

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

Plaintiff)
) No. _____
v.)
) JUDGE DUMITRU
Defendant)

SCHEDULING ORDER

1. **Introduction:** Pursuant to Fed. R. Civ. P. 16(b) a scheduling conference was held in this cause on _____. Present representing the Plaintiff was attorney _____. Present representing the Defendant was attorney _____. The following action was taken.

2. **Jurisdiction:** In this case, the subject matter jurisdiction of the Court has been invoked pursuant to 28 U.S.C. § 1331 and [is/is not] in dispute.

3. **Consent to Magistrate Judge:** The parties **have** consented that all proceedings in this case may be conducted by United States Magistrate Judge Michael J. Dumitru in accordance with 28 U.S.C. § 636(c).

4. **Settlement / Alternative Dispute Resolution:**

(a) The possibility of settlement is _____ at this time.

(b) The parties will discuss the possibility of utilizing the Federal Court Mediation Program. They will notify the Court on or before **15 weeks prior to trial** as to whether they think the Federal Court Mediation Program can aid in resolving this case. Information regarding the program, including a list of approved mediators, is available on the Court's website or can be requested in writing from the Clerk's Office.

5. **Disclosure and Discovery:**

(a) **Fed. R. Civ. P. 26(f) Meeting:** The parties held a Rule 26(f) conference on _____ [no later than **21 days before scheduling conference**] and filed their Rule 26(f) report on _____ [no later than **14 days after the Rule 26(f) conference**].

(b) **E-Discovery:** At the Rule 26(f) meeting [or within ten days], counsel for the parties **shall** confer regarding electronically stored information ("ESI") or documents pursuant to Rule 26(f)(3)(C). Furthermore, it is expected the parties will comply with all applicable rules of civil procedure relating to electronic discovery, including Rules 26(a)(1)(A)(ii), 33(d), 34(a) and (b), and 45. The parties are directed to confer and cooperatively address all issues relating to ESI, including claims of attorney-client privilege or work-product protection, and any other issues addressed in the Presiding Judge's

“Judicial Preferences” on the Court’s website, which are incorporated herein.

(c) **Initial Disclosures**: The parties have made all disclosures required by Rule 26(a)(1). [If the parties have not made such disclosures, they shall do so no later than 10 days after this order].

(d) **Expert Testimony**: Disclosure of any expert testimony in accordance with Fed. R. Civ. P. 26(a)(2) shall be made by Plaintiff(s) no later than **21 weeks before trial** and by Defendant(s) no later than **17 weeks before trial**. Plaintiff(s) shall disclose rebuttal expert testimony, if any, no later than **30 days after Defendant’s expert disclosure**. Such disclosures shall include any required written report pursuant to Fed. R. Civ. P. 26(a)(2)(B), and/or any required statement for experts not specially retained pursuant to Fed. R. Civ. P. 26(a)(2)(c).

If at any time it appears that a *Daubert* hearing may be necessary to determine the admissibility of expert testimony, the parties shall notify the Court at their earliest convenience. Any *Daubert* motions must be filed before the discovery deadline set forth herein.

(e) **Final Witness List**: No later than **15 weeks before trial**, the parties shall provide to all other parties, and file with the Court, a final witness list in accordance with Fed. R. Civ. P. 26(a)(3)(A)(i).

(f) **All Discovery**: All discovery, including the taking of depositions “for evidence,” and any discovery-related motion practice, shall be completed no later than **13 weeks before trial**. After this date, the parties may jointly elect to conduct discovery by agreement, but the Court will not address any discovery disputes that may arise. The Court expects the parties read and familiarize themselves with the Presiding Judge’s “Judicial Preferences” on the Court’s website, which are incorporated herein.

(g) **Pretrial Disclosures**: No later than **9 weeks before trial**, the parties shall make the pretrial disclosures specified in Fed. R. Civ. P. 26(a)(3)(A)(ii) and (iii). Such disclosures shall be filed with the Court in addition to being served on all other parties. All deposition testimony to be offered into evidence must be specifically designated and disclosed to all other parties on or before this date. Each party will have ten (10) days after service to object to deposition designations or exhibits, and to serve deposition counter-designations. The parties shall include any evidentiary objections to the exhibits or designated deposition testimony, plus any objections under Fed. R. Civ. P. 32(a) for deposition designations. Objections to deposition counter-designations are likewise due within ten (10) days after service of the counter-designations.

Also within ten days of the disclosures, the parties shall jointly submit to the Court, but not file in the record: (1) an electronic copy of the complete deposition transcript for each witness whose testimony is designated in accordance with Fed. R. Civ. P. 26(a)(3)(A)(ii), with designations and counter-designations highlighted in different legible text colors (*e.g.*, yellow for plaintiff’s designations, blue for defendant’s designations, etc.); and (2) an electronic copy of each exhibit listed in accordance with Fed. R. Civ. P. 26(a)(2)(A)(iii), with exhibits numbered and labeled in the same manner as they will be offered at trial (*i.e.*, continuous number across all parties), accompanied by a master list of all such exhibits.

