Heath v. Tristar Products, Inc. Doc. 29

COGBURN LAW OFFICES
Jamie S. Cogburn, Esq.
Nevada Bar No. 8409
jsc@cogburnlaw.com
Joshua A. Dowling, Esq.
Nevada Bar No. 12956
jdowling@cogburnlaw.com
2580 St. Rose Parkway, Suite 330
Henderson, Nevada 89074
Telephone: (702) 748-7777
Facsimile: (702) 966-3880
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TAWNDRA L. HEATH, an individual,

Plaintiff,

vs.

TRISTAR PRODUCTS, INC., a Pennsylvania corporation; ZHONGSHAN JINGUANG HOUSEHOLD APPLIANCE MANUFACTURE CO., LTD, a foreign corporation; DOE Individuals 1–10; and ROE Corporations 11–20;

Defendant.

Case Number
2:17-cv-02869-GMN-PAL

STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINES

Plaintiff, Tawndra L. Heath, by and through her counsel, Jamie S. Cogburn, Esq. and Joshua A. Dowling, Esq. of Cogburn Law Offices, and Tristar Products, Inc., by and through their counsel, Alexandria L. Layton, Esq. of Snell & Wilmer, LLP, hereby stipulate and agree as follows:

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4820-1563-6068.1

Dockets.Justia.com

1. NATURE OF THE ACTION

This is an action for personal injuries arising from an incident occurring on December 29, 2016. Plaintiff alleges Defendants designed, manufactured, sold and distributed a pressure cooker, Power Pressure Cooker XL, Model No. PPC770, online from the Power Pressure Cooker XL website, http://www.powerpressurecooker.com/, on November 20, 2014. Plaintiff further alleges the subject pressure cooker reached her, without substantial change in its condition. On December 29, 2016, Plaintiff alleges the pressure cooker exploded due to a product defect and/or Defendants' negligence. As a result of the subject incident, Plaintiff claims severe injuries and damages which are permanent in nature.

2. DISCOVERY THAT HAS BEEN COMPLETED

The parties have exchanged FRCP 26(f) disclosures of documentary evidence and witnesses, inclusive of Plaintiff's treatment records. In addition, the parties have completed the following written discovery and depositions:

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i. **Plaintiff, Tawndra Heath**

a. Plaintiff's Requests for Production of Documents; and,

b. Defendant, Tristar Products, Inc. Responded.

ii. **Defendant, Tristar Products, Inc.**

a. Defendant's Proposed Protective Order

3. **A SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE COMPLETED**

i. **Plaintiff, Tawndra Heath**

a. Deposition of Defendant, Tristar Products, Inc.'s Corporate Representative(s);

b. Deposition of Defendant, Zhongshan Jinguang Household Appliance Manufacture Co., Ltd.'s Corporate Representative(s);

c. Written Discovery to Defendant, Zhongshan Jinguang Household Appliance Manufacture Co., Ltd.; and,

d. Expert discovery.

ii. **Defendant, Tristar Products, Inc.**

a. Deposition of Plaintiff Tawndra L. Heath;

b. Written discovery to Plaintiff Tawndra L. Heath;

c. Inspection of subject product; and,

d. Expert discovery.

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4. THE REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED WITHIN THE TIME LIMITS SET BY THE DISCOVERY ORDER

i. Defendant Zhongshan Jinguang Household Appliance Manufacture Co., Ltd. Has Not Yet Appeared

On February 22, 2018, counsel for Plaintiff and Defendant, Tristar Products, Inc. stipulated to allow Plaintiff to add as a party to the instant lawsuit, foreign corporation, Zhongshan Jinguang Household Appliance Manufacture Co., Ltd., which is believed to be the manufacturer of the subject product. Accordingly, Plaintiff filed her First Amended Complaint adding Zhongshan Jinguang Household Appliance Manufacture Co., Ltd., as a party.

On March 26, 2018, Plaintiff her *Ex Parte* Motion to Enlarge Time for Service Upon Zhongshan Jinguang Household Appliance Manufacture Co., Ltd. This Court issued an Order Granting *Ex Parte* Motion to Extend Time to Serve on April 6, 2018, allowing Plaintiff until September 5, 2018 to effectuate service upon Defendant, Zhongshan Jinguang Household Appliance Manufacture Co., Ltd.

