



CAUSE NUMBER

IN THE DISTRICT COURT
193RD JUDICIAL DISTRICT
DALLAS COUNTY TEXAS

193RD DISTRICT COURT STANDING SCHEDULING ORDER

In accordance with Rules 166, 190 and 192, of the Texas Rules of Civil Procedure (TRCP), the Court issues the following Order to control the scheduling trials in this Court.

TRIAL SETTING, AMENDMENT OF DATES & DISMISSAL FOR WANT OF PROSECUTION

Cases shall be ready and set for trial on each Tuesday at 9:30 am in accordance with the first notice setting the "Initial Trial Setting." Any reset or continuance of the Initial Trial Setting will not alter any deadline in this Order or established by the Texas Rules of Civil Procedure unless otherwise provided by Order, or by the agreement of the parties, in accordance with TRCP 11. When no announcement is made for Plaintiff(s) or the Plaintiff(s) fail to appear, the Court may dismiss this case for want of prosecution, pursuant to: (i) Rule 165a TRCP; (ii) the Dallas County Local Civil Rules; and/or (iii) the Court's inherent power to dismiss cases not diligently prosecuted, with a hearing on dismissal for want of prosecution to be held at the time of trial.

DEADLINES & TIMELINES

The following pre-trial matters will be completed by the following dates (in the event that one of these dates falls on a weekend or holiday, the date will be the first preceding date, which is not a weekend or a holiday):

- I. **Deadline for filing Amended Pleadings Asserting New Claims or Defenses.** - 120 days before the Initial Trial Setting. (Amended

pleadings responsive to timely filed pleadings under this scheduling order may be filed after the deadline for amended pleadings, if filed within two (2) weeks after the pleading to which they respond.)

- II. Deadline to Designate Responsible Third Parties. - 120 days** before the Initial Trial Setting. Defendants shall file any motions for leave to designate responsible third parties, under Civ. Prac. & Rem. Code §33.004 by this date.
- III. Deadline to Join Additional Parties. - 120 days** before the Initial Trial Setting. No additional parties may be joined after this date, except on motion for leave showing good cause. This paragraph does not otherwise alter the requirements of Rule 38. This paragraph does not limit a claimant's ability to join a person designated as a responsible third parties, as provided for under Civ. Prac. & Rem. Code §33.004(e). The party joining an additional party shall serve a copy of this Order on the new party concurrently with the pleading joining that party.
- IV. Deadline for any Party seeking affirmative relief to designate experts as per Tex. R. Civ. P. 194.2(f) - 120 days** before the Initial Trial Setting.
- V. Deadline for any Party opposing affirmative relief to designate experts as per Tex. R. Civ. P. 194.2(f) - 90 days** before the Initial Trial Setting.
- VI. Deadline for Designation of Rebuttal Experts as per Tex. R. Civ. P. 194.2(f) - 85 days** before the Initial Trial Setting. The Parties shall designate rebuttal experts from whom they intend to elicit expert opinion testimony regarding matters not reasonably anticipated prior to that Party's original expert designation deadline.
- VII. Deadline to Hear Dispositive Motions: - 45 days** before the Initial Trial Setting. All dispositive motions shall be heard no later than this date.
- VIII. Deadline to Hear Summary Motions. - 45 days** before the Initial Trial Setting. All dispositive motions, as provided for by Rule 166, shall be heard by this date. No such Motion shall be heard before the close of the discovery period.
- IX. Discovery Closes. - 30 days** before the Initial Trial Setting. All

depositions shall be completed by this date and all written discovery request shall be served so that responses are due no later than this date. Rule 193.5 governs amended or supplemental responses; however, it is presumed that an amended or supplemental response made after this date was not made reasonably promptly.

- X. Deadline to File Motion to Compel. - 45 days** before the Initial Trial Setting. Any motion to compel responses to discovery (other than relating to factual matters arising after the end of fact discovery) must be filed no later than this date, except for motions for sanctions as provided for by Rule 193.6.
- XI. Deadline to File *Daubert/Robinson* Motions Challenging Opinion Testimony. - 30 days** after said expert is deposed, or if the expert is not deposed, motion shall be heard no later than **45 days before the initial trial setting.**

The parties may alter these deadlines by agreement, pursuant to TRCP 11.

Except by agreement of the parties, leave of Court, or where expressly authorized by the TRCP, no party may obtain discovery of information subject to TRCP I 94 Disclosures by other forms of discovery (*e.g.* a request for production for testifying expert reports, witness statements, *etc.*). Repeated attempts of this type may be treated as an abuse of the discovery process and subject to Court sanctions.

MEDIATION

The parties shall mediate this case no later than thirty (30) days before the Initial Trial Setting, in accordance with this Court's Standing Mediation Order or any amendment thereto by the Court or the parties. If a Mediation Order is not issued in the case by the Court, the Parties are **ORDERED** to obtain a copy of the Order from the Court Coordinator.