(h) **Courtroom Technology:** At least five (5) days before the final pretrial conference, the parties shall disclose to one another and the Court the technology they intend to use in the courtroom during the trial and how they intend to use it (e.g., display equipment, data storage, retrieval, or presentation devices). This disclosure shall list: (i) equipment they intend to bring into the courtroom to use; and (ii) equipment supplied by the Court which the parties intend to use. The parties shall also disclose to one another the content of their electronic or digital materials and shall confirm the compatibility/viability of their planned use of technology with the Court's equipment. General information on equipment supplied by the Court is available on the Eastern District of Tennessee website (www.tned.uscourts.gov). Specific questions about Court-supplied equipment should be directed to the presiding judge's courtroom deputy (directory available on website).

6. **Other Scheduling Matters:**

(a) **Joinder of Parties and Amendments to the Pleadings:** If any party wishes to join one or more additional parties or amend its pleadings, such joinder or motion for leave to amend shall be filed by **17 weeks before trial**.

(b) **Dispositive Motions:** All dispositive motions under Fed. R. Civ. P. 12 and all motions for summary judgment pursuant to Fed. R. Civ. P. 56 shall be filed as soon as possible, but no later than **11 weeks before trial**. The failure to timely file such motions will be grounds to summarily deny them.

(c) **Motions in Limine:** Any motions in limine must be filed no later than **4 weeks before trial**. Each party is limited a single motion that lists all in limine issues and a single supporting brief that is no longer than 25 pages. The response shall also be a single brief no longer than 25 pages. Any reply shall be a single brief no longer than 10 pages.

(d) **Special Requests to Instruct for Jury Trial:** The parties are required to meet and confer and file in the record one set of jointly proposed jury instructions, verdict form(s), and jury interrogator(ies). The jointly proposed jury instructions shall: (1) address *each cause of action and each affirmative defense to be litigated at trial*; (2) include instructions setting forth *each element to be proved, who must prove it, and by what standard of proof it must be proved*; and (3) address *each type of relief and damages sought, and a proposed verdict form along with any jointly proposed jury interrogatories*. In the event the Court orders that the case be tried in phases, separate instructions, verdict form(s), and jury interrogator(ies) are due for each phase of trial. The jointly proposed jury instructions, verdict form(s), and jury interrogator(ies) must be supported by citation to relevant authority, consistent with Local Rule 7.4.

The parties must attempt in good faith to resolve any disagreements they have regarding the jury instructions, verdict form(s) and jury interrogator(ies). In the event agreement cannot be reached on a particular instruction or aspect of a jury interrogatory/verdict form (including disagreement regarding whether the item should be included at all), the parties must each submit their proposed version, which must be accompanied by a brief explanation, supported by relevant authority, regarding why they contend the Court should adopt their proposal and the Court should not adopt the competing proposal(s). If only one version of an instruction/verdict form/jury interrogatory is submitted, the Court will assume it is

agreed upon by all the parties unless the foregoing instructions are followed.

The jointly proposed jury instructions, verdict form(s), and jury interrogator(ies), and any separately submitted proposals for disputed items, shall be filed in the record no later than **3 weeks before trial**. Each party shall also email copies of these documents in Microsoft Word format to the Court at dumitru_chambers@tned.uscourts.gov. There is reserved to counsel for the respective parties the right to submit supplemental requests for instructions during the course of the trial or at the conclusion of trial upon matters that cannot be reasonably anticipated.

Or

(d) **Proposed Findings of Fact and Conclusion of Law for Nonjury Trial**: The parties shall submit to the Court proposed findings of fact and conclusions of law, which shall be supported by citations of authority in accordance with Local Rule 52.1, no later than **4 weeks before trial**. Proposed findings of fact shall contain a jurisdictional statement, identity of the parties, and set out the facts in chronological order the particular party intends to prove at trial. Conclusions of law shall include: (i) the elements of each cause of action and each affirmative defense; (ii) who bears the burden of proof; (iii) the standard by which each cause of action or affirmative defense must be proven; and (iv) the appropriate type of remedy or remedies for each cause of action. Conclusions of law must be supported with appropriate authority pursuant to Local Rule 7.4 and should not be argumentative. Each party shall send a copy of the prepared proposed findings of fact and conclusion of law as an electronic mail attachment in Word Perfect or Word Perfect-compatible format to dumitru_chambers@tned.uscourts.gov.

7. **Final Pretrial Conference**: A final pretrial conference will be held in this case on _____ [no later than **2 weeks before trial**], at ___ a.m./p.m. The parties shall prepare and submit a final pretrial order to the Court on or before the date of the final pretrial conference.

8. **Trial**: The trial of this case will be held before the undersigned United States Magistrate Judge **With/Without Jury** beginning on _____. The trial is expected to last ___ days. Counsel shall be present at **9:00 a.m.** to take up any preliminary matters which may require the Court's attention. The parties shall be prepared to commence trial at **9:30 a.m.** on the date which has been assigned. **SHOULD THE SCHEDULED TRIAL DATE CHANGE FOR ANY REASON, THE OTHER DATES CONTAINED IN THIS ORDER SHALL REMAIN AS SCHEDULED. SHOULD THE PARTIES DESIRE A CHANGE IN ANY OF THE OTHER DATES, THEY SHOULD NOTIFY THE COURT AND SEEK AN ORDER CHANGING THOSE DATES.**

SO ORDERED.

ENTER.

MIKE DUMITRU
UNITED STATES MAGISTRATE JUDGE