

SETTLEMENT POSSIBILITIES: GOOD ___ FAIR ___ POOR ___

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

[?])	
)	
Plaintiff,)	Case No. [?]
)	
vs.)	
)	
[?])	
)	
Defendant.)	

ORDER ON INITIAL PRETRIAL CONFERENCE

On [?], 2013, an initial pretrial conference was held in the above-entitled matter before the Honorable Nancy D. Freudenthal District Judge for the District of Wyoming. Counsel participating were:

PLAINTIFF:

DEFENDANT:

Jurisdiction and Venue —

The Court has jurisdiction over both the parties and the subject matter of this action, and venue is properly in the United States District Court for the District of Wyoming. Proper service of process has been accomplished on all parties, and no parties are erroneously joined in or omitted from the action.

Consent to Trial by Magistrate Judge —

The parties are all aware of the provisions of 28 U.S.C. § 636(c) and U.S.D.C.L.R. 73.1(b), and acknowledge that this case will proceed before the District Judge assigned hereto, and not before the Magistrate Judge located in Cheyenne, Wyoming. However, the parties are not precluded from consenting to trial before a Magistrate Judge anytime sixty (60) days prior to the trial date.

Claims and Defenses —

Plaintiff, brings a claim for .

Defendant, , generally denies plaintiff's allegations and affirmatively alleges: (1)

Complexity of the Case —

The Judge is of the opinion that this is a non-complex case.

Rule 26(f) Scheduling Conference —

The parties have / have not complied with the requirements of Rule 26(f) of the Federal Rules of Civil Procedure.

Self-Executing Routine Discovery —

The [?] have complied with self-executing routine discovery exchange as required by U.S.D.C.L.R. 26.1(c).

The [?] has failed to make self-executing routine discovery exchange as required by U.S.D.C.L.R. 26.1(c).

Pursuant to U.S.D.C.L.R. 37.1(d), the [?] may move to compel disclosure and for appropriate sanctions. The motion must include a certification that the [?] has in good faith conferred or attempted to confer with the [?] in an effort to secure the disclosure without court action.

The parties SHALL exchange with each other the names of individuals likely to have discoverable information and a list of exhibits, and SHALL comply with all other requirements of U.S.D.C.L.R. 16.1(a) and 26.1(c) on or before [?].

THE PARTIES HAVE A CONTINUING DUTY TO SUPPLEMENT OR CORRECT ALL DISCOVERY DISCLOSURES OR RESPONSES IN ACCORDANCE WITH FED. R. CIV. P. 26(a) AND U.S.D.C.L.R. 26.1(c).

Proposed Orders —

All proposed orders regarding non-dispositive civil motions should be submitted to Judge Rankin's chambers in a word processing format and emailed to wyojudgekhr@wyd.uscourts.gov.

All proposed orders regarding dispositive civil motions should be submitted to Judge Freudenthal's chambers in a word processing format and emailed to wyojudgendf@wyd.uscourts.gov.

Leave of Court —

The [?] is hereby granted leave of Court to file a [?] on or before [?] .

Status conference for Dispositive Motions - **, 2013**

The Court will hold a status conference on [?] to discuss the necessity of any dispositive motions and whether the need for any anticipated motions can be negated by agreement of stipulation of the parties.

Dispositive Motions— Hearing *, 2013**

Deadline *, 2013; Responses ***, 2013 *OR***

Dispositive Motions— Hearing *, 2013**

Defendant Filing Deadline — *, 2013**

Plaintiff Response Deadline — *, 2013**

The deadline for the [?] to file all dispositive motions together with briefs and affidavits in support thereof is [?] , 2013.

The [?] shall file responsive briefs and affidavits on or before [?] , 2013.

If the dispositive motions are filed earlier than the above scheduled date, the responding party must respond in accordance with U.S.D.C.L.R. 7.1.

Parties submitting deposition testimony in support of their motions shall also provide to the Court via email to wyojudgendf@wyd.uscourts.gov, the e-transcript version of the deposition provided to the parties by the Court Reporter.

