

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

Plaintiff, )  
 )  
 )  
v. ) Case No.  
 )  
 )  
 )  
Defendant. )

**SCHEDULING AND TRIAL ORDER**

Pursuant to Rule 16(b) and 26(f), Federal Rules of Civil Procedure, and upon consideration of the parties' proposal in the matter, the following time schedule is herewith established with respect to pretrial discovery, the joinder of additional parties, amendment of the pleadings, the filing of motions, the trial setting and certain additional matters.

1. This case is set for jury trial, commencing at \_\_\_\_\_ at the United States District Courthouse, Courtroom No. 2, 222 North John Q. Hammons Parkway, Springfield, Missouri 65807 - OR - United States District Courthouse, Courtroom No. 6D, Room 6652, 400 East Ninth Street, Kansas City, Missouri 64106.

2. Discovery shall close as of \_\_\_\_\_.

(a) The parties shall file copies of their Rule 26(a)(2)(B) expert reports on the date the reports are disclosed to the opposing party.

(b) Pursuant to Rule 26(a)(2)(B), expert reports must set forth, inter alia, (1) how the expert's credentials provide a basis for rendering the expert's specific opinions and (2) the underlying data or

information considered by the expert and a discussion of how such data or information supports each of the expert's specific opinions.

3. Any motion to join additional parties shall be filed by \_\_\_\_\_.

4. Any motion to amend pleadings shall be filed by \_\_\_\_\_.

5. All non-dispositive motions, including motions to compel discovery, shall be filed not later than \_\_\_\_\_. No motion relating to discovery, including a motion for assistance and scheduling discovery, shall be filed until the party who believes there is a dispute telephones counsel for the opposing party to make a good faith effort to resolve the dispute and, if the dispute is not resolved by counsel, telephones my law clerk to request a teleconference.

6. All dispositive motions shall be filed not later than \_\_\_\_\_.

The moving party shall deliver to chambers a copy of the dispositive motion along with any supporting documents. Those documents shall be in a separate filing from the motion and suggestions and shall be individually tabbed.<sup>1</sup> The non-moving party shall file a response

---

<sup>1</sup>The motion shall consist of two documents -- one document being the motion for summary judgment and supporting suggestions and the second document being the group of exhibits, each individually marked and tabbed. The exhibits (in both the motion and response) shall be identified either by number or by letter. Please do not combine the two (i.e., avoid marking exhibits A-1, A-2, A-3, B-1, B-2, etc.). Any reference to the exhibit in the motion or suggestions shall identify the exhibit by its number or letter (i.e., do not refer to "deposition of John Smith" without indicating which exhibit number that deposition has been marked). Counsel are expected to abide by the requirements of Rule 56, paying particular attention to admissibility of documents. Documents submitted as exhibits without proper certification or foundation will be disregarded. Failure to follow

within 21 days from the date the motion was filed. A copy of the response shall be delivered to chambers along with supporting documents which shall be in a separate filing from the response and suggestions and shall be individually tabbed. A reply may be filed by the moving party within 14 days from the date the response was filed. If the moving party does not intend to file a reply brief, that party shall notify my chambers. **The parties are reminded that any motions for additional time to file or respond to dispositive motions may result in the trial being reset.**

7. All Daubert motions shall be filed not later than \_\_\_\_\_.

8. On or before \_\_\_\_\_, the parties shall file a stipulation of any uncontroverted facts. If no stipulated facts can be agreed upon, including facts relating to personal jurisdiction or venue, the parties shall file a joint statement to that effect.

9. On or before \_\_\_\_\_, plaintiff shall:

- (a) Serve and file a list of all witnesses who may be called at trial by plaintiff in connection with its claims;
- (b) Serve and file a list of all exhibits which may be offered at trial by plaintiff in connection with its claims. Each exhibit so listed shall be pre-marked and numbered. If only a portion of an exhibit is to be offered, the portion to be offered shall be specifically identified. A copy of an exhibit index shall be forwarded (not filed) to my courtroom deputy, Sue Anderson-

---

these directions when preparing the motion or response may result in the pleading being returned to counsel for correction, which may affect the trial setting.

Porter.<sup>2</sup>

- (c) Make its exhibits available for inspection by the defendant at the time of filing. These exhibits shall remain available for inspection until seven days before trial;
- (d) Serve and file a designation, by page and line number, of any deposition testimony to be offered in evidence as a part of plaintiff's case-in-chief in connection with its claims. I will determine the admissibility of the testimony prior to trial; and
- (e) Highlight those portions of the deposition testimony designated and forward the depositions and accompanying exhibits to defense counsel.

Please note that a witness not listed in accordance with this Scheduling Order will not be permitted to testify, except for good cause shown and with leave of court and that an exhibit not listed or deposition testimony not designated in accordance with this Scheduling Order will not be received in evidence, except for good cause shown and with leave of court.

