

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

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**MARK W. RASMUSSEN, RECEIVER  
FOR ARISEBANK,**

**Plaintiff,**

**vs.**

**RICHARD SMITH, JR., and  
KURT F. MATTHEW, JR.,**

**Defendants.**

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Civil Action No. 3:18-cv-1034-M

**JOINT REPORT REGARDING CONTENTS OF SCHEDULING ORDER**

Pursuant to the Court’s Order Requiring Scheduling Conference (Dkt. 17) and to Rules 16 and 26 of the Federal Rules of Civil Procedure, the parties provide this Joint Report Regarding Contents of Scheduling Order. As directed, the parties through counsel (James A. Cox and John Teakell) conferred in person on June 8, 2018, to discuss the following subjects: (1) the nature and basis for their claims and defenses; (2) the possibilities for a prompt resolution of the case; (3) the disclosures required by Rule 26(a)(1); and (4) the preparation of this Joint Report.

**RESPONSES TO NUMBERED PARAGRAPHS:**

**1. A brief statement of the claims and defenses.**

Plaintiff Mark W. Rasmussen, as receiver for the estate of AriseBank, has brought claims of conversion, unjust enrichment, and fraudulent transfer against Defendant Richard Smith, Jr. and Defendant Kurt F. Matthew, Jr., arising out of a purported agreement relating to the purchase of an FDIC-insured bank and the alleged transfer and retention of cryptocurrency and/or other monies

relating to the purported agreement. Defendants Smith and Matthew have separately filed answers denying Plaintiff's allegations and denying liability in response to Plaintiff's claims.

**2. A proposed time limit to file motions for leave to join other parties.**

August 29, 2018.

**3. A proposed time limit to amend the pleadings.**

October 10, 2018.

**4. Proposed time limits to file various types of motions, including dispositive motions.**

Dispositive motions to be filed by March 18, 2019.

**5. A proposed time limit for initial designation of experts.**

November 19, 2018.

**6. A proposed time limit for responsive designation of experts.**

December 18, 2018.

**7. A proposed time limit for objections to experts (i.e. Daubert and similar motions).**

January 31, 2019.

**8. A proposed plan and schedule for discovery, a statement of the subjects on which discovery may be needed, a time limit to complete factual discovery and expert discovery, and a statement of whether discovery should be conducted in phases or limited to or focused upon particular issues.**

The parties expect to conduct limited document discovery and written discovery, and likely will take no more than 3-6 depositions in total. Fact discovery should be completed by November 19, 2018, and expert depositions and discovery completed by February 28, 2019. The parties see no need to prescribe limits on discovery beyond those set forth in the Rules of Civil Procedure and this Court's local rules.

**9. What changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed.**

None.

**10. Proposed means for disclosure or discovery of electronically stored information (“ESI”) and a statement of any disputes regarding the disclosure or discovery of ESI.**

ESI will be produced in native format or in another format, if agreed in advance.

**11. Any proposals regarding the handling and protection of privileged or trial-preparation material that should be reflected in a court order.**

None.

**12. A proposed trial date, estimated number of days required for trial and whether jury has been demanded.**

The parties propose trial in approximately one year from entry of this Court’s scheduling order, or by July 15, 2019. Defendants have demanded a jury trial. The parties expect the trial to take three days.

**13. A proposed date for further settlement negotiations;**

The parties have discussed the nature and scope of a possible settlement and expect to continue discussions in the coming weeks.

**14. Objections to Fed. R. Civ. P. 26(a)(1) asserted at the Scheduling Conference, and other proposed modifications to the timing, form or requirement for disclosures under Rule 26(a), including a statement as to when disclosures under Rule 26(a)(1) were made or will be made.**

The parties have no objections to making initial disclosures, and agree to do so by August 1, 2018.

**15. Whether the parties will consent to trial (jury or non-jury) before U.S. Magistrate Judge Rebecca Rutherford.**

The parties do not consent to trial before the Magistrate Judge.

**16. Whether the parties are considering mediation or arbitration to resolve this litigation and a statement of when it would be most effective (e.g., before discovery, after limited discovery, after motions are filed, etc.), and, if mediation is proposed, the name of any mediator the parties jointly recommend to mediate the case.**

The parties are considering mediation but would prefer to attempt to settle without the expense of mediation, if possible.

**17. Any other proposals regarding scheduling and discovery that the parties believe will facilitate expeditious and orderly preparation for trial.**

None at this time.

**18. Whether a conference with the Court is desired.**

Not at this time.

**19. Any other matters relevant to the status and disposition of this case, including any other Orders that should be entered by the Court under R. 16(b) and (c) and 26(c).**

None at this time.

Dated: June 19, 2018

Respectfully submitted,

*/s/ James A. Cox*

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*ATTORNEYS FOR PLAINTIFF*

*/s/ John R. Teakell*

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*ATTORNEY FOR DEFENDANTS*

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on June 19, 2018, the foregoing document was submitted to the clerk of the Court for the U.S. District Court, Northern District of Texas, and served on counsel for all parties through the electronic service system.

*/s/ James A. Cox*

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James A. Cox