

**FILED**

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CLERK, U.S. DISTRICT COURT

By \_\_\_\_\_  
Deputy

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

MICHAEL J. QUILLING, Receiver for	§	
Hammersmith Trust, LLC,	§	Civil Action No. 3-01 CV 1617 - P
Microfund, LLC	§	
and B. David Gilliland	§	
	§	
vs.	§	
	§	
MELODY WOLCOTT GILLILAND	§	

**JOINT STATUS REPORT AND  
PROPOSED SCHEDULING ORDER**

TO THE HONORABLE JEFF KAPLAN, UNITED STATES MAGISTRATE JUDGE:

COME NOW, Michael J. Quilling, in his capacity as Receiver for Hammersmith Trust, LLC, Microfund, LLC, and B. David Gilliland (the "Receiver"), Plaintiff herein, and Melody Wolcott Gilliland ("Melody Wolcott"), Defendant herein, and file this their Joint Status Report and Proposed Scheduling Order pursuant to the Court's Order of October 9, 2001.

**(a) Description of the nature of the case and contentions of the parties.**

**Plaintiff's Contentions**

The Receiver contends that B. David Gilliland wrongfully diverted in excess of \$200,000 from the receivership estates to his ex-wife, Melody Wolcott. The Receiver contends that Melody Wolcott did not exchange valuable consideration for these payments and that under the principles of equity the amount of all such payments should be disgorged by Melody Wolcott to the receivership estates.

### **Defendants' Contentions**

Melody Wolcott makes the following contentions: that there are no assets claimed in the complaint for a constructive trust to act upon; that there is no valid basis for a money judgment against her; that the transfer of funds to her were mainly payments of obligations of B. David Gilliland to her; that she engaged in no fraud; and that she is entitled to costs, not the Receiver.

**(b) Challenges to jurisdiction or venue.**

Melody Wolcott may file a motion for change of venue.

**(c) Pending or contemplated motions.**

The Receiver contemplates filing a motion for summary judgment on the entire case against Melody Wolcott. Melody Wolcott contemplates filing a motion for change of venue and a motion for summary judgment on the entire case against the Receiver.

**(d) Proposed deadline to file motions to amend pleadings and join additional parties.**

January 17, 2002.

**(e) Proposed deadline to file dispositive motions and other pretrial motions.**

April 15, 2002.

**(f) Proposed discovery plan.**

- (i) Whether discovery should be conducted in phases or limited to certain issues;

No.

- (ii) Whether the presumptive limits of 10 depositions per side and 25 interrogatories per party should apply in this case;  
Yes.
- (iii) Other proposed limitations on discovery;  
None.
- (iv) Proposed deadline to designate expert witnesses and exchange written reports;  
March 18, 2002.
- (v) Proposed deadline to file motions challenging the relevance or reliability of expert testimony under *Daubert*;  
May 13, 2002.
- (vi) Proposed deadline to complete discovery and supplement responses;  
June 1, 2002.

**(g) The position of each party regarding mediation or other forms of alternate dispute resolution, including a proposed deadline for the completion of such procedures;**

The Receiver believes that mediation would be appropriate in this case. Melody Wolcott has not yet decided whether mediation would be appropriate. In any event, if mediation is ordered, it should be completed by August 1, 2002.

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**(h) A proposed trial date and whether a jury has been demanded;**

The Receiver has demanded a jury trial. The proposed date should be September 16, 2002.

**(i) Whether the parties have consented to have any or all further proceedings conducted by the magistrate judge;**

The Receiver and Melody Wolcott agree to have all further proceedings conducted by the Magistrate Judge.

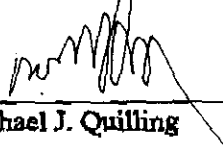
**(j) Any other matters relevant to the status of disposition of the case;**

The parties agree that initial mandatory disclosures should be made no later than December 31, 2001.

Dated this 19<sup>th</sup> day of OCTOBER, 2001.

Respectfully submitted,

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& LOWNDS, P.C.  
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By:   
Michael J. Quilling

ATTORNEY FOR RECEIVER

  
MELODY WOLCOTT GILLILAND, Pro Se