Despite exercising due diligence, Plaintiff has not yet effectuated service upon Defendant, Zhongshan Jinguang Household Appliance Manufacture Co., Ltd. and it is anticipated this defendant will request additional time to conduct its own discovery in this matter.

ii. Plaintiff Has Not Yet Received Documents Responsive to her Requests for Production of Documents from Defendant, Tristar Products, Inc. Because the Parties Have Been Negotiating the Protective Order in Good Faith, Thereby Delaying the FRCP (30(b)(6) Deposition of its Corporate Representative

On February 27, 2018, Plaintiff served Requests for Production of Documents on Defendant Tristar Products, Inc. On March 26, 2018, Defendant, Tristar Products, Inc. served a proposed stipulated protective order via e-mail correspondence and requested a one-week

extension to respond to Plaintiff's Requests for Production of Documents. Plaintiff objected to the language of Defendant, Tristar Products, Inc.'s proposed protective order on April 4, 2018.

On April 9, 2018, Defendant, Tristar Products, Inc. served its Responses to Plaintiff's Requests for Production of Documents. On April 20, 2018, counsel for Plaintiff and counsel for Defendant, Tristar Products, Inc. conducted a meet and confer conference regarding Defendant's Responses to Plaintiff's Responses to Requests for Production of Documents pursuant to FRCP 37(a)(2)(B) and LR 26-7(b). Specifically, Defendant, Tristar Products, Inc.'s Responses to Plaintiff's Requests for Production of Documents provided no documents responsive to Plaintiff's FRCP 34 requests and, further, represented the same would only be produced following entry of a protective order.

On April 27, 2018, counsel for the parties finalized the language of the proposed stipulated protective order and agreed the requested documents would be produced after entry of the above-mentioned protective order. To date, the proposed stipulated protective order has not yet been executed by this Court, as it was received only recently.

Based upon the above, the parties have acted diligently. Nevertheless, the parties require an extension of discovery deadlines to allow Plaintiff an opportunity to receive and review documents responsive to her Requests for Production of Documents, review such documentation in preparation for taking the FRCP 30(B)(6) deposition of Defendants' respective corporate representatives, and to schedule and attend the FRCP 30(b)(6) depositions of Defendants' respective corporate representatives.

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5. THE PROPOSED SCHEDULE FOR COMPLETING DISCOVERY

The parties would like to extend all discovery deadlines, including the deadline to complete discovery by three months. Specifically, the parties request the following discovery deadlines:

Last Date to Complete Discovery:	October 16, 2018;
Last Date to Amend Pleadings and Add Parties:	July 16, 2018;
Last Date to File Interim Status Report:	August 16, 2018;
Last Date to Disclose Initial Experts:	August 16, 2018;
Last Date to Disclose Rebuttal Experts:	September 14, 2019;
Last Date to File Dispositive Motions:	November 15, 2018; and,
Last Date to File Joint Pretrial Order:	December 14, 2018.

CURRENT TRIAL DATE:

There is no current trial date set.

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All parties to this matter have agreed to the above terms of the stipulation and the dates of the extension currently sought.

Dated this 2nd day of May, 2018.

COGBURN LAW OFFICES

By: */s/ Joshua A. Dowling*
Jamie S. Cogburn, Esq.
Nevada Bar No. 8409
Joshua A. Dowling, Esq.
Nevada Bar No. 12956
2580 St. Rose Parkway, Suite 330
Henderson, Nevada 89074
Attorneys for Plaintiff

Dated this 2nd day of May, 2018.

SNELL & WILMER

By: */s/ Alexandra L. Layton*
Vaughn A. Crawford, Esq.
Nevada Bar No. 7665
Alexandria L. Layton, Esq.
Nevada Bar No. 14228
3883 Howard Hughes Parkway, Suite 110
Las Vegas, Nevada 89169
Attorneys for Defendant

ORDER

The foregoing stipulation between the parties is hereby GRANTED.

IT IS SO ORDERED.

Dated: May 8, 2018

UNITED STATES MAGISTRATE JUDGE

Respectfully submitted by:

COGBURN LAW OFFICES

By: */s/Joshua A Dowling*
Jamie S. Cogburn, Esq.
Nevada Bar No. 8409
Joshua A. Dowling, Esq.
Nevada Bar No. 12956
2879 St. Rose Parkway, Suite 200
Henderson, Nevada 89052
Attorneys for Plaintiff