

**IN THE DISTRICT COURT OF TETON COUNTY, WYOMING
NINTH JUDICIAL DISTRICT**

*,)	
	Plaintiffs,)	
)	
	vs.)	Civil Action No. 18*
)	
*,)	
	Defendants.)	

SCHEDULING AND CASE MANAGEMENT ORDER

A telephone scheduling conference was held between counsel and the Court on **DATE**. *
appeared for Plaintiffs. * appeared for Defendants.

IT IS ORDERED:

1. CONTINUANCES. This Scheduling and Case Management Order sets the pretrial conference (**Date**) and other pretrial deadlines. In the absence of emergency or exceptional circumstances, the Court will not consider requests for continuances unless there is certification by the moving party that they conferred with the other parties/counsel in the case and represent their consent or objection, if any. If there is objection by any party to a proposed continuance, it shall be filed as soon as possible after the motion for continuance is filed and not later than five days after that filing.

2. MODIFICATION OF TIMES FOR DISCLOSURES UNDER WYO. R. CIV. P. 26(a)(1), (a)(1.1) and 26(e)(1). Self-executing discovery under Wyo. R. Civ. P. 26(a)(1) and 26(a)(1.1) have been completed subject to ongoing disclosure pursuant to Wyo. R. Civ. P. 26(e). Any modifications of times and procedures for disclosures under Wyo. R. Civ. P. 26(a)(1), 26(a)(1.1) and 26(e) shall be agreed to and submitted to the Court in writing within thirty (30) days.

3. DISCOVERY. The discovery cut-off date is **DATE**. No discovery will be permitted beyond the discovery cut-off date without leave of Court. However, the parties may depose expert witnesses up to 3 weeks prior to trial.
4. DISCOVERY DISPUTES & DISCOVERY MOTION DEADLINES. To promote the just, speedy, and inexpensive determination of discovery disputes, the Court may decide discovery motions without a hearing. Failure to include a good faith certification of efforts to resolve the discovery dispute without Court intervention, as required by U.R.D.C. 801, may result in automatic denial of the motion. Any response to a discovery dispute motion shall be filed within ten (10) days. Replies are not expected, but if necessary to address new issues raised by the response, a reply shall be filed within three (3) days.
5. DESIGNATION OF EXPERTS. Disclosure of experts shall be made according to the procedure of Wyo. R. Civ. P. 26(a)(2). Plaintiffs shall designate expert witnesses by **DATE** with respect to affirmative claims. The Defendants shall designate expert witnesses by **DATE**. Rebuttal expert testimony will not be permitted absent good cause shown. These deadlines also apply to those witnesses designated pursuant to Wyo. R. Civ. P. 26(a)(2)(B)(ii), who are expected to provide opinion testimony but no report or disclosure under Wyo. R. Civ. P. 26(a)(2)(B)(i) is required. The disclosure of such witnesses shall be accompanied by the summary required by Wyo. R. Civ. P. 26(a)(2)(B)(ii).
6. DISPOSITIVE MOTIONS. All dispositive motions, together with briefs and affidavits in support thereof, shall be filed on or before **DATE**. Dispositive motions will generally be heard at the pretrial conference unless counsel seek a separate hearing, stating good cause and suggesting the time required for the hearing. Notwithstanding W.R.C.P. 6(c), any reply briefs,

supplemental memoranda or rebuttal affidavits shall be filed later than **five days before the pretrial conference**. Late submissions may not be considered by the Court.

7. OTHER PRETRIAL MOTIONS: At least forty-five (45) days prior to the initial pretrial conference counsel shall file all reasonably anticipated motions, including motions in limine.

A. Motions in Limine. Because motions in limine ask the court to rule on evidence without the benefit of the larger factual picture that develops at trial, the court may reserve ruling until trial subject to a renewed motion at trial. If the court grants a motion in limine, the Court may reconsider the ruling upon a proper motion at trial, made outside the presence of the jury. Pretrial motions in limine, in order for the Court to consider them, shall meet the following requirements:

- i. The party seeking to exclude certain evidence shall identify that evidence with some specificity, i.e., certain documentary exhibits or certain testimony. Motions that seek to exclude broad but unspecific categories of evidence or evidence that has not been identified in discovery may not be considered by the Court.
- ii. The movant shall briefly but specifically state the ground on which the evidence is inadmissible, by citing a rule or evidence and/or applicable case law. Motions that are devoid of legal authority and citations may not be considered by the Court.