The dispositive motions are hereby set for oral hearing before the Honorable Nancy D. Freudenthal on the [?] day of [?], 2013, at [?] [?].m. in Cheyenne, Wyoming. **The parties shall strictly comply with all provision of U.S.D.C.L.R. 7.1. Counsel for the parties shall submit to the Court, together with their briefs, proposed findings of fact and conclusions of law and orders supported by the record which reflects the position of the parties to be taken at the hearing. [U.S.D.C.L.R. 7.1(b)(2)(D)].** In the event all dispositive motions have been argued and briefed before the Court prior to the above deadlines, counsel shall so advise the Clerk of Court and the hearing date will be stricken.

The [?] shall simultaneously file cross-motions for summary judgment together with briefs and affidavits in support thereof on or before [?] .

The [?] shall simultaneously file responsive briefs and affidavits on or before [?] .

The motion [?] is hereby set for oral hearing before the Honorable Nancy D. Freudenthal on [?], 2013, at [?] a.m. in Cheyenne, Wyoming.

The parties believe that this entire matter can be resolved on cross-motions for summary judgment.

Expert Witness Designation —

Plaintiff Designation Deadline — *, 2013**

Defendant Designation Deadline — *, 2013**

In accordance with U.S.D.C.L.R. 26.1(g), Plaintiff shall designate expert witnesses and provide Defendant with a complete summary of the testimony of each expert by [?], 2013. **In a personal injury lawsuit, Plaintiff's designation SHALL include the designation of all treating medical and mental health providers who may or will be called to testify at trial in part or in full as an expert witness.** In accordance with U.S.D.C.L.R. 26.1(g), Defendant shall designate expert witnesses and provide the Plaintiff with a complete summary of the testimony of each expert by [?], 2013. These summaries **SHALL** include a comprehensive statement of the expert's opinions and the basis for the opinions. *See Smith v. Ford Motor Company*, 626 F.2d 784 (10th Cir. 1980). This expert designation does not satisfy the obligation to provide an expert report under Federal Rule of Civil Procedure 26(a)(2)(B). Plaintiff may depose Defendant's experts after the discovery cutoff date, but must complete the depositions fourteen (14) days **PRIOR** to the final pretrial conference.

In cases where treating medical or mental health providers, including vocational rehabilitation specialists, may or will be called to testify at trial in part or in full as an expert witness, the party calling that witness SHALL designate that medical or mental health provider as an expert witness.

The party designating the expert witness shall set forth all special conditions or requirements which the designating party or the expert witnesses will insist upon with respect to the taking of their depositions, including the amount of compensation the expert witness will require and the rate per

unit of time at which said compensation will be payable. In the event counsel is unable to obtain such information to include in the designation, the efforts to obtain the same and the inability to obtain such information shall be set forth in the designation. U.S.D.C.L.R. 26.1(g).

Independent Medical Examination —

Defendant may require Plaintiff to submit to physical and psychological examination by experts designated by Defendant any time up to five full weeks prior to the commencement of trial. Defendant shall designate said expert witnesses no later than one week after such examinations. Plaintiff may depose the examining expert witnesses any time during the last four weeks prior to trial. If Defendant **conducts** the examinations earlier than five weeks prior to trial, Defendant must designate the opinions of the experts no later than twenty (20) days following the examination. Plaintiff may depose said experts any time prior to the commencement of trial.

Discovery Cutoff Date — *, 2013**

The discovery cutoff date is [?], 2013. All written discovery requests shall be served upon and received by opposing counsel on or before the discovery cutoff date. All discovery depositions shall be completed by the discovery cutoff date. Trial depositions may be taken up to seven (7) days prior to the trial date.

Stipulations as to Facts — *, 2013**

The parties shall exchange proposals for stipulations as to facts in accordance with U.S.D.C.L.R. 16.1(b) by [?], 2013.

