

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JERRY RAY CORLISS	:	
	:	
Plaintiff	:	CIVIL ACTION
	:	
vs.	:	
	:	NO. 08-cv-5624
DALE STOKES, et al.	:	
	:	
Defendants	:	

JURY TRIAL SCHEDULING ORDER

AND NOW, this 12th day of February, 2009, following a preliminary pretrial conference, it is ORDERED as follows:

Discovery Disputes

1. Counsel for all parties are strongly encouraged to resolve discovery disputes by themselves. In the event that a discovery dispute requires Court intervention, the party contemplating a motion shall seek a telephone conference with the Court before filing any motion.
2. If necessary, the party seeking relief may file a motion to compel. *This motion must not exceed five pages, must not contain exhibits, and must not include a brief or memorandum of law.* Once a motion to compel is filed, the Court will schedule a telephone or in-person conference to resolve the dispute. The producing party may file a response within five days, subject to the same limitations as the motion to compel. If the parties resolve the dispute, the conference will be cancelled. If the Court is required to intervene, sanctions may be imposed in favor of the prevailing party. The Court permits telephone conferences to resolve disputes during depositions in cases where the deposition would otherwise have to be adjourned.

Initial Discovery

3. Confidentiality Agreements. The Court will only approve confidentiality or sealing orders for good cause shown.

4. The parties shall complete their Federal Rule of Civil Procedure 26(a)(1) initial disclosures by **February 26, 2009**, if they have not already done so.

5. The deadline for the joinder of additional parties and amendment of pleadings is **March 12, 2009**.

Witness Discovery

6. Expert Testimony. On or before **July 2, 2009**, plaintiff(s) shall identify and submit curriculum vitae for all expert witnesses on liability and damages who have not been identified. On or before **July 2, 2009**, plaintiff(s) shall serve defendant(s) with all information required by Federal Rule of Civil Procedure 26(a)(2) for all expert witnesses on liability or damages.

7. Plaintiff(s) shall make his/her expert(s) available for deposition by **July 31, 2009**.

8. Requests for physical or mental examinations of the parties, if any, shall be made by **July 17, 2009**.

9. On or before **July 2, 2009**, defendant(s) shall identify and submit curriculum vitae for all expert witnesses on liability and damages who have not been identified. On or before **July 2, 2009** defendant(s) shall serve plaintiff(s) with all information required by Federal Rule of Civil Procedure 26(a)(2) for all expert witnesses on liability or damages.

10. Defendant(s) shall make its expert(s) available for deposition by **July 31, 2009**.

11. Lay Witness Testimony. Any party expecting to offer opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701 with respect to issues of liability and damages shall, at the time required for submission of information and/or reports from expert witnesses on liability and damages, serve opposing parties with concise details and/or documents covering the lay opinions of the Rule 701 witnesses, including the identity of each witness offering the opinion, the substance and the basis for each opinion.

12. Discovery Deadline. All fact discovery shall be completed by **June 1, 2009**. The parties shall make all motions to compel no more than **two weeks** after this deadline.

13. Settlement. Settlement is encouraged. The matter will be referred to Magistrate Judge Arnold C. Rapoport to schedule and conduct a settlement conference. Judge Golden will also make himself available if the parties believe that it may facilitate settlement.

Dispositive Motions

14. The parties shall file all dispositive motions, including *Daubert* motions, by **August 28, 2009**. Responses to any such motions shall be filed within **two weeks** of service of the motion. Motions and responses shall be filed in the form prescribed in Section III.B.5. of Judge Golden's Policies and Procedures, specifically:

a. The moving party shall file, in support of any motion for summary judgment, a "Statement of Undisputed Facts" that sets forth, in numbered paragraphs, all material facts that the moving party contends are undisputed, with record references.

b. The responding party shall file, in opposition to any motion for summary judgment, a separate "Statement of Disputed or Undisputed Facts" responding to the numbered paragraphs set forth in the moving party's statement either admitting that the paragraph is not

disputed or setting forth those facts contended to be in dispute, with record references. The responding party may also set forth, in numbered paragraphs, additional facts contended to preclude summary judgment, with record references.

c. All material facts set forth in the moving party's Statement of Undisputed Facts shall be admitted unless controverted by the opposing party.

d. All references shall be specific, with citation to the source relied upon, including the title, page, and line of the document supporting the statement.

e. Failure of the moving party to comply with this procedure will result in denial of the motion. Failure of the responding party to comply will result in the Court's consideration of the motion as uncontested.

Trial & Pretrial Submissions

15. Jury selection will commence on **Thursday, November 5, 2009, at 9:30 A.M. at the U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106**. The trial will begin on **Monday, November 9, 2009, at 9:30 A.M. at Reading Station, The Madison Building, 400 Washington Street, Room 401, Reading, Pennsylvania 19601**.

