

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
\_\_\_\_\_ DIVISION**

	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	
	)	
	)	
Defendant.	)	

**SCHEDULING AND TRIAL ORDER**

Pursuant to Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure and upon consideration of the parties' proposed scheduling order, the Court establishes the following schedule. The deadlines fixed herein will not be extended except for good cause shown and upon further written order of the Court.

**A. TRIAL SETTING**

1. This case is set for a jury trial commencing \_\_\_\_\_, 20\_\_\_. The attorneys for the parties shall keep in contact with the Court to determine the status of their trial setting.
2. All matters will be heard at the United States District Courthouse, \_\_\_\_\_, \_\_\_\_\_, Missouri.

**B. PLEADINGS**

1. Motions to join additional parties shall be filed on or before \_\_\_\_\_, 20\_\_\_.
2. Motions to amend the pleadings shall be filed on or before \_\_\_\_\_, 20\_\_\_.

**C. DISCOVERY**

1. Disclosure of Expert Testimony
  - (a) A party who intends to call an expert to support an affirmative claim for relief shall disclose the expert's testimony not later than

sixty (60) days before the close of discovery, as is contemplated by Federal Rule of Civil Procedure 26(a)(2)(A), (B). A party who intends to call an expert to defend against an affirmative claim for relief shall disclose the same no later than (30) days before the close of discovery. Note that these times differ from those specified in Federal Rule of Civil Procedure 26(a)(2)(c).

- (b) The parties are directed to file their expert disclosures with the Court pursuant to Federal Rule of Civil Procedure 26(a)(4), and Local Rule 26.4(2).
- (c) All supplemental responses to interrogatories concerning experts, as are required under Federal Rule of Civil Procedure 26(e), shall be filed not later than sixty (60) days before the close of discovery in the case of a party whose expert will support an affirmative claim for relief, or not later than thirty (30) days before the close of discovery in the case of a party whose expert will defend against an affirmative claim for relief.

2. Treating physicians, coroners and like professionals not retained to testify for a party are subject to disclosure under Rule 26(a)(2)(A) but are not required to submit a report under Rule 26(a)(2)(B).

3. Discovery Motions

- (a) All discovery motions shall be filed on or before \_\_\_\_\_, 20\_\_\_. Local Rule 37.1 describes the procedures that must be followed before filing a discovery motion. Each party to a Rule 37.1 telephone conference shall email the Courtroom Deputy and opposing counsel a description of the discovery dispute, not to exceed three (3) pages, and any related discovery documents, at least 48 hours before the telephone conference.

4. Discovery Deadline

- (a) All pretrial discovery authorized by the Federal Rules of Civil Procedure shall be *completed* on or before \_\_\_\_\_, 20\_\_\_.

#### D. EMPLOYMENT DISCRIMINATION CLAIMS

1. The party making a claim in connection with employment discrimination brought under 42 U.S.C. §2000(e) et seq. (Title VII), 29 U.S.C. §621 et seq., (Age Discrimination in Employment Act), 29 U.S.C. §794 (Rehabilitation Act of 1973), 42 U.S.C. § 2101 et seq. (Americans with Disabilities Act), or under 42 U.S.C. § § 1981, 1983, or 1985, or under the

Missouri Human Rights Act shall, not later than sixty (60) days prior to the date specified for the close of discovery, serve and file a designation of each incident that may be offered at trial to show either the discriminatory treatment for which the claim is made or the discriminatory animus. Such designations shall include (1) a brief description of the incident or happening; (2) the date and place thereof; and (3) the identity of the persons involved.

E. DAUBERT MOTIONS

1. *Daubert* motions shall be filed on or before \_\_\_\_\_, 20\_\_\_\_.

F. DISPOSITIVE MOTIONS

1. Dispositive motions, except those filed under Rules 12(h)(2), (3), or 41(b) shall be filed on or before \_\_\_\_\_, 20\_\_\_\_.
2. All summary judgment motions shall comply with Local Rule 56.1.

G. PRETRIAL FILINGS

1. Pretrial Memorandum

- (a) Counsel for all parties shall meet, prepare, and sign a Pretrial Memorandum in the form attached.
- (b) The Pretrial Memorandum must be filed electronically by 5:00 p.m. on \_\_\_\_\_, 20\_\_\_\_. All parties are responsible for the preparation of the Pretrial Memorandum and shall jointly complete this Memorandum. *This Memorandum is to be considered final when filed and may only be amended after the parties have received leave of the Court.*
- (c) Witnesses not listed by a party in the Pretrial Memorandum will not be permitted to testify absent leave of Court.