PRE-TRIAL MATTERS, EXHIBITS, JURY CHARGE, ETC.

1. **Fourteen (14) days before the Initial Trial Setting,** the parties shall exchange: (i) designations of deposition testimony (by page and line) to be offered in direct examination; (ii) a witness list; (iii) a jury questionnaire, if any; (iv) any Motions in Limine (please note the Court has a Standing

Motion in Limine); (v) a proposed jury charge; and (vi) a list of exhibits, including any demonstrative aids and affidavits. The Parties shall exchange copies of any exhibits not previously produced in discovery; over-designation of witness and/or exhibits is strongly discouraged and may be sanctioned. Except for records to be offered by way of business record affidavits, each exhibit must be identified separately and not by category or group designation. Please do not file these documents with the Court, just exchange them among the Parties.

2. **Two (2) days before the Pretrial Conference** If the parties require an extensive pretrial conference, the parties must submit an order to the Court requesting a pretrial conference. The Court will set the hearing based upon her availability *and* the Court's Joint Pretrial Order (for cases lasting longer than 3 days) must be submitted 2 days prior to the Pretrial or the Pretrial WILL be canceled.
3. **Ten (10) days before the Initial Trial Setting**, the parties shall exchange, in writing, objections to the opposing party's proposed exhibits, including objections under rule I 93.7 TRCP, as well as objections to any deposition testimony. The attorneys in charge for each party shall confer on stipulations regarding the materials to be submitted to the Court under this paragraph and each shall attempt to maximize agreement with each opposing attorney on such matters. Please do not file these documents with the Court, just exchange them among the Parties.
4. **On the Trial Date**, the parties shall bring to Court the documents required to have been exchanged in the preceding three paragraphs, along with a proposed Jury Charge for jury trials (**please send via email to the Court Reporter** and any Motions in Limine (please note that the Court has its own Standing Motion in Limine). Counsel should be prepared to discuss with the Court an estimate of the length of trial and witnesses to be called (number, identity and anticipated length of testimony).

FOR ALL CASES {no matter the Discovery Level}: — Unless otherwise notified by the Court Coordinator, all Counsel must appear on the morning of the Trial Date, with witnesses on one-hour standby. The Court will not entertain continuances on the day of trial on the ground that a Party did not expect that it would not be reached, absent exigent circumstances.

PROCEDURES GOVERNING DAUBERT/ROBINSON HEARINGS

A challenge to an expert's opinion must be in writing and specify every ground for such challenge. A failure to specify a ground for a challenge may constitute a waiver of that ground. The challenge, along with all supporting affidavits, deposition excerpts and any other evidence in support thereof, must be filed and served pursuant to the deadlines set forth in this Order. Direct testimony and all other evidence in support of the challenged expert must be reduced to affidavits and/or deposition excerpts of each and all witnesses to be used and such material filed with the Court's clerk no later than 4:00 p.m., four (4) days before the hearing. Such sponsoring evidence must be exchanged so as to be received in opposing counsel's office by 4:00 p.m., four (4) days before the hearing.

At the hearing, affiants, including challenged expert witnesses, may be present in the courtroom, but may not be presented for direct testimony in addition to their affidavits or deposition excerpts. The objecting party may cross examine affiants including challenged expert witnesses, if present in the Courtroom, only after which will the sponsoring party be permitted re-direct examination.

Please be advised that a challenge to the opinion of an expert, which is contained as evidence in the response to a Summary Judgment Motion, will likely result in the continuance of the Summary Judgment hearing so as not to work prejudice to the Summary Judgment Respondent, who, in effect, would otherwise be required to defend an expert at a Daubert/ Robinson hearing upon limited notice.

MISCELLANEOUS

Zoom/Telephone Hearings. - Participation in hearings by Zoom/telephone is encouraged. Arrangements should be made with the Court Administrator.

Default and Minor Prove-Ups. - Unless instructed otherwise by the Court, default judgments should be presented by submission through affidavits; minor prove-ups shall be set for a hearing through the Clerk's office.

Continuances. – First Continuances will be granted automatically. After the Initial Trial setting, each continuance will be assessed on a case-by- case basis. However, be advised that an Agreed Motion for Continuance will not always be granted, especially those filed within two weeks before trial.

Judgments - Pursuant to Tex. R. Civ. P. 299a, do not include findings of fact in any proposed Judgment for the Court. Proposed Findings of Fact and Conclusions of Law must be filed separately. After a trial, the prevailing party shall tender a judgment

to the Court within 30 days or the case is subject to being dismissed without prejudice. Concerning the procedure of tendering Judgments to the Court, the Parties are ORDERED to comply with Dallas County Local Civil Rule 2.08, as if this Rule applied to judgments in addition to orders, and as if the Court requested such judgment to be presented after trial.

All parties in receipt of this Scheduling Order are ORDERED to serve a copy of this Order on any Parties making an appearance after the date of this Order.

SIGNED this January 1, 2019



The Honorable Bridgett N. Whitmore

193rd Judicial District Court