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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Richard Shupe, et al.,

10 Plaintiffs,

11 v.

12 Lewis & Lewis Insurance Agency
13 Incorporated, et al.,

14 Defendants.

No. CV-18-00159-TUC-DCB

RULE 16 SCHEDULING ORDER

15 The Court, having reviewed the parties' Joint Case Management Report and having
16 conducted a Scheduling Conference on **Tuesday, March 5, 2019**:

17 IT IS ORDERED that the parties abide by the following schedule and rules:

18 1. The parties are referred to Federal Rule Civil Procedure, Rule 15(a) for any
19 amendment to the pleadings, including those to join parties.

20 2. Initial disclosures required by Federal Rule of Civil Procedure 26(a) are
21 preempted by the Mandatory Initial Discovery Pilot (MIDP) Project, implemented by
22 General Order 17-08. Pursuant to ¶ A9, there is no MIDP discovery completed to date that
23 requires supplementation at this time.¹

24 3. The Plaintiff shall disclose any expert witness and their reports to the Defendant
25 on or before: **June 17, 2019**. The Defendant shall have 30 days from the date of Plaintiff's
26 expert witness disclosure to disclose any experts and their reports. Plaintiff may have 15
27 days, thereafter, to disclose any rebuttal expert opinions.

28 ¹ Plaintiff agrees to provide explanation for denials to First Request for Admissions by
March 15, 2019. Defendants to resend Second Requests for Admissions.

1 4. Discovery, including final supplementation of discovery responses under the
2 MIDP as required in General Order 17-08 ¶ A8, shall be completed by: **September 16,**
3 **2019.**

4 Counsel are reminded that they are not to file the actual disclosures with the Court,
5 just the notices of disclosure, pursuant to the Rules of Practice of the United States District
6 Court for the District of Arizona (Local Rules), LR Civ.5.2. Discovery is governed by the
7 Federal Rules of Civil Procedure in regard to limitations on interrogatories and depositions.
8 Leave of Court is required for any divergence from the federal rules. Interrogatories must
9 be submitted sufficiently in advance to permit the opposing party to answer before the
10 discovery deadline, thereby giving the party submitting the interrogatories sufficient time
11 to undertake discovery made necessary by the answers.

12 In the event of a dispute over discovery matters, the parties are cautioned to first
13 engage in personal consultation regarding the dispute and to make a sincere effort to
14 resolve the conflict. See Local Rule 7.2(j). Counsel should act to resolve discovery
15 disputes quickly. If such efforts fail, Counsel should then jointly call the Judge's law clerk
16 to arrange a schedule for resolving the dispute expeditiously.

17 5. Dispositive motions shall be filed by: **October 14, 2019.** Counsel are reminded
18 that all motions, memoranda, and pleadings submitted for the Court's review and decision
19 must comply with the filing, time, and form requirements of the Local Rules.

20 Pursuant to LR Civ. 7.2(i), failing to file the requisite responsive memorandum or
21 failing to appear at oral argument may be deemed a consent to the granting or denial of a
22 motion, and the Court may dispose of the motion summarily.

23 Dispositive motions shall be set for oral argument at the request of counsel. All
24 other motions shall be set for oral argument, if requested by counsel, at the discretion of
25 the Court. A party desiring oral argument on a motion shall request argument by placing
26 "Oral Argument Requested" immediately below the title of the motion or response,
27 pursuant to LR Civ. 7.2(f). The Court will set oral argument accordingly.

28 When any pleadings or memoranda are appended with more than one exhibit, the

1 exhibits shall be divided by tabbed dividers, and there shall be a table of contents for the
2 exhibits. All documents submitted to the Court shall have two holes punched at the top-
3 center using a standard two-hole punch. Additionally, all documents shall be secured on
4 the left-hand side either by a staple or in some other fashion so that pages can be turned
5 without the document falling apart. This applies to an original filed under seal and all
6 copies. JUDGE’S COURTESY COPIES ARE REQUIRED, which “shall reference[] the
7 specific document number, [and] shall be printed directly from CM/ECF.” See LR Civ.
8 5.4; Administrative Policies and Procedures Manual § II.D (emphasis added).

