

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT  
WITHIN AND FOR THE COUNTY OF FREMONT, STATE OF WYOMING

, )  
 )  
 Plaintiff, )  
 )  
 -vs- ) Civil No.  
 )  
, )  
 Defendant. )  
 \_\_\_\_\_ )

**SCHEDULING ORDER**

THIS MATTER having come before the Court for a scheduling conference on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, with all counsel of record for all parties and unrepresented parties herein appearing; and, the parties having acknowledged that they have complied with the requirements of Rule 26 of the Wyoming Rules of Civil Procedure; and, the Court having set the matter for consideration of the scheduling of discovery and trial of this matter; and, good cause appearing;

**IT IS HEREBY ORDERED** that:

- **DESIGNATION OF EXPERT WITNESSES.** The Court will permit the parties to disclose expert testimony by the manner set forth in Rule 26(a)(2)(A) and (B) of the Wyoming Rules of Civil Procedure **or** by designation of expert testimony by counsel or an unrepresented party if the expert witness designation fully complies with the requirements set forth in Rule 26(a)(2)(B) and is signed by counsel or an unrepresented party as required by Rule 11 of the Wyoming Rules of Civil Procedure. Plaintiff shall designate expert witnesses on or before \_\_\_\_\_, 20\_\_\_\_. Defendant shall designate expert witnesses on or before \_\_\_\_\_, 20\_\_\_\_. Rebuttal expert testimony will not be permitted absent good cause shown.
- **MENTAL OR PHYSICAL EXAMINATIONS.** Any mental or physical examination shall be completed by \_\_\_\_\_, 20\_\_\_\_. The report of any mental or physical examination shall be provided within ten (10) days after any mental or physical examination.

- **DISCOVERY CUT-OFF.** Discovery shall be completed on April 30, 2009. The parties may depose any expert witness up to three (3) weeks before the trial.
- **DISCOVERY DISPUTES.** Any motion seeking relief due to a discovery dispute shall contain a certification that, prior to filing the motion, the movant has in good faith conferred with the opposing person or party to resolve the discovery dispute before seeking court intervention. In the event that the movant has been unable to confer with the opposing person or party to resolve the discovery dispute before seeking court intervention, then the movant shall certify a description of all good faith efforts taken by the movant to resolve the discovery dispute. Movant's failure to so certify will result in automatic denial of the motion.

**To promote a just, speedy and inexpensive determination of discovery disputes, the Court will decide motions involving discovery disputes without a hearing (unless a hearing is specifically requested by the Court) upon the written submissions of the parties. Any response to a motion involving a discovery dispute shall be filed within ten (10) days (as computed by Rule 6(a) of the Wyoming Rules of Civil Procedure) of the filing of the motion. Replies to responses are not expected, but if necessary to address new matters raised in a response, a necessary reply shall be filed within three (3) days (as computed by Rule 6(a) of the Wyoming Rules of Civil Procedure) of the filing of the response. At the time of filing of any motion or response, a courtesy copy of the motion and/or supporting memorandum should be provided to the Court at P. O. Box 681, Pinedale, WY 82941. PLEASE DO NOT ATTACH EXHIBITS OR OTHER MATERIAL TO THE COURT'S COURTESY COPY.**

- **SUPPLEMENTATION AND DISCLOSURE CONTINUING.** The parties shall have a continuing duty to disclose information and material as it becomes known after the deadlines set herein.
- **DISPOSITIVE MOTIONS.** The parties are reminded of the requirements of Rule 56.1 of the Wyoming Rules of Civil Procedure, if applicable. The Court may

disregard any filing by a party failing to comply with the requirements of Rule 56.1 of the Wyoming Rules of Civil Procedure.

Dispositive motions shall be filed on or before \_\_\_\_\_. Responses to any such motion shall be filed within twenty (20) days after any such dispositive motion is filed, or three (3) days prior to a hearing upon such dispositive motion, whichever is earlier. The Wyoming Rules of Civil Procedure requires that all motions be determined within ninety (90) days or they are deemed denied, unless continued by the Court. It is the responsibility of the movant to timely file a written request for a hearing. Any motions to be heard shall be accompanied by separate request setting hearing on such motion together with an order scheduling the matter for hearing. At the time of filing of any dispositive motion or response, a courtesy copy of the motion and/or supporting memorandum should be provided to the Court at P. O. Box 681, Pinedale, WY 82941. PLEASE DO NOT ATTACH EXHIBITS OR OTHER MATERIAL TO THE COURT'S COURTESY COPY. At least three (3) days prior to the hearing, the parties shall file and serve proposed findings of fact and conclusions of law in paper form and also provide the Court with proposed findings of fact and conclusions of law electronically on a disk or by e-mail to [mtownsend@courts.state.wy.us](mailto:mtownsend@courts.state.wy.us) in Word or WordPerfect12 (or older) format.

