

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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| <p>R. WAYNE KLEIN, as Receiver,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MATTHEW SHEPARD, an individual,</p> <p style="text-align: center;">Defendants.</p> | <p><b>SCHEDULING ORDER</b></p> <p>Civil No. 2:19-cv-00533-HCN-CMR</p> <p>District Judge Howard C. Nielson, Jr.</p> <p>Magistrate Judge Cecilia M. Romero</p> |
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Pursuant to Fed. R. Civ. P. 16(b), the court received the Attorney Planning Meeting Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

**\*\*ALL TIMES 4:30 PM UNLESS INDICATED\*\***

- | <b>1.</b> | <b>PRELIMINARY MATTERS</b>   | <b>DATE</b>     |
|-----------|--|-----------------|
|           | Nature of claims and any affirmative defenses:   |                 |
| a.        | Date the Rule 26(f)(1) conference was held?  | <u>09/17/19</u> |
| b.        | Have the parties submitted the Attorney Planning Meeting Report?                       | <u>09/17/19</u> |
| c.        | Deadline for 26(a)(1) initial disclosures?   | <u>10/07/19</u> |
| <b>2.</b> | <b>DISCOVERY LIMITATIONS</b>   | <b>NUMBER</b>   |
| a.        | Maximum number of depositions by Plaintiff(s):   | <u>10</u>       |
| b.        | Maximum number of depositions by Defendant(s):   | <u>10</u>       |
| c.        | Maximum number of hours for each deposition (unless extended by agreement of parties): | <u>7</u>        |
| d.        | Maximum interrogatories by any party to any party:                                     | <u>25</u>       |

- e. Maximum requests for admissions by any party to any party (unlimited requests under Rule 36(a)(1)(B): 25
- f. Maximum requests for production by any party to any party: 25
- g. The parties shall handle discovery of electronically stored information as follows:

At this time, the parties do not anticipate extensive electronic discovery will be necessary. Instead, electronic discovery will consist primarily of the collection, review, and production of certain email from a few custodians and certain accounting records. The parties will meet and confer within fourteen (14) days following the completion of their initial disclosures to consider an appropriate electronic discovery protocol.

- h. The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows:

The parties have agreed to an order regarding claims of privilege or protection as trial preparation material asserted after production, as follows: The inadvertent disclosure or production of any information or documents that is subject to an objection on the basis of attorney-client privilege or work-product protection, will not be deemed to waive a party's claim to its privileged or protected nature or estop that party or the privilege holder from designating the information or document as attorney-client privileged or subject to the work product doctrine at a later date.

Any party receiving such information or document shall return it upon request from the producing party. Upon receiving such a request as to specific information or documents, the receiving party shall return the information or documents to the producing party within five (5) business days, regardless of whether the receiving party agrees with the claim of privilege and/or work-product protection. Disclosure of the information or document by the other party prior to such later designation shall not be deemed a violation of this agreement or any Court Order incorporating this agreement.

- i. Last day to serve written discovery: 03/13/20
- j. Close of fact discovery: 04/17/20

|           |  |                 |
|-----------|--|-----------------|
| <b>3.</b> | <b>AMENDMENT OF PLEADINGS/ADDING PARTIES<sup>1</sup></b>                     | <b>DATE</b>     |
| a.        | Last day to file Motion to Amend Pleadings:                                  | <u>12/20/20</u> |
| b.        | Last day to file Motion to Add Parties:                                      | <u>12/20/20</u> |
| <b>4.</b> | <b>RULE 26(a)(2) EXPERT DISCLOSURES &amp; REPORTS</b>                        | <b>DATE</b>     |
|           | <b>Disclosures (subject and identity of experts)</b>                         |                 |
| a.        | Party(ies) bearing burden of proof:  | <u>04/24/20</u> |
| b.        | Counter disclosures:   | <u>05/25/20</u> |
|           | <b>Reports</b>   |                 |
| a.        | Party(ies) bearing burden of proof:  | <u>04/24/20</u> |
| b.        | Counter reports:   | <u>05/25/20</u> |
| <b>5.</b> | <b>OTHER DEADLINES</b>   | <b>DATE</b>     |
| a.        | Last day for expert discovery:   | <u>07/10/20</u> |
| b.        | Deadline for filing dispositive or potentially dispositive motions:          | <u>07/17/20</u> |
| c.        | Deadline for filing partial or complete motions to exclude expert testimony: | <u>07/17/20</u> |
| <b>6.</b> | <b>SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION</b>                             | <b>DATE</b>     |
| a.        | Likely to request referral to a magistrate judge for settlement conference:  | <u>No</u>       |
| b.        | Likely to request referral to court-annexed arbitration:                     | <u>No</u>       |
| c.        | Likely to request referral to court-annexed mediation:                       | <u>No</u>       |
| d.        | The parties will complete private mediation/arbitration by:                  | <u>07/17/20</u> |

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<sup>1</sup> Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

- e. Evaluate case for settlement/ADR on: 05/01/20
- f. Settlement probability:

**7. TRIAL AND PREPARATION FOR TRIAL**

- a. If the parties do not intend to file dispositive or potentially dispositive motions, a scheduling conference will be held for purposes of setting a trial date. If a dispositive motion is filed, the status conference will be vacated. 7/23/2020 at 10:00 a.m.

At the time of argument on motions for summary judgment, the court will discuss the scheduling of trial. Counsel should come to the hearing prepared to discuss possible trial dates. If the schedule set forth herein is not extended, the parties can generally expect that trial will be set sometime during the 1st quarter of 2021.

**8. OTHER MATTERS**

Parties should fully brief all Motions in Limine well in advance of the pretrial conference.

DATED this 2 October 2019.



Magistrate Judge Cecilia M. Romero  
United States District Court for the District of Utah