16. Pretrial Memoranda. No later than **September 25, 2009**, all parties shall prepare and file with the Clerk of Court, with two copies to the Court, their pretrial memoranda in accordance with this Order and Local Rule of Civil Procedure 16.1(c). In addition to compliance with Local Rule 16.1(c), the parties shall include in or attach to their pretrial memoranda the following:

- a. The identity of each expert witness to be called at trial by the party;
- b. A curriculum vitae for each expert witness;

- c. The identity of each fact witness to be called at trial with a concise statement of the nature of the expected testimony (witnesses not listed may not be called by that party in its case-in-chief);
- d. Designation of deposition testimony to be offered at trial;
- e. An itemized statement of damages or other relief sought;
- f. A statement of any anticipated important legal issues on which the Court will be required to rule, together with counsel's single best authority on each such issue;
- g. A statement of objections to: (1) the admissibility of any exhibit based on authenticity; (2) the admissibility of any evidence expected to be offered for any reason (except relevancy); (3) the adequacy of the qualifications of an expert witness expected to testify; and (4) the admissibility of any opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701. Such objection shall describe *with particularity* the ground and the authority for the objection. The Court can be expected to overrule any objection offered at trial in respect to any matter covered by this paragraph if the Court concludes that the objection should have been made as required by this Order; and
- h. All stipulations of counsel.

17. Motions in Limine. All motions *in Limine* shall be filed with the Clerk of the Court and two copies shall be delivered to the Court no later than **October 16, 2009**. Responses, if any, shall be filed five days after service of the motions *in Limine*.

18. Uncontested Facts. The parties shall meet to prepare a complete stipulation of uncontested facts pursuant to Local Rule of Civil Procedure 16.1(d)(2)(b)(2), regardless of

whether the parties have already submitted uncontested facts pursuant to the procedures for filing dispositive motions or stipulated to facts in their pretrial memoranda. The Court requires a final filing of uncontested facts because it presumes that the parties will continue to negotiate and supplement stipulations after pretrial memoranda are completed. Two copies of such stipulations shall be submitted to the Court no later than **October 23, 2009**. The original shall be filed with the Clerk of the Court.

19. Jury Instructions. No later than **October 23, 2009**, the parties shall file in writing with the Clerk of the Court joint proposed jury instructions on substantive issues and proposed verdict forms, or special interrogatories to the jury. Each party shall also file proposed jury instructions, verdict forms, or special interrogatories on those issues not agreed upon by the parties in their joint submission. If a model jury instruction is submitted, for instance, from *Federal Jury Practice and Instructions* (5th edition) or *Pennsylvania Suggested Standard Civil Jury Instructions* (2nd edition), counsel shall state whether the proposed jury instruction is modified. If counsel modifies the jury instruction, additions shall be underlined and deletions shall be placed in brackets. Jury instructions shall be submitted each on a separate sheet of paper, double-spaced, with accurate quotes from and citations to cases and pattern jury instructions where appropriate. The parties shall also provide the Court the proposed jury instructions on a computer diskette in WordPerfect for Windows format, version 9.0 or above.

20. Equipment to Be Used at Trial. The parties will file a pretrial stipulation no later than **October 23, 2009** that will advise the Court of the following:

a. The equipment to be used by each party during trial, if any, including equipment already installed in the courtroom and equipment to be brought to the courtroom, and any

arrangements for shared use of equipment.

b. The presentation software to be used by each party during trial, if any, and whether each party is able to receive and use digital files of presentation materials prepared by the other.

c. Any expected use of videoconferencing.

d. The testing, inspection, compatibility, reliability, positioning, and backup for any equipment to be brought to the courtroom for trial. Each party will have adequate opportunity to inspect any equipment, except a computer containing privileged and work product materials, brought into the courtroom by the other party for use in making presentations during trial.

Counsel will be expected to represent to the Court at the outset of trial that these matters have been dealt with satisfactorily. The Court expects no delays resulting from equipment failures that could have been anticipated.

21. Final Pretrial Conference. A final pretrial conference will be held on **October 28, 2009 at 9:30 A.M. at Reading Station.** Counsel shall be prepared to discuss any pending motions *in Limine*, and objections to witnesses and exhibits. It is expected that counsel will have discussed or attempted to resolve all objections to exhibits and testimony prior to the final pretrial conference, leaving for the Court only those objections that the parties could not resolve. At the final pretrial conference, the parties shall provide the Court with one copy of each exhibit and three copies of a schedule of exhibits that shall briefly describe each exhibit.

22. Proposed Findings and Conclusions. For bench trials or where otherwise appropriate, at least **three days** before trial, each party shall submit to the Court two copies of proposed findings of fact and conclusions of law and a trial memorandum on the legal issues

involved in the case. The originals shall be filed with the Clerk of the Court.

23. Admissible Evidence. Only those exhibits, discovery items, and expert witnesses identified in the manner set forth in this Order shall be considered by the Court for admission into evidence at trial, unless stipulated to by all affected parties and approved by the Court, or by Order of the Court so as to avoid manifest injustice.

24. Exhibits at Trial. At the outset of trial, all trial counsel must submit two sets of pre-marked and tabbed three ring binders containing all exhibits in the case. For physical (“real”) evidence, insert a tabbed page listing an exhibit number and enclose a short description of the exhibit. If the documentation in the trial is so voluminous that the use of binders is impracticable, counsel should notify to the Court to make alternative arrangements.

25. Professionalism. The Court expects punctuality and courtesy from counsel to the Court and each other, both in the presence of the Court and otherwise. Counsel should rise to address the Court and seek permission before approaching witnesses or the bench. Counsel shall not direct comments to each other during proceedings. To the extent possible, the parties shall notify the Court of any issues that will need to be ruled upon at the start of the day’s proceedings, or during a recess out of the jury’s presence. Sidebar conferences are permitted when necessary.

BY THE COURT:

/s/ Thomas M. Golden

THOMAS M. GOLDEN, J.