- o **MOTIONS.** Any motion seeking relief of a non-dispositive or temporary nature shall contain a certification that, prior to filing the motion, the movant has in good faith conferred with the opposing person or party to resolve the issue which is the subject of the motion before seeking court intervention and/or the opposing person's or party's position on the motion. In the event that the movant has been unable to confer with the opposing person or party before seeking court intervention, then the movant shall certify a description of all good faith efforts taken by the movant to resolve the issue. Movant's failure to so certify will result in automatic denial of the motion. The Wyoming Rules of Civil Procedure requires that all motions be determined within ninety (90) days or

they are deemed denied, unless continued by the Court. It is the responsibility of the movant to timely file a written request for a hearing or a notice that the motion can be decided without a hearing. Any motions to be heard shall be accompanied by separate request setting hearing on such motion together with an order scheduling the matter for hearing. At the time of filing of any motion or response, a courtesy copy of the motion and/or supporting memorandum should be provided to the Court at P. O. Box 681, Pinedale, WY 82941. PLEASE DO NOT ATTACH EXHIBITS OR OTHER MATERIAL TO THE COURT'S COURTESY COPY. At least three (3) days prior to the hearing, the parties shall file and serve proposed findings of fact and conclusions of law in paper form and also provide the Court with proposed findings of fact and conclusions of law electronically on a disk or by e-mail to [mtownsend@courts.state.wy.us](mailto:mtownsend@courts.state.wy.us) in Word or WordPerfect12 (or older) format.

- **REQUIREMENTS PRIOR TO PRETRIAL CONFERENCE.** Prior to the pretrial conference, counsel and unrepresented parties shall:
  - [1] Complete discovery in accordance with this Order;
  - [2] Mark exhibits for identification and furnish copies to the opposing party;
  - [3] Furnish the opposing party with the name, address, telephone numbers, and a summary of testimony of all witnesses;
  - [4] Stipulate in writing to as many facts, issues, documents, or matters involving the conduct of the trial;
  - [5] File and have set for hearing or determination upon briefs all motions which may be reasonably anticipated, including any motions *in limine*; and,
  - [6] Discuss settlement.
- **PRETRIAL MEMORANDA.** Each party shall file a separate pretrial memorandum at least five (5) days prior to the pretrial conference. Each pretrial memorandum shall be signed by counsel or unrepresented party and shall contain the following:

[1] A concise statement of the case, together with any information concerning the formulation and simplification of the issues, including the elimination of frivolous claims or defenses;

[2] A statement as to whether there will be any amendments to the pleadings, and in the event that amendments to the pleadings are contemplated, the justification therefore;

[3] Stipulations of fact, of issues, of documents, or of matters involving the conduct of the trial;

[4] Requests for advance rulings from the Court as to admissibility of any evidence, setting forth the grounds therefore;

[5] A statement as to any limitation or restriction on the use of testimony under Rule 702 of the Wyoming Rules of Evidence;

[6] A candid estimate of trial time requirements;

[7] A description of any specific needs for trial (e.g., audio or visual equipment, easel, interpreters, etc.);

[8] A statement as to the status of all pending matters, including, but not limited to, motions, discovery, and settlement;

[9] A statement as to the advisability of referring matters to a Court Commissioner or Master; and,

[10] A concise statement as to any other matters which can be reasonably anticipated, which can be addressed prior to trial, as may facilitate the just, speedy, and inexpensive disposition of this action.

- **WITNESS AND EXHIBIT LISTS.** No later than the pretrial conference set herein, counsel and unrepresented parties shall file a pleading setting forth, including, but not limited to the following information:

[1] All witnesses, including expert witnesses, shall be designated by, at a minimum, setting forth the name, address, telephone numbers, and a summary of testimony. Witnesses shall be designated as “*may call*” or “*will call*.” A party designating any “*will call*” witness shall be responsible for the attendance of any

such “*will call*” witness at trial, and any opposing party and the Court may rely thereon. Each party shall also designate those witnesses who will, or may, testify by deposition and any and all portions of the deposition testimony shall be designated.

[2] All exhibits shall be listed and marked. Plaintiff shall use numbers in sequence and Defendant shall use letters in sequence. Large numbers of exhibits are not to be lumped together under one number or letter. If the exhibits are to be introduced individually at trial, they are to be listed individually on the exhibit list.

- **OBJECTIONS TO DISCLOSED EVIDENCE.** In the event that objections to disclosed evidence are not made at **least ten (10) days before trial**, any and all objections are deemed to be waived.
- **JURY INSTRUCTION INDEX AND JURY INSTRUCTIONS.** No later than the pretrial conference herein, counsel for each party shall submit to the Judge (NOT filed with the Clerk of Court): an index of instructions by number (Plaintiff) or letter (Defendant) and the pattern jury instruction number, if applicable, or other authority, as well as a brief title for each instruction; a proposed instruction to be given prior to opening statements describing the nature of the case and that party’s contentions; and, an instruction setting forth the burdens of proof of each of the parties. The jury instruction index and instructions shall be submitted in paper form and electronically on a disk to the Court at P. O. Box 681, Pinedale, WY 82941, or by e-mail to [mtownsend@courts.state.wy.us](mailto:mtownsend@courts.state.wy.us) in Word or WordPerfect12 (or older) format. The Court shall confer with counsel at the pretrial conference to determine which instructions should be given to jurors before opening statements. Proposed jury instructions which can reasonably be anticipated (a set with authorities and a set without citations to authorities), any requests for special instructions which can reasonably be anticipated (with authorities and without citations to authorities), a final index of instructions (in the form described above), and proposed verdict form with any special

