

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
WITHIN AND FOR SWEETWATER COUNTY, WYOMING

PLAINTIFF,

Plaintiff,

vs.

DEFENDANT,

Defendant.

Docket No. C-xx-xxx-L

SCHEDULING ORDER

THIS MATTER came before the Court for a scheduling conference on _____, with all counsel of record for all parties and unrepresented parties herein appearing. The Court hereby sets the scheduling of this matter pursuant to WRCP 16.

IT IS HEREBY ORDERED:

1. **Discovery**

- (a) **The discovery cut-off date is _____.** All written discovery requests must be served upon opposing counsel at least thirty (30) days before the discovery cut-off date. **No discovery will be permitted beyond the discovery cut-off date.** All depositions must be completed by the discovery cut-off date, except any expert may be deposed up to _____. An IME exam shall be completed no later than _____, and the IME report must be delivered to all parties by _____. There is no distinction as to the admissibility at trial between a deposition taken solely for purposes of discovery and one which is taken for use at trial.
- (b) Production of electronically stored information must be in compliance with WRCP 34(b)(ii)-(iii). However, in the event that it becomes necessary, the parties will agree to any and all procedures or provisions concerning disclosure or discovery of electronically stored information and submit such to the Court in writing.
- (c) In the event it becomes necessary, the parties will submit their agreement regarding assertions of claims of privilege or of protection as trial-preparation material pursuant to WRCP 26(b)(5)(a)-(b).
- (d) Plaintiff(s) must designate expert witnesses on or before _____. Defendant(s) must designate expert witnesses on or before _____.

_____. Rebuttal expert testimony will not be permitted absent good cause shown.

(e) **WRCP 26**

- (i) The parties expressly acknowledged that currently they have complied with all requirements of WRCP 26 (specifically WRCP 26(a)(1) disclosures have been provided).
- (ii) The parties will agree to any and all procedures or provisions concerning modification of times for disclosures under WRCP 26(a) and 26(e)(1) and submit such to the Court in writing.
- (iii) The parties have a continuing duty to disclose information and material as it becomes known, even after the deadlines set herein, pursuant to WRCP 26(e).

(f) **Discovery Disputes**

- (i) The Court will decide motions involving discovery disputes without a hearing (unless a hearing is set by the Court) upon the written submissions of the parties. [NOTE: The Wyoming Rules of Civil Procedure require imposing sanctions in the event a discovery violation is determined.]
- (ii) Any motion seeking relief due to a discovery dispute must 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 and/or the opposing person's or party's position on the motion. If 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 must 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.
- (iii) Any response to a motion involving a discovery dispute must be filed within ten (10) days (as computed by WRCP 6(a)) of the filing of the motion.
- (iv) Replies to responses are not expected, but if necessary to address new matters raised in a response, a necessary reply must be filed within three (3) days (as computed by WRCP 6(a)) of the filing of the response.

- (v) **The Court may disregard any filing by a party failing to comply with these requirements.**

2. **Alternative Dispute Resolution** The Court may, or, pursuant to WRCP 40, 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 will then appoint a person to conduct the settlement conference or to serve as the mediator. Compensation for services will be arranged by agreement between the parties and the person conducting the settlement conference or serving as the mediator, and that person's statement must 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 will 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.

3. **Motions**

- (a) **Dispositive motions** must be filed on or before _____, unless otherwise approved by the Court for good cause shown. **Strict compliance with WRCP 56 is required, if applicable.** Notice and request for hearing and an Order Setting Hearing in compliance with WRCP 6 must accompany any dispositive motion. Any other request for hearing pursuant to WRCP 6 must be accompanied by an Order Setting Hearing. **The Court may disregard any filing by a party failing to comply with these requirements.**
- (b) **Motions of a substantive nature** must be timely filed so that they can be timely decided. Any motion seeking relief of a substantive nature **must contain a certification of the opposing person's or party's position** on the proposed motion. **Movant's failure to so certify will result in automatic denial of the motion.**
- (c) **Any motion seeking relief of a non-substantive, non-dispositive, or temporary nature must** 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 the opposing person's or party's position on the motion. If the movant has been unable to confer with the opposing person or party before seeking court intervention, then the movant must 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.

(d) **Requirements for Briefs** The most effective written submissions are generally concise and devoid of hyperbole. Papers filed with the court must be double spaced, in 12-point font, and have one-inch margins. Briefs must be printed and filed on letter-sized paper. The following page limitations apply:

- Motion - 20 pages
- Response brief - 20 pages
- Reply brief - 10 pages

The Court finds that filing a separate statement of facts pursuant to Rule 56.1 is unhelpful to the Court, and directs that no separate statement of facts shall be filed. **Any assertion of a material fact in any part of a motion or brief shall be supported by pinpoint citation to the evidentiary materials supporting the fact, by paragraph or page, with as much specificity as possible** (citations to specific lines in deposition transcripts are not necessary). Condensed transcripts are favored. When citing legal authority, in addition to citing to case or statute, cite the applicable paragraph, section, or page with as much specificity as possible. **Motions seeking permission to file motions or briefs containing more pages will be granted only when complex or numerous legal issues justify such relief.** The motion must state how many pages the motion or brief will contain. No supplemental briefs or citations may be filed without leave of court. **The Court may disregard any filing or portion thereof failing to comply with these requirements.**

(e) **Exhibits** shall be listed and marked on and attached to a separate index. Plaintiff will use numbers in sequence and Defendant will use letters in sequence. If there is more than one separate Plaintiff, each Plaintiff may use a short name or abbreviation, and then numbers in sequence. If there is more than one separate Defendant, each Defendant may use a short name or abbreviation, and then letters in sequence.