Final Pretrial Conference — *, 2013**

A final pretrial conference in this matter has been scheduled for [?] [?] .m. on [?], 2013, in the Chambers of the Honorable Nancy D. Freudenthal, Cheyenne, Wyoming. Counsel shall appear in person.

BEFORE THE CONFERENCE, COUNSEL FOR REPRESENTED PARTIES ALL MUST AGREE UPON, PREPARE, AND SIGN A JOINT PROPOSED FINAL PRETRIAL ORDER PREPARED FOR JUDGE FREUDENTHAL'S SIGNATURE IN THE FORMAT PROVIDED ON THE DISTRICT COURT WEBSITE UNDER CIVIL FORMS. THIS FORM WILL TAKE THE PLACE OF A FINAL PRETRIAL MEMORANDUM. **UNLESS OTHERWISE AGREED UPON BY COUNSEL, THE COURT EXPECTS PLAINTIFF'S COUNSEL TO TAKE THE LEAD IN DRAFTING THE JOINT FINAL PRETRIAL ORDER.** If you cannot locate the form, please contact Judge Freudenthal's chambers. All represented parties are jointly responsible for the preparation of the proposed Joint Final Pretrial Order. **A copy of the proposed order must be delivered directly to Judge Freudenthal's chambers (but not filed) via e-mail to wyojudgndf@wyd.uscourts.gov at least seven (7) days before the final pretrial conference.**

WITNESS AND EXHIBIT LISTS MUST BE EXCHANGED BY THE PARTIES (BUT NOT FILED) AT LEAST FOURTEEN (14) DAYS BEFORE THE FINAL PRETRIAL CONFERENCE. Exhibit lists must be attached to, and witness lists must be included as part of

the proposed Final Pretrial Order in accordance with the instructions in the attached form order. The parties are not required to list rebuttal witnesses or impeachment exhibits.

COPIES OF ALL EXHIBITS AS TO WHICH THERE MAY BE OBJECTIONS MUST BE BROUGHT TO THE FINAL PRETRIAL CONFERENCE. If an exhibit is not brought to the final pretrial conference and an objection to the exhibit is asserted, the exhibit may be excluded from evidence for noncompliance with this order. Exhibits must be prepared for the final pretrial conference and for trial in accordance with the following instructions:

A. Marking of Exhibits: All exhibits must be marked by the parties before trial. The plaintiff(s) shall list and mark each exhibit with numerals and the number of the case, and counsel for the defendant(s) shall mark each exhibit intended to be offered at the pretrial conference with letters and the number of the case, e.g., Civil No. _____, Plaintiff's Exhibit 1; Civil No. _____, Defendant's Exhibit A. In the event there are multiple parties, plaintiff or defendant, the surname or abbreviated names of the parties shall precede the word "Exhibit," e.g., Defendant Jones Exhibit A, Defendant Smith Exhibit A, etc.

B. Elimination of Duplicate. The parties should compare the exhibits and eliminate duplicates. If more than one party wants to offer the same exhibit, then it should be marked with a number and listed as a joint exhibit on the exhibit list of the plaintiff(s).

C. Copies for the Court. Before trial, each party must supply to the Court with (1) copy of all exhibits to be used at trial. The originals of the exhibits shall be provided to the

Deputy Clerk as they are introduced and admitted at trial. The copy of exhibits should be placed in a ringed binder with a copy of the exhibit list at the front and with each exhibit tabbed. The originals of exhibits shall be provided to the Deputy Clerk as they are introduced and admitted at trial.

EXHIBIT LIST: The parties' exhibit lists are to be prepared in the following format.

Plaintiff(s) Exhibits	Objections (Cite Fed. R. Evid.)	Category A, B, C	Offered	Admit/Not Admitted (A) - (NA)*

* This column is for use by the trial judge at trial. Nothing should be entered in this column by the parties.

The following categories are to be used for objections to exhibits:

- A. **Category A.** These exhibits are admissible upon motion of any party, and will be available for use by any party at any stage of the proceedings without further proof or objection.
- B. **Category B.** These exhibits are objected to on grounds other than foundation, identification, or authenticity. This category should be used for objections such as hearsay or relevance.