B. Deadlines for Responses and Replies. As with dispositive motions, notwithstanding W.R.C.P. 6(c), any reply briefs, supplemental memoranda or rebuttal affidavits shall be filed later than **five days before the pretrial conference**. Late submissions may not be considered by the Court.

C. Reply Briefs. If a reply brief is filed, counsel are directed to Wyo. R. App. P. 7.03, which the Court finds to be useful and appropriate for trial briefs. A reply brief shall be narrowly tailored and be limited to new issues and arguments raised in the response brief. Counsel should not use the reply brief to repeat arguments and analysis appearing

in their opening brief. Failure to comply with this requirement may result in the Court disregarding the reply brief.

- D. Motions Hearing. Pretrial motions will be addressed at the initial pretrial conference unless separately scheduled. However, the Court may rule on any motion without a hearing as permitted by W.R.C.P. 6. Therefore, the parties are reminded that they should take full advantage of the opportunity to fully brief the issues in their motions, responses, and replies. If, due to the number or complexity of motions that will be argued at the initial pretrial conference, counsel anticipate a separate motions hearing or a longer hearing is required, they shall move the Court as soon as possible and at least thirty (30) days before the initial pretrial conference, stating good cause and suggesting the time required for the hearing.
- E. Rule 801 Conferral. The good faith referral required by U.R.D.C. for all motions should not be pro forma. Counsel are encouraged to provide opposing counsel a meaningful and reasonable opportunity to respond, i.e., something more than an email sent the same afternoon a motion is filed is expected. When motions are unopposed, they can be addressed quickly for counsel and their clients and facilitate case management. Motions that are opposed will be addressed after a period allowed for a response and reply. A meaningful opportunity to confer can therefore save several weeks of time.
- F. Courtesy Copies. Courtesy copies of motions or supporting materials are not required, unless (1) ordered by the Court in certain out-of-county cases, or (2) for untimely filings that are filed the same day as a hearing.

8. PRETRIAL CONFERENCE. This matter is set for a pretrial conference in the District Courtroom of the Teton County Courthouse, Jackson, Wyoming on **DATE at TIME .m**. One (1) hour is set aside for the hearing. The parties shall attend the pretrial conference along with their attorneys. The provisions of Wyo. R. Civ. P. 16 are incorporated herein by reference.
9. During the COVID-19 pandemic the pretrial conference (and most other hearings) shall occur by videoconference. In-person hearings can be requested by written motion for the Court's consideration and would be subject to certain in-person protocols. The in-person and videoconference hearing protocols are available on the Wyoming Supreme Court's website on the Covid-19 resources page.
10. PRETRIAL MEMORANDA. All parties shall file their pretrial memoranda no later than **five (5) days prior to the pretrial conference**. The pretrial memoranda shall include:
 - A. Nature of the Case. The nature of the case shall be 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.
 - B. Amendments to Pleadings. The parties shall justify the necessity or desirability of amendments to the pleadings and shall submit copies of any proposed amendments. It should be noted that proposed amendments to pleadings at this late stage will be closely scrutinized by the Court and will not be permitted unless absolutely necessary. The parties should amend their pleadings much earlier in the course of the case.
 - C. Stipulations. The parties shall enter into written stipulations of fact, of issues, and documents which will avoid unnecessary proof and shall submit such stipulations along with the pretrial memoranda. Factual matters to be submitted through an offer of proof shall also be reduced to writing.

D. Findings. Requests for findings of fact or conclusions of law pursuant to W.R.C.P. 52(a) shall be filed along with the pretrial memoranda. Counsel are advised that when findings of fact or conclusions of law are requested, the Court generally prepares those and does not request them from counsel.

E. Other Matters. The parties shall:

- i. Advise the Court of all pending matters, such as: motions, discovery, stipulations, issues regarding the conduct of the trial, any other issues which could be addressed prior to the trial, and any matters that may aid in the disposition of the action.
- ii. Confirm that final reports of experts and their qualifications have been exchanged;
- iii. Confirm that all efforts of settlement have taken place;
- iv. Advise the Court of the proposed schedule and time limits for the presentation of evidence at the trial. In developing that schedule, counsel are encouraged to consider any reasonable efficiencies appropriate for their case (such as taking witnesses out of order, whether to call hostile witnesses, stipulations to expert qualifications, stipulations to foundation for exhibits, etc.); shall avoid of unnecessary proof of cumulative evidence; and limitations or restrictions on the use of testimony under W.R.E. 702;
- v. Advise the Court of the length of time counsel anticipate using to conduct the voir dire examination, opening statements, closing arguments and the trial in its entirety.

