

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-01490-CMA-CBS

AMBER DAVIES, individual

Plaintiff,

v.

A.G. HILL PARTNERS, LLC, a Texas company,  
SEVEN FALLS COMPANY, a Delaware corporation, dba  
THE NEW SEVEN FALLS COMPANY, dba  
THE COTTAGE COMPANY, dba  
SEVEN FALLS PIPELINE & RESERVOIR.

Defendants.

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**SCHEDULING ORDER**

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**1. DATE OF CONFERENCE AND APPEARANCES OF COUNSEL**

Pursuant to F.R.C.P. 16(b), a scheduling and planning conference took place on August 21, 2012 at 10:00 a.m. The Plaintiff Amber Davies is represented by John Gehlhausen and George McLaughlin, 22488 E. Polk Drive, Aurora, Colorado 80016, 303-690-8197 and David M. Sargent, 303 South Broadway, Suite 200-214, Denver, Colorado 80209, 303-359-1869. The Defendants A.G. Hill Partners, LLC and Seven Falls Company are represented by Lisa Bondy Dunn and Christina M. Gilbertson, 1805 Shea Center Drive, Suite 150, Highlands Ranch, Colorado 80129, 720-479-2500.

## **2. STATEMENT OF JURISDICTION**

On or about June 18, 2010, Plaintiff Amber Davies was injured on the property of Seven Falls Company property in Colorado Springs, Colorado. Ms. Davies is a resident of the State of California. This Court is vested with jurisdiction of this action by the diversity statute, 28 U.S.C. §1332. The value of this claim is greater than \$75,000.

## **3. STATEMENT OF CLAIMS AND DEFENSES**

A. Plaintiff: On or about June 18, 2010 Plaintiff was visiting Seven Falls, a privately owned outdoor nature attraction in Colorado Springs. As she was walking down a pathway she stepped into an unmarked and unprotected gap in the walkway, falling and injuring her foot. Plaintiff was a paying customer and therefore was an “invitee” for the purposes of C.R.S. §13-21-115.

Defendants owed Plaintiff a duty to exercise reasonable care to protect against hazards and/or dangers of which they actually knew or should have known. Defendants breached that duty by and including, but not limited to, failing to properly warn of holes and gaps in the walkway and/or repair the dangerous holes and gaps. As a direct and proximate result of the Defendants unreasonable failures, Plaintiff has developed Complex Regional Pain Syndrome [CRPS], a medical condition which is a permanent and debilitating, and that requires ongoing future care. The amount of injuries suffered, damages and losses shall be established at trial.

B. Defendants: Defendants have a pending motion to dismiss A G Hill Partners based on lack of personal jurisdiction. Defendants contend that A G Hill Partners' sole involvement with either Seven Falls Company or the subject property was to help in the procurement of insurance; that A G Hill Partners and Seven Falls Company are separate legal entities; that A G Hill has no ownership and/or control over Seven Falls; and that AG Hill lacks

sufficient minimum contact for *in personam* jurisdiction to attach in Colorado. Defendants deny liability. Defendant contest the nature and extent of the Plaintiff's claimed injuries and damages.

#### **4. UNDISPUTED FACTS**

There are no undisputed facts.

#### **5. COMPUTATION OF DAMAGES**

Plaintiff's damages consist of her past and future medical bills and expenses. These are still in the process of being assembled and calculated. Past medical expenses assembled to date total \$33,279.04. Future medical expenses are certain but the amount has yet to be calculated. It is expected the plaintiff's total damages for past and future medical expenses, past and future lost earnings and earning capacity, pain, suffering, disability, and physical impairment will total in excess of \$5,000,000.

#### **6. REPORT OF PRECONFERENCE DISCOVERY AND MEETING UNDER FED.R.CIV.P. 26(f)**

A. On August 1, 2012 counsel for the parties conducted a Rule 26(f) conference by telephone.

B. Plaintiff was represented by George E. McLaughlin. Defendants were represented by Lisa Bondy Dunn.

C. Both parties agreed that Rule 26(a)(1) disclosures are due August 14, 2012, seven days prior to scheduling conference.

D. There are no proposed changes in timing or requirement of disclosures under Fed.R.Civ.P. 26(a)(1).

## **7. CONSENT**

. The parties do not consent to a Magistrate referral for trial.

## **8. DISCOVERY LIMITATIONS**

In terms of written discovery limits, the following will apply:

- a. Thirty-five (35) Requests for Production of Documents;
- b. Twenty-five (25) Interrogatories, including discrete subparts, propounded by Plaintiff, and propounded by Defendants on the Plaintiff;
- c. Twenty-five (25) Requests for Admissions propounded by Plaintiff upon Defendants, and propounded by Defendants on the Plaintiff;
- d. Both sides are allowed ten (10) depositions, not including expert depositions.

## **9. CASE PLAN AND SCHEDULE**

The following proposed case plan and schedule assumes that the trial date will be no sooner than one year after the date of the scheduling conference.

- a. All dispositive motions must be filed by April 30, 2013;
- b. Parties shall designate experts no later than November 1, 2012;
- c. Parties shall designate all rebuttal experts no later than February 1, 2013;
- d. All written discovery must be served on or before February 25, 2013.
- e. Discovery cut-off date is March 30, 2013.

## **10. DATES FOR FURTHER CONFERENCES**

An Early Neutral Evaluation is set for November 29, 2012 at 10:00 a.m. Confidential settlement statements will be filed with the undersigned no later than November 26, 2012.

The Final Pretrial Conference is set for July 16, 2013 at 9:15 a.m. The Final Pretrial Order agreed upon by the parties is due to the Court on or before July 9, 2013. If no motion for summary judgment or other dispositive motion is filed, the parties are directed to contact the office of the undersigned to obtain an earlier pretrial conference date.

## **11. OTHER SCHEDULING MATTERS**

The parties anticipate ten (10) days will be necessary for the trial of this case. No motion dealing with discovery issues shall be filed by either party without first having a joint phone conference regarding the matter with the undersigned.

## **12. NOTICE TO COUNSEL**

The parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 6.1D. by submitting proof that a copy of the motion has been served upon the moving attorneys' client, all attorneys of record, and all *pro se* parties.

Counsel will be expected to be familiar and to comply with the Pretrial and Trial Procedures or Practice Standards established by the judicial officer presiding over the trial of this case.

With respect to discovery disputes, parties must comply with D.C.COLO.LCivR 7.1A. No discovery motion shall be filed without the parties first having a phone conference with the Magistrate re the discovery dispute.

In addition to filing an appropriate notice with the clerk's office, a *pro se* party must file a copy of a notice of change of his or her address or telephone number with the clerk of the magistrate judge assigned to this case.

In addition to filing an appropriate notice with the clerk's office, counsel must file a copy of any motion for withdrawal, motion for substitution of counsel, or notice of change of counsel's address or telephone number with the clerk of the magistrate judge assigned to this case.

### 13. AMENDMENTS TO SCHEDULING ORDER

This scheduling order may be altered or amended only upon a showing of good cause.

DATED at Denver, Colorado, on August 30, 2012.

BY THE COURT:

*s/Craig B. Shaffer*  
Craig B. Shaffer  
United States Magistrate Judge

APPROVED AS TO FORM:

*/s/ John Gehlhausen*  
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Attorneys for Defendants