- C. **Category C.** These exhibits are objected to on grounds of foundation, identification, or authenticity. This category should not be used for other grounds, such as hearsay or relevance.

ANY COUNSEL REQUIRING AUTHENTICATION OF AN EXHIBIT MUST SO NOTIFY THE OFFERING COUNSEL IN WRITING WITHIN FIVE (5) BUSINESS DAYS AFTER THE EXHIBIT IS MADE AVAILABLE TO OPPOSING COUNSEL FOR EXAMINATION. Failure to do so is an admission of authenticity.

ANY EXHIBIT NOT LISTED ON EXHIBIT LIST IS SUBJECT TO EXCLUSION AT TRIAL. THE COURT MAY DEEM ANY OBJECTION NOT STATED ON THE EXHIBIT LIST AS WAIVED.

The parties shall identify all witnesses they will call or may call and shall further identify whether each witness will testify in person, by deposition or by video tape.

MOTIONS IN LIMINE OR MOTIONS RELATING TO THE EXCLUSION OF EVIDENCE SHALL BE FILED NO LATER THAN TEN (10) DAYS PRIOR TO THE **FINAL PRETRIAL CONFERENCE**. Responses shall be filed five (5) court days before the final pretrial conference.

The Court will not hold bench or chamber conferences during trial to consider legal issues including evidentiary rulings that could have been raised before trial without a showing that counsel could not, by the exercise of due diligence, have anticipated them in advance of trial.

Jury Trial — *, 2013**

A jury trial is set before the Honorable Nancy D. Freudenthal for [?] [?].m. on [?], 2013, in Cheyenne, Wyoming, and is expected to last [?] days. This case is stacked [?] on the docket. U.S.D.C.L.R. 40.1(a).

The parties SHALL file their proposed voir dire questions, jury instructions and special verdict form no later than seven (7) days prior to the commencement of trial. U.S.D.C.L.R. 51.1. Jury instructions must include citations of authority. **The proposed voir dire questions, jury instructions, and special verdict forms shall be submitted directly to Judge Freudenthal's chambers via e-mail to wyojudgndf@wyd.uscourts.gov. The instructions must be formatted as a single document for wordperfect or word.** Counsel need submit only proposed substantive jury instructions; the Court has its own **general instructions**, which can be found on the district court website under forms.

THE PARTIES MUST SUBMIT JOINT JURY INSTRUCTIONS AND A JOINT PROPOSED VERDICT FORM. UNLESS OTHERWISE AGREED UPON BY COUNSEL, THE COURT EXPECTS PLAINTIFF'S COUNSEL TO TAKE THE LEAD IN DRAFTING THE JOINT JURY INSTRUCTIONS. In order to produce these joint instructions, the parties shall meet and confer sufficiently in advance of the required submission date. The instructions should be submitted in the order in which the parties wish to have the instructions read.

If the parties cannot reach an agreement on the instructions then instructions shall be submitted in three (3) sets as follows:

1. The agreed upon instructions.
2. Those instructions propounded by Plaintiff, opposed by Defendant.
3. Those instructions propounded by Defendant, opposed by Plaintiff.

For disputed instructions, the party should note its objections to the proposed instruction.

The parties should also submit differing versions of disputed instructions or a statement as to why the instruction should not be included.

At the same time as the filing of the jury instructions, the parties shall file a joint statement setting forth briefly and simply, in a noncontentious manner, the background of the case and the claims and defenses being asserted. The parties should make every effort to agree upon the language for the statement. To the extent the parties cannot agree, they should use the following format: “Plaintiff contends; Defendant contends”

Settlement Possibilities —

The settlement possibilities of this case are considered by the Judge to be [?].

Dated this ____ day of [?], 2013.

NANCY D. FREUDENTHAL
CHIEF DISTRICT COURT JUDGE