2. Testimony by Deposition

- (a) Deposition Designations: On or before \_\_\_\_\_, 20\_\_\_\_, each party shall serve and file a designation, by page and line number, of any deposition testimony to be offered in evidence as a part of that party's case;
- (b) Objections to Deposition Designations and Counter-designations: On or before \_\_\_\_\_, 20\_\_\_\_, each party shall serve and

file:

- (i) any objections to proposed deposition testimony designated by any other party;
  - (ii) a designation, by page and line number, of any deposition testimony to be offered as cross-examination to deposition testimony designated by other parties.
- (c) Objections to Counter-designations: On or before \_\_\_\_\_, 20\_\_\_\_, each party shall file and serve objections to proposed deposition testimony to be offered as cross-examination.

3. Motions in Limine

- (a) Motions in limine shall be filed on or before \_\_\_\_\_, 20\_\_\_\_\_.
- (b) Responses to motions in limine shall be filed seven (7) days after the filing of said motions.

4. Requested Voir Dire

- (a) Requested voir dire questions are to be served and filed on or before \_\_\_\_\_, 20\_\_\_\_\_.

5. Proposed Jury Instructions

- (a) On or before \_\_\_\_\_, 20\_\_\_\_, serve and file a complete set of all proposed jury instructions in the following form:
  - (i) The parties shall meet and confer to assist in filing **an agreed upon, single, unified set of proposed instructions.**
    - (A) Agreed upon instructions shall include the following notation at the bottom of the proposed instruction: "Joint Instruction No. \_\_\_\_."
    - (B) If a party proposes an instruction that is not agreed upon, the proposed instruction shall indicate which party is proffering the instruction, e.g., "Plaintiff's Instruction No. \_\_\_\_." Proposed instructions by opposing parties on the same subject matter shall be

grouped together. (For example, if each party proposed a different preponderance of the evidence instruction, Instruction No. 10A would be the Plaintiff's proffered preponderance of the evidence instruction and Instruction No. 10B would be the Defendants' proffered preponderance of the evidence instruction.)

- (ii) In accordance with Local Rule 51.1, each instruction shall include, at the bottom of the proposed instruction, the citation of the pattern instructions, decision, statute, regulation, or other authorities supporting the proposition stated in the proposed instruction. Any modification of a pattern instruction shall be disclosed.
- (iii) In accordance with Local Rule 51.1, a complete set of proposed jury instructions consists of two documents—one document containing the source instructions and a second containing the clean instructions. Do not place each instruction in a separate file. Within both documents each instruction shall be separated by a page break. The Court accepts files in either Microsoft Word or Word Perfect format. Please email the virus-checked proposed jury instructions to the courtroom deputy at the address listed for submission of proposed orders in the CM/ECF Civil and Criminal Administrative Procedures Manual.
- (iv) Instructions not requested as set forth above shall be deemed to have been not properly requested within the meaning of Fed. R. Civ. P. 51, and shall be deemed waived unless the subject of the request is one arising in the course of trial which could not reasonably have been anticipated prior to trial from the pleadings, discovery or nature of the case.

6. Trial Briefs

- (a) On or before \_\_\_\_\_, 20\_\_\_\_, all parties shall serve and file any desired trial briefs.
- (b) Responses to any trial briefs shall be filed seven (7) days after the filing of said trial briefs.

7. Exhibit Index

- (a) In addition to the list of exhibits included in the Pretrial Memorandum, the parties shall prepare and provide to the courtroom deputy, the morning of trial, an Exhibit Index. Plaintiff and Defendant shall use Arabic numbers with no sub-parts, designating who is offering the exhibit (P1 for Plaintiff's Exhibit 1, D1 for Defendant's Exhibit 1, J1 for Joint Exhibits, etc.). Each item, each photograph, and each document must have its own exhibit number. All exhibits shall be marked by the parties prior to trial.

Dated: \_\_\_\_\_.

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**DEAN WHIPPLE**  
**UNITED STATES DISTRICT JUDGE**