interrogatories (with authorities, if any, and without citations to authorities, if any), pursuant to Rule 403 of the Uniform Rules for District Courts, shall be submitted to the Judge (NOT filed with the Clerk of Court) **ten (10) days prior to trial**. The Plaintiff shall use numbers and Defendant shall use letters. Submission of proposed jury instructions, requests for special instructions, instruction index, and proposed verdict form shall be electronically on a disk or by e-mail to [mtownsend@courts.state.wy.us](mailto:mtownsend@courts.state.wy.us) in Word or WordPerfect12 (or older) format. **PLEASE DO NOT submit these in paper form unless specifically requested by the Court.** Any instructions which are requested during trial (with authorities and without citations to authorities) shall immediately be submitted to the Court and to the opposite party in paper form and electronically on a disk or by e-mail to [mtownsend@courts.state.wy.us](mailto:mtownsend@courts.state.wy.us) in Word or WordPerfect12 (or older) format. The Court will have an informal instruction conference at a convenient time during the trial and counsel shall have read and be prepared to argue and/or provide support regarding the proposed instructions at that conference. If the Court deviates or denies the argument of counsel on an instruction at the informal conference, counsel will then be given the opportunity to use the trial court record to note formal objections only and without further argument from counsel.

- **PRETRIAL CONFERENCE.** A pretrial conference shall be held in the Fremont County Courthouse on the **25th day of June, 2009 at 1:30 p.m.** **Out of town counsel or unrepresented parties may appear by telephone conference call initiated by the party requesting the conference call and by calling the Court at (307) 332-4592.** The Court has set aside one (1) hour for the pretrial conference. If the pretrial conference will require more time than allotted, counsel shall notify the Court as soon as possible. All counsel who will try the case and all unrepresented parties shall appear for the pretrial conference. The parties shall be prepared to address, including, but not limited to, the following matters at the time of the pretrial conference: the possibility of obtaining admissions of

fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the Court on the admissibility of evidence; the avoidance of unnecessary proof and of cumulative evidence, and limitations or restrictions on the use of testimony under Rule 702 of the Wyoming Rules of Evidence; estimate of trial time requirements; specific needs for trial (e.g., audio or visual equipment, easel, interpreters, etc.); juror notebooks; and, other matters which can be reasonably anticipated, which can be addressed prior to trial, as may facilitate the just, speedy, and inexpensive disposition of this action.

- **TRIAL.** The jury trial of this case will be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the District Courtroom of the \_\_\_\_\_ County Courthouse, commencing at **9:00 o'clock a.m.**

**This case is stacked #\_\_\_\_\_.** This case is scheduled for \_\_\_\_\_ (\_\_\_\_) trial days. **If the trial of this matter requires more trial days than are scheduled, counsel shall notify the Court as soon as possible. \*\*\*PLEASE BE**

**ADVISED THAT ALL SETTINGS IN CIVIL CASES ARE AT THE MERCY OF 48 W.R.Cr.P., THE CHILD PROTECTION ACT, THE JUVENILE JUSTICE ACT, AND THE CHILD IN NEED OF SUPERVISION ACT\*\*\***

- **NOTICE TO COURT REPORTER.** Any party requesting the reporting of a particular matter by the official court reporter shall provide notice to the official court reporter at least three (3) working days before the matter is set for hearing. **The three day notice requirement will not be waived by the Court.** The notice is required for all civil matters, including jury trials. Payment of the statutory reporting fee shall be paid to the official court reporter **prior** to the commencement of the hearing or trial. The statutory reporting fee shall be made payable the Wyoming State Treasurer.

- **ALTERNATIVE DISPUTE RESOLUTION.** The Court may, or at the request of any party shall, assign the case to another active judge or to a retired judge, retired justice, or other qualified person on a limited assignment for the purpose of invoking nonbinding alternative dispute resolution methods, including settlement conference and mediation. By agreement, the parties may select the person to conduct the settlement conference or to serve as the mediator. If the parties are unable to agree, they may advise the Court of their recommendations, and the Court shall then appoint a person to conduct the settlement conference or to serve as the mediator. Compensation for services shall be arranged by agreement between the parties and the person conducting the settlement conference or serving as the mediator, and that person's statement shall be paid within thirty (30) days of receipt by the parties. Nothing herein is intended to preclude the parties from agreeing to submit their dispute to other forms of alternative dispute resolution, including arbitration and summary jury trial. Assignment of a case to alternative dispute resolution shall not suspend any deadlines or cancel hearings or trial. The Court retains jurisdiction for any and all purposes while the case is assigned to any alternative dispute resolution.
- **COURT COPIES.** A copy of pleadings and other matters filed herein shall be provided to the Court at P. O. Box 681, Pinedale, WY 82941.

DATED this \_\_\_\_\_ day of December, 2008.

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District Court Judge