9 6. The parties shall file their joint proposed pretrial order by: **November 14, 2019**.
10 In the event dispositive motions are filed, the joint proposed pretrial order will be due 30
11 days after the Court has decided the motions. A sample form of the pretrial order is
12 attached.

13 7. The pretrial conference will be set upon receipt of the joint proposed pretrial
14 order. The attorneys responsible for trial of the lawsuit shall appear and participate in the
15 Pretrial Conference. At the pretrial conference the Court will set the deadlines for filing
16 and disposing of the following matters: proposed voir dire, jury instructions, trial
17 memorandum, deposition testimony to be used at trial, and motions in limine.


18 8. This matter shall be tried to: a jury. The trial date will be set at the Pretrial
19 Conference.

20 9. Court imposed discovery deadlines cannot be extended by counsel without Court
21 approval. Continuances will not be freely granted. Any requests for extensions must be
22 made in writing and made prior to the expiration of the time prescribed. The request must
23 identify whether it is opposed, the number of prior continuances requested, the discovery
24 conducted to date, the anticipated discovery to be done if the request is granted, and the
25 reasons why discovery has not been completed within the deadline. Motions to continue
26 any Court imposed deadlines must be accompanied by a form of order for the Court’s
27 signature. The form of Order must be in Word. It must comply with LR Civ. 7.1(b) (2)
28 and be emailed to: bury_chambers@azd.uscourts.gov.

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10. In order to assist and promote settlement of the cases pending before this Court, cases may be referred for settlement conferences. Should the parties wish to participate in a Settlement Conference, they are directed to contact the law clerk assigned to the case.

Dated this 6th day of March, 2019.



Honorable David C. Bury
United States District Judge

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4 **FORM OF PRETRIAL ORDER**
5 **IN THE UNITED STATES DISTRICT COURT**
6
7 **FOR THE DISTRICT OF ARIZONA**

8)
9)
10 Plaintiff,)
11 v.) CV TUC DCB
12)
13) **JOINT PROPOSED PRETRIAL ORDER**
14 Defendant.)
15)

16 (Although the text of the pretrial order appears in single space, the actual order submitted by
17 the parties must be double spaced and conform in all other respects to the Local Rules.)

18 The following are pretrial proceedings in this cause as agreed to by the parties and
19 approved by the Court:

20
21 **I. NATURE OF ACTION**

22 This is an action for: (Short concise statement of the case, including the nature of the
action and the relief sought.)

23 **II. STATEMENT OF JURISDICTION**

24 Statement of jurisdiction: (state the claims and cite the statutes which give this Court
25 jurisdiction over each claim.)

26 **III. CONTESTED ISSUES OF LAW/FACT**

27 State the ultimate issues of fact and law which must be decided at trial. State only the
28 issues of fact and law necessary and material for a verdict in this case. Each issue must be
stated separately and specifically.

1 **IV. LIST OF EXHIBITS**

2 Each party shall list the exhibits it intends to offer at trial.

3 **V. LIST OF WITNESSES**

4 Each party shall list the witnesses it intends to call at trial.

5 **VI. JURY TRIAL or BENCH TRIAL**

6 The parties shall state whether the trial is a jury or bench trial.

7 **For a Jury Trial**

8 At the Pretrial Conference, the Court will direct the parties to file proposed voir dire,
9 objections to exhibits, deposition testimony, stipulated jury instructions, stipulations,
10 counsel's additional proposed jury instructions, motions in limine, and trial memoranda 20
11 days prior to trial. Any opposition shall be filed five days thereafter.

12 **For a Bench Trial**

13 At the Pretrial Conference, the Court will direct the parties to file trial briefs,
14 objections to exhibits, motions in limine, stipulations, and proposed findings of fact and
15 conclusions of law 20 days prior to trial. Any opposition shall be filed five days thereafter.

16 **VII. PROBABLE LENGTH OF TRIAL**

17 Each party shall identify the estimated length of time it will take to present its case.

18 **VIII. CERTIFICATION**

19 **The undersigned counsel for each of the parties in this action do hereby approve
20 and certify the form and content of this proposed Joint Pretrial Order.**

21 _____
22 Attorney for Plaintiff

23 _____
24 Attorney for Defendant