1) and 26(g), the discovery in this case shall be proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the Parties' relative access to relevant information, the Parties' relative resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

4. **Initial Disclosures:** The Parties shall exchange their Rule 26(a)(1) initial disclosures on May 2, 2023.

5. **Discovery:**

A. Parties shall serve all written discovery so as to complete all written fact discovery on or before July 14, 2023.

B. Parties shall complete all depositions on or before September 29, 2023.

C. Expert disclosures shall be served on or before October 30, 2023.

D. Expert depositions shall be completed on or before November 15, 2023.

6. **Dispositive Motions:**

A. Dispositive Motions, if any, shall be filed on or before December 1, 2023.

B. Oppositions shall be filed on or before thirty (30) days after service of the Dispositive Motion.

C. Replies, if any, shall be filed on or before fifteen (15) days after service of the Opposition.

7. **Modification of Discovery Limitations:** Parties agree that L. R. 26 applies to the Parties' discovery request.

8. **Discovery-Related Disputes and Motions:** Pursuant to Fed. R. Civ. P. 16(b)(3)(B)(v),

no discovery-related motion may be filed unless the moving Party has attempted in

good faith, but without success, to resolve the dispute and has requested a pre-motion conference with the Court to discuss the dispute and to attempt to resolve it informally. The request must be made by filing a one-page written request with the Court that contains only a general summary of the issues to be discussed. Any request for a pre-motion conference shall not contain argument. No response to the request should be filed unless directed by the Court. If the Court does not grant the request for a pre-motion conference, or if the conference fails to resolve the dispute, a discovery motion may be filed.

9. **Final Pretrial.** To be scheduled 30 days following the completion of Discovery.

Dated April 2023

By the Court

Elizabeth D. Katz,
Bankruptcy Judge

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