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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

BEN EZRA, WEINSTEIN AND COMPANY, INC.,

Plaintiff,

**FILED**  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

vs.

CIVIL NO. 97-485 LH/LFG

AMERICA ONLINE, INC.,

MAY 19 1997

Defendant.

*R. Heston*  
CLERK

**ORDER ABATING INITIAL SCHEDULING DEADLINES,  
EXTENDING TIME FOR FILING A RESPONSE,  
STRIKING A MOTION, AND SETTING BRIEFING SCHEDULE**

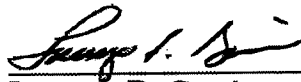
THIS MATTER is before the Court on a telephonic request to abate deadlines contained in the Court's April 30, 1997 Initial Scheduling Order. Plaintiff, Ben Ezra, Weinstein and Company, Inc., contends that Defendant's in-house counsel, its retained D.C. law firm of Wilmer, Cutler & Pickering, and its local counsel, Eaves, Bardacke & Baugh, are disqualified from appearing as counsel for Defendant.

Plaintiff previously objected to Defendant being represented by Defendant's local counsel, Browning & Peifer, and as a result of the objections, the Browning & Peifer firm withdrew its representation. Thereafter, Eaves, Bardacke & Baugh entered an appearance on behalf of Defendant. By virtue of the claims of disqualification, the Court determines that all scheduling deadlines contained in the Court's April 30, 1997 Initial Scheduling Order be abated. Further, the Rule 16 scheduling conference set for June 3, 1997 is vacated. Third, the Court extends the time for Defendant to file an answer to the complaint. The time is extended to twenty calendar days from the Court's ruling on the motion for disqualification or until further order of the

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Court. Fourth, the Court determines that Plaintiff's initial motion to disqualify counsel, which related, among others, to the Browning & Peifer firm, be deemed moot.<sup>1</sup> Plaintiff may serve a new motion to disqualify counsel within ten days. Standard response and reply times are applicable.

Following the Court's consideration of and ruling on the motion to disqualify, a new order will be issued establishing appropriate scheduling deadlines.



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Lorenzo F. Garcia  
United States Magistrate Judge

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<sup>1</sup> This motion has not been filed. In accord with the district's "motion package rule," the motion was served on Defendant.