11. WITNESS LISTS. The parties shall file a list of the names, addresses and phone numbers of all of their witnesses, including expert witnesses, along with a summary of the testimony of each, and provide the same to opposing counsel on or before **DATE**. Witnesses shall be designated as “may call” or “will call.” A party designating any “will call” witness shall be responsible for the attendance of such witness at trial, and any opposing party and the Court can 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. Failure to list witnesses according to this paragraph may result in them being stricken.
12. EXHIBIT LISTS. On or before **DATE**, the parties shall file a list of any exhibits intended for use in the case. All exhibits shall be listed and marked on an index substantially similar to the Exhibit Form used by this Court (a copy of which may be obtained from the Court’s Judicial Assistant). Plaintiff’s exhibits shall be numbered in sequence and defendant’s exhibits shall be lettered in sequence.
13. Large exhibits are not to be lumped under one number or letter, such as voluminous medical or financial records. The pertinent portions of such voluminous records should instead be identified as separate exhibits. If the exhibits are to be introduced individually at the trial, they are to be listed individually on the exhibit form.
14. Prior to the pretrial conference, counsel shall mark exhibits for identification and furnish copies to opposing counsel or if not feasible, make the same available for inspection (copies of exhibits shall not be attached to the pretrial memorandum or filed in the court file). The failure to mark exhibits and furnish copies to opposing counsel before the pretrial conference may result in any such exhibits being inadmissible at the trial.

15. Unless written objection is filed and served not later than ten (10) days from the date of filing of said exhibit lists, all exhibits which have been noticed will be admissible if relevant.

16. JURY INSTRUCTIONS. Proposed jury instructions shall be filed at least **four (4) weeks prior to trial**, and in accordance with U.R.D.C. Rule 403 provided, however, that “clean copy” instructions without citation need not be submitted. The submission of proposed instructions shall be as follows:

- A. Each party shall file with the Clerk of Court a set of proposed instructions, Plaintiff’s numbered and Defendant’s lettered, as appropriate, with citation.
- B. If not a Wyoming pattern instruction, citations to authority for the proposition of law proffered shall be pinpoint and shall include an explanatory parenthetical stating the point of law supported by the case and stating the nature of the case. Failure to provide authority for non-pattern instructions may be considered cause for the Court to disallow the instruction.
- C. The parties shall include a cover sheet which contains an index of the instructions by letter or number and the pattern jury instruction number if applicable or other authority, as well as a brief title for each instruction.
- D. Each party may submit a proposed instruction setting forth a brief (not more than 3 or 4 sentences) instruction of the party’s contentions in a non-argumentative manner for the Court to consider reading to the entire jury panel before beginning the voir dire examination. The Court will consider the preliminary contention instructions when preparing the preliminary jury instructions and these shall be discussed with counsel at the preliminary instructions conference that occurs prior to trial.

E. Each party shall submit a proposed instruction setting forth the burdens of proof of each of the parties, and a proposed verdict form with any special interrogatories.

F. Each party shall also provide a courtesy copy of the instructions to the Court by email at mdearing@courts.state.wy.us in a Word format.

17. 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. This allows for the court reporter, who may be working in other courts or other matters, to schedule accordingly. The three-day notice requirement will not be waived by the Court. The notice is required for all civil matters including jury trials. U.R.D.C. Rule 904.

18. MEDIATION. The Court encourages counsel with their clients to evaluate the merits of their case at the earliest opportunity and seek settlement on terms such as are fair and just. Early and realistic evaluation of the parties' respective cases, and timely settlement and mediation efforts should serve to advance the purpose of Wyo. R. Civ. P. 1 to secure the just, speedy and inexpensive determination of every action.

19. SETTLEMENT. In the event that this case settles, the parties shall promptly notify the Court in writing. The parties are informed that there will be no change in the scheduling of this matter by the Court until such time as the settlement is reduced to writing and a stipulation executed by counsel to that effect. There will be no continuances or canceling of the trial date based on telephone calls.

20. TRIAL. A trial date will be set at the pretrial conference. The case must be ready for trial in all respects by the time of the pretrial conference.

DATED the ____ day of ***, 2021.

Timothy C. Day
District Judge