10. On or before \_\_\_\_\_, defendant shall:

- (a) Serve and file a list of all witnesses who may be called at trial by defendant in connection with its defense;
- (b) Serve and file a list of all exhibits which may be offered at trial by defendant in connection with its defense. Each exhibit so listed shall be pre-marked and numbered. If only a portion of an exhibit is to be offered, the portion to be

---

<sup>2</sup>The plaintiff may, rather than preparing both an exhibit list and an exhibit index, file an exhibit index, docketing it as an **Exhibit List**. The court-approved exhibit index can be e-mailed to counsel upon request.

offered shall be specifically identified. A copy of an exhibit index shall be forwarded (not filed) to my courtroom deputy, Sue Anderson-Porter;<sup>3</sup>

- (c) Make its exhibits available for inspection by the plaintiff at the time of filing. These exhibits shall remain available for inspection until seven days before trial;
- (d) Serve and file a designation of those exhibits listed by plaintiff pursuant to subparagraph 9(b), as to which identification and authentication is waived;
- (e) Serve and file any objections to proposed deposition testimony designated by plaintiff pursuant to subparagraph 9(d);
- (f) Serve and file a designation, by page and line number, of any deposition testimony to be offered as cross-examination to deposition testimony designated by plaintiff pursuant to subparagraph 9(d). I will determine the admissibility of the testimony prior to trial;
- (g) Serve and file a designation, by page and line number, of any deposition testimony to be offered in evidence as a part of defendant's case-in-chief in connection with its defense; and
- (h) Highlight in a color different than that used by plaintiff those portions of the deposition testimony designated by defendant, and briefly write objections to plaintiff's designations in the margin of the deposition beside those designations. The

---

<sup>3</sup>The defendant may, rather than preparing both an exhibit list and an exhibit index, file an exhibit index, docketing it as an **Exhibit List**. The court-approved exhibit index can be e-mailed to counsel upon request.

depositions and accompanying exhibits shall then be forwarded to plaintiff's counsel.

Please note that a witness not listed in accordance with this Scheduling Order will not be permitted to testify, except for good cause shown and with leave of court and that an exhibit not listed or deposition testimony not designated in accordance with this Scheduling Order will not be received in evidence, except for good cause shown and with leave of court.

11. On or before \_\_\_\_\_, plaintiff shall:

- (a) Serve and file a designation of those exhibits listed by defendant pursuant to subparagraph 10(b) as to which identification and authentication is waived;
- (b) Serve and file any objections to proposed deposition testimony designated by defendant pursuant to subparagraphs 10(f) and (g);
- (c) Serve and file a designation, by page and line number, of any deposition testimony to be offered as cross-examination to deposition testimony designated by defendant pursuant to subparagraph 10(g); and
- (d) Highlight in the original color those portions of the deposition testimony designated and briefly write objections to defendant's designations in the margin of the deposition beside those designations. The depositions and accompanying exhibits shall then be forwarded to defendant's counsel.

12. On or before \_\_\_\_\_, defendant shall serve and file any objections to proposed deposition testimony designated by plaintiff pursuant to subparagraph

11(c) and briefly write those objections in the margin of the deposition beside those designations. Defendant shall deliver the highlighted depositions and accompanying exhibits to chambers by \_\_\_\_\_.

13. On or before \_\_\_\_\_, all parties shall serve and file:
  - (a) All proposed voir dire questions. Proposed voir dire must be in the form of questions, not an outline or list of subjects to be covered.
  - (b) A complete set of all proposed jury instructions taken from or drawn in the manner of the Model Civil Jury Instructions for the Eighth Circuit or Missouri Approved Instructions. An original (with sources) of all instructions shall be delivered to chambers on or before the above date.
  - (c) All motions in limine, with supporting suggestions. The parties shall confer prior to filing their respective motions in limine in order to avoid filing motions dealing with arguments/evidence that the opposing party does not intend to make/offer.
  - (d) Any trial briefs.
  
14. On or before \_\_\_\_\_, all parties shall serve and file:
  - (a) Any responses to motions in limine,
  - (b) Any responses to earlier filed trial briefs, and
  - (c) Any objections to the opposing party's proposed voir dire. Objections to voir dire shall be prepared using the following format: verbatim quote of the objectionable question; a brief statement of the objection; and an alternative for the court's

consideration or, if no alternative is appropriate, an explanation of why that is the case.

15. A pretrial conference is set for \_\_\_\_\_, on \_\_\_\_\_. The pretrial conference will be held in Courtroom 6D, United States Courthouse, 400 East Ninth Street, Kansas City, Missouri. For Springfield trial: Any party or attorney wishing to appear by telephone shall call my chambers at 816-512-5760 to provide a telephone number no later than the close of business on \_\_\_\_\_.

16. Parties shall bring *two sets* of exhibits for the court on the day of the trial. During the trial, all exhibits admitted shall be passed to the jurors or displayed on an overhead projector or by other means.

17. The schedules fixed herein will not be extended except for good cause shown and upon further written order of the court. **All deadlines agreed to by the parties and listed in their joint proposed scheduling order/discovery plan shall be incorporated herein by reference unless specifically set above.**

\_\_\_\_\_  
ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri