

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

ORDER FOR FINAL PRETRIAL CONFERENCE

THIS MATTER came before the Court for an initial pretrial conference on the _____, with all counsel of record for all parties and unrepresented parties herein appearing. The Court being fully advised in the premises,

IT IS HEREBY ORDERED:

1. **Trial** The twelve (12) person jury trial of this case will be held on _____, in the District Courtroom of the Sweetwater County Courthouse, 80 West Flaming Gorge Way, Green River, Wyoming, commencing at **9:00 o'clock a.m.** **This case is stacked at position number ____.** The parties anticipate this trial will take _____ days. _____ days are set aside for trial. **If the trial of this matter requires more trial days than are scheduled, counsel must immediately notify the Court** by e-mail to kyler@courts.state.wy.us, with subject line containing the case name, number, and subject "More Trial Days."
2. **Pretrial Conference** A pretrial conference will be held in the District Courtroom of the Sweetwater County Courthouse. The date and time of the Pretrial Conference is _____. The Pretrial Conference must be attended in person by counsel who will conduct the trial, or by co-counsel with knowledge of the case and authority to bind his or her client by stipulation. **All clients must be reachable by phone.** The Court has set aside one (1) hour for the pretrial conference. If the pretrial conference will require more time than allotted, the parties must notify the Court as soon as possible.
 - (a) **Subjects of Pretrial Conference** Each party must be prepared to address, including, but not limited to, the following matters at the time of the pretrial conference:
 - (i) Estimate of trial time requirements;
 - (ii) Late discovered witnesses and exhibits;

- (iii) Motions in limine;
 - (iv) Objections to witnesses or exhibits, including objections to expert qualifications or testimony;
 - (v) Objections to the composition of the jury or method of compilation or maintenance of the list;
 - (vi) Jury selection;
 - (vii) Jury instructions and verdict form;
 - (viii) Juror notebooks;
 - (ix) Which instructions should be given to jurors before jury selection or opening statements;
 - (x) Length of opening statements and closing arguments; absent leave of court after discussion at the pretrial, opening statements shall be limited to thirty (30) minutes and closing arguments shall be limited to forty-five (45) minutes, and Plaintiff shall reserve a portion of the Plaintiff's time for rebuttal;
 - (xi) Specific needs for trial (e.g., audio or visual equipment, easel, interpreters, etc.); and
 - (xii) Other matters which can be reasonably anticipated prior to trial.
- (b) **Requirements Prior to Pretrial Conference** Prior to the pretrial conference, counsel and unrepresented parties must:
- (i) Discuss settlement in good faith;
 - (ii) Exhibits. At least twenty-one (21) calendar days prior to the pretrial conference, mark for identification every exhibit a party may use at trial and provide a copy of every exhibit bound in a notebook, with an index, to each other party. (Except tangible exhibits which cannot be duplicated, in which case (a) photograph(s) which fairly and accurately depict the exhibit shall be included in the notebook). A copy of the notebook shall be provided to the Court at or prior to the pretrial conference.

The exhibit index shall be filed with the pretrial memorandum.

All exhibits must be listed and marked on the 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. 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.

[NOTE: This requirement is intended to fulfill the disclosure requirement of W.R.C.P. 26(a)(3)(C), and alters the timing set forth in W.R.C.P.26(a)(3)]. **The failure to mark all exhibits and furnish a copy to opposing counsel before filing of the pretrial memorandum may result in any such exhibits being inadmissible at the trial.**

- (iii) Witnesses At least twenty-one (21) calendar days prior to the pretrial conference, provide a witness list to each other party, setting forth all witnesses, including expert witnesses, and including at a minimum, the name, address, telephone numbers, and a short, yet specific summary of testimony. Vague, boilerplate summaries are not sufficient. References to depositions or expert designations are not sufficient. In addition to fulfilling the requirement of W.R.C.P. 26(a)(3)(A) to disclose witnesses to the other parties, the summary of testimony is intended to assist the Court at the pretrial conference. [NOTE: This requirement alters the timing of disclosures pursuant to W.R.C.P. 26(a)(3)(A).]

Witnesses must be designated as “*may call*” or “*will call*.” A party designating any “*will call*” witness will 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 must also designate those witnesses who “*will*,” or “*may*,” testify by deposition and any and all portions of the deposition testimony must be designated. [NOTE: This requirement alters the timing of disclosures pursuant to W.R.C.P. 26(a)(3)(B).]

The witness list shall be filed with the pretrial memorandum.

- (iv) At least twenty-one (21) calendar days prior to the pretrial

conference, provide to all other parties any proposed contention instruction to be given prior to jury selection and any proposed instructions to be given prior to opening statements. The contention instruction for Plaintiff(s) should merely state the general allegations and the general claim for relief (no specific requests for money sums are allowed). The contention instruction for Defendant(s) should indicate which claims are admitted and which are denied, together with the general claim for relief. The contention instructions must not be argumentative.

- (v) Confer with opposing counsel the formulation and simplification of the issues, including the elimination of frivolous claims or defenses, anticipated amendments to the pleadings, stipulations to narrow the contested legal and/or factual issues for trial, and jury instructions to be given prior to jury selection or trial; and
 - (vi) Stipulate in writing to as many facts, issues, documents, jury instructions prior to jury selection or opening statements, or other matters involving the conduct of the trial as possible.
- (c) **Pretrial Memoranda.** At least fourteen (14) days prior to the pretrial conference, each party shall provide an electronic courtesy copy of its pretrial memorandum to the Court and each other party, and file it with the Clerk of District Court as soon thereafter as possible. Each pretrial memorandum must contain the following:
- (i) A candid and realistic estimate of trial time requirements;
 - (ii) A description of any specific needs for trial (e.g., audio or visual equipment, easel, interpreters, etc.);
 - (iii) A statement as to the status of all pending matters, including, but not limited to, motions, discovery, and settlement;
 - (iv) Requests for advance rulings from the Court as to admissibility or inadmissibility of any evidence, setting forth the grounds therefore, and objections to designated deposition testimony or listed witnesses or exhibits. Pursuant to WRCP 26(a)(3), any and all objections to listed witnesses or exhibits not made in the pretrial memorandum or a contemporaneous motion in limine are deemed to be waived (except objections pursuant to W.R.E. 402 and W.R.E. 403). Counsel may, contemporaneously with the pretrial

memorandum, provide an electronic courtesy copy to all parties and the Court and file a separate motion in limine instead of including requests for advance rulings and objections to listed exhibits or witnesses in the pretrial memorandum. **ALL MOTIONS IN LIMINE SHALL BE MADE NO LATER THAN THE PRETRIAL MEMORANDUM AND MAY BE INCLUDED IN THE PRETRIAL MEMORANDUM OR SEPARATELY FILED.**

An electronic courtesy copy of any response to any motions in limine, requests for advance rulings, or objections to witnesses or exhibits shall be provided to the Court and opposing parties at least seven (7) calendar days prior to the pretrial conference, and filed no later than the pretrial conference.

An electronic courtesy copy of any reply in support of any motions in limine, requests for advance rulings, or objections to witnesses or exhibits shall be provided to the Court and opposing parties at least two (2) calendar days prior to the pretrial conference, and filed no later than the pretrial conference.

- (v) 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;
- (vi) 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;
- (vii) A statement of the elements of each of the party's claims or defenses, with citation to legal authority and the witnesses, admissions, and exhibits to prove each element;
- (viii) A statement of contested material facts;
- (ix) A statement of contested material issues of law, with appropriate citation to legal authority;
- (x) An itemization of any special or general damages which will be claimed at trial;
- (xi) A statement whether juror notebooks should be provided, including a list of proposed contents if applicable, stating which contents are agreed upon. Example of contents: blank paper for note taking, stipulations of the parties, lists or seating charts

identifying counsel and their respective clients, general instructions for jurors, pertinent case-specific instructions, copies of important exhibits, glossaries of key technical terms, and pictures of witnesses. Counsel will provide copies of any stipulated materials for each juror and alternate juror along with a copy for the record.

- (xii) A certification that the parties have in good faith discussed settlement, but cannot agree on settlement;
 - (xiii) A statement as to the advisability of referring matters to a Court Commissioner or Master; and,
 - (xiv) 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.
- (d) **Stipulations** At least seven (7) calendar days prior to the pretrial conference, counsel and unrepresented parties shall file, in final form and signed by all counsel or parties, any stipulations as to any material facts or governing law.
- (e) **Jury Instruction Index and Jury Instructions** At least seven (7) calendar days prior to the pretrial conference set herein, counsel and unrepresented parties must file proposed jury instructions which can reasonably be anticipated (with authorities) and an index as follows:
- (i) An index of proposed instructions. The index shall cite the pattern instructions, where applicable, and indicate whether an instruction has been modified from the pattern instructions or whether it is a non-pattern instruction. **Pattern proposed jury instructions shall not be filed with the Clerk of the District Court or submitted to the Court electronically. Please do not submit courtesy copies of proposed jury instructions to the Court in paper form unless specifically requested by the Court.** Plaintiff will use numbers and Defendant will use letters. 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.
 - (ii) The parties shall attach and file with the index, the following:

- (A) Proposed modified pattern jury instructions which can reasonably be anticipated, with citation to authorities;
- (B) Proposed non-pattern or special instructions which can reasonably be anticipated, with citation to authorities;
- (C) A proposed instruction to be given prior to jury selection describing the nature of the case and that party's contentions. The contention instruction for Plaintiff(s) should merely state the allegations and the general claim for relief (no specific requests for money sums are allowed). The contention instruction for Defendant(s) should indicate which claims are admitted and which are denied, together with the general claim for relief. The contention instructions must not be argumentative; and
- (D) A proposed verdict form with any special interrogatories, with citation to authorities.

(iii) In addition, submit the index and proposed modified or non-pattern instructions to jd3lawclerkb@courts.state.wy.us in *Word* format. **PLEASE DO NOT submit these in paper form unless specifically requested by the Court.**

(iv) Any instructions which are requested during trial (with citation to authorities) must immediately be submitted to the Court electronically in *Word* or *WordPerfect* format by e-mail to jd3lawclerkb@courts.state.wy.us and to the opposing parties and filed with the Clerk of the District Court.

3. **Settlement** In the event that this case settles, counsel will promptly advise the Court by phone and promptly submit to the Court a motion and order identifying and vacating each date and setting on the Court docket such as matters pending for trial, hearing, pretrial conference, etc.

4. **Standard Procedures** The following standard procedures will expedite filing, requests for settings, etc. with this Court:

- (a) All pleadings, motions, supporting memoranda 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 or WordPerfect file 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