- (f) **Courtesy Copies** At the time of filing, courtesy copies of all motions and supporting exhibits must be provided to the Court by e-mail to jd3lawclerkb@courts.state.wy.us.
 - (g) If exhibits are too voluminous to provide an electronic courtesy copy, the exhibits shall be filed in one or more volumes bound on the left hand side in any manner that is secure, does not obscure the text, and permits each page to lie reasonably flat when open (unless necessary to facilitate inclusion of odd-sized documents such as technical drawings). Each volume shall have a table of contents and each exhibit shall be tabbed on the right hand side. No volume shall exceed 250 pages, and each page of multi-page exhibits shall be consecutively numbered.
 - (h) **Request for Hearing** 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 must be accompanied by separate request setting hearing on such motion, including an estimate of the time required to hear the motion, together with an order scheduling the matter for hearing. **All motions and responses (other than dispositive motions) must be accompanied by a proposed order granting or denying the motion**, which must contain proposed findings of fact, conclusions of law, and a distribution list of attorneys of record. **The Court may disregard any filing or portion thereof failing to comply with these requirements.**
4. **Notice to Court Reporter** Any party requesting the reporting of a particular matter by the Official Court Reporter must file a written notice with the Clerk of District Court and provide a copy of the written notice to Judge Lavery's Official Court Reporter at least three (3) working days before the matter is set for hearing. **Notice to the official court reporter is required for all civil matters. Three days notice to the Official Court Reporter will not be waived by the Court.**
5. **Continuances/Postponements/Extensions** Any and all motions or stipulations for continuance/postponement/extensions of any deadlines, events, hearings, or other matters included in this Scheduling Order must show good cause. Any motion or stipulation for continuance/postponement/extension of any deadlines, events, hearings, or other matters included in this Scheduling Order must contain a certification of the opposing person's or party's position on the proposed motion. Any motion or stipulation for continuance/postponement/extension of any deadlines, events, hearings, or other matters

included in this Scheduling Order failing to contain these required certifications and/or acknowledgments will be automatically denied.

6. **Initial Pretrial Conference** An initial pretrial conference shall be held on _____. Counsel for the Plaintiff will initiate a conference call between all counsel and the Court so that this conference can be held by telephone. Counsel shall be prepared to discuss setting a trial, final pretrial conference, and any necessary hearings on any motions in limine.
7. **Standard Procedures** The following standard procedures will expedite filing, requests for settings, etc. with this Court:
 - (a) All pleadings, motions, or briefs must be printed and filed on letter-sized paper.
 - (b) When drafting proposed orders for the Court, include after the Judge's signature line, a distribution list of attorneys of record and provide additional copies of the order together with preaddressed and stamped envelopes.
 - (c) When submitting orders to the Court, other than orders of setting, movant must obtain approval as to form from opposing counsel. Lacking such approval, the order will be placed on hold for no less than 10 days pending response from opposing counsel.
 - (d) If you desire the Court to set a hearing on any pending matter, please provide a motion requesting a hearing and provide a blank order setting hearing that identifies the motion requested to be set.
 - Please be advised that all settings in civil cases are at the mercy of W.R.Cr.P. 48, the Child Protection Act, the Juvenile Justice Act, and the Child in Need of Supervision Act.
 - Counsel and unrepresented parties are reminded that they are expected to conduct themselves in accordance with the Rules of Professional Conduct for Attorneys at Law, applicable Wyoming law, the Wyoming Rules of Civil Procedure, and the Uniform Rules for District Courts. In particular, the Court expects strict compliance with Rule 801 of the Uniform Rules for District Courts.
 - Opposing counsel, each party, and every witness must be treated with courtesy.
 - Remember the redaction rules.

The Court has prepared this order. In the event that any party objects to the form and/or any content of this Order, such objecting party will have ten (10) days to file

and serve any objections, along with an alternate form of order. The Court reserves the right to rule on any objections filed by any party with or without a hearing. Failure to file and serve any objections, along with an alternate form of Order, within ten (10) days from the date hereof will be deemed a complete waiver of any and all objections as to form or content of this order.

Courtesy Copies At the time of filing, courtesy copies of all motions, pleadings, pretrial memoranda, jury instructions, proposed Orders or proposed Findings of Fact and Conclusions of Law, and other matters filed pursuant to this Order must be provided to the Court in Word format by e-mail to jd3lawclerkb@courts.state.wy.us, with subject line containing the case name, number, and title of the motion, pleading, pretrial memorandum, or other document.

DATED this ___ day of _____, 201__.

By the Court,

RICHARD L. LAVERY
District Court Judge