

Friedfel, Susan D.

From: Brill, Edward
Sent: Friday, November 06, 2009 2:29 PM
To: 'Orleans, Jonathan B.'
Cc: Friedfel, Susan D.; Gambardella, Mary; kgalles@comcast.net; Hernandez, Alex V.
Subject: RE: Biediger v. QU - Schedule

Jon---We cannot agree to the schedule that you have proposed. In light of the fact that the May 3 trial date falls during finals week, we would be willing to agree to move the trial to either the week before or the following week in order to accomodate the student plaintiffs, providing that the court is able to schedule the trial during one of those weeks. We disagree that the experts would not have sufficient information to prepare their reports for a trial at that time. Indeed, this is one of the arguments made by plaintiffs, and rejected by the court, in setting the May 3 trial date. If this is not agreeable to the plaintiffs, then we expect that the parties will need to advise the court of our respective positions...Ed

From: Orleans, Jonathan B. [mailto:JOrleans@PULLCOM.COM]
Sent: Thursday, November 05, 2009 12:15 PM
To: Brill, Edward
Cc: Friedfel, Susan D.; Gambardella, Mary; kgalles@comcast.net; Hernandez, Alex V.
Subject: Biediger v. QU - Schedule

Ed: Confirming our discussion of this morning, plaintiffs propose the schedule set forth below. We don't think it's practical or fair to have the trial in early May, because our experts won't have had access to information concerning QU's athletics program for the full 2009-10 academic year in order to prepare their reports and testimony. Moreover, we don't want our student plaintiffs and witnesses to be faced with preparing for and testifying at trial before final examinations are concluded. (As you know, QU's finals are scheduled for the week of May 3, 2010.) We think a trial in July reasonably addresses QU's desire to know before the Fall 2010 season starts whether it will be required to continue the volleyball program, while giving the parties time to complete expert discovery on an expedited basis after the athletics season ends. We request that QU join us in asking the court to schedule the trial for July.

I should also note that although Judge Underhill mentioned that he is scheduling a bench trial, our complaint contains a jury demand. We have not yet decided whether we are prepared to waive a jury trial.

Our proposed schedule:

Amended Complaint 12/7/09

Answer 1/4/09

Motion for Class Cert 1/31/10

Damages Analysis 1/31/10

Plaintiffs' Expert Reports 5/15/10 (subject to amendment/supplementation to account for additional facts that may be disclosed/discovered after this date)

Depositions of Plaintiffs' Experts 5/31/10

Fact Discovery Ends 5/31/10

11/12/2009

Defendant's Expert Reports 6/15/10
Depositions of Defendant's Experts 6/30/10
File Joint Trial Memo 7/12/10
Start Trial 7/15/10

I look forward to hearing from you.

Jon

Jonathan B. Orleans

Attorney

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