

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

NEAL CAPLINGER,

Plaintiff,

v.

CCA, TIM WENGLER, THOMAS
KESSLER, ACEL THACKER, DAN
LAMBERT and DR. DAVID
AGLER,

Defendants.

Case No. 1:12-cv-00537-BLW

AMENDED CASE MANAGEMENT
ORDER

This case was recently reassigned to the undersigned District Judge. Accordingly,

IT IS ORDERED:

1. The deadlines set in the Court's earlier CMO (Dkt. 13) entered by Judge Dale are hereby adopted by the undersigned Judge.

2. Additionally, the following provisions shall govern this case:

a. The dispositive motion deadline¹ will **not** be extended even if you are having discovery disputes. This is the critical event for case

management and will dictate when the trial will be set. As provided below, a trial setting

¹ It is this Court's policy to accept only one (1) motion to dismiss and one summary judgment motion per party. If it appears, due to the complexity or numerosity of issues presented, that counsel is unable to address all issues within the twenty-page (20) limit for briefs, Dist. Idaho Loc. R. 7.1(b)(1), then it is appropriate to file a motion for permission to file an overlength brief, rather than filing separate motions for each issue. The Court prefers reviewing one over-length brief in support, one over-length brief in response, and one 10-page reply brief, if any, rather than the panoply of briefs that are generated when multiple motions are filed.

conference will be scheduled immediately following resolution of all dispositive motions. To facilitate a prompt trial setting, I will make every effort to schedule oral argument within 60 days and issue a decision within 30 days after the oral argument. If a decision is not issued within this time frame, I invite inquiry from counsel as to the status of the decision.

- b. Discovery requests must be made far enough in advance of the discovery cutoff deadline to allow completion of the discovery by the deadline date. The parties may, by stipulation, agree to defer some trial-related discovery, such as discovery related to damages issue, until after I have ruled on any dispositive issues.
- c. Within the deadlines for the disclosure of expert witnesses set out above, the parties shall also provide – for each expert disclosed – the report described in Fed. R. Civ. P. 26(a)(2)(B), as modified by Local Rule 26.2(b). Supplementation to the expert witness report shall be done in accordance with Fed. R. Civ. P. 26(e)(1). Pursuant to Local Rule 26.2(b), expert witnesses will not be allowed to offer any opinion not disclosed in the mandatory Rule 26 disclosures, supplementation, or deposition. This includes rebuttal experts. No undisclosed expert rebuttal opinion testimony will be allowed at trial.
- d. Plaintiff’s counsel shall contact In-Court Deputy Jamie Gearhart within one week following the entry of a decision on all pending dispositive motions to make arrangements for a telephone scheduling

conference between counsel and me in which the trial and pretrial conference shall be set. If no dispositive motion is filed, Plaintiff's counsel shall immediately contact Ms. Gearhart within one week of the dispositive motion filing deadline to set a telephone scheduling conference.

e. If counsel has a procedural or legal question that needs to be brought to my attention, please contact Jeff Severson, the law clerk assigned to this case at (208) 334-9027.

f. Handling of Discovery Disputes and Non-disposition Motion:

i. I will **not** refer this case to a magistrate judge for resolution of discovery disputes and non-dispositive motions. I will keep these motions on my own docket.

ii. The parties will strictly comply with the meet and confer requirements of Local Rule 37.1 prior to filing any discovery motions.


iii. In addition, I will not entertain any written discovery motions until the Court has been provided with an opportunity to informally mediate the parties' dispute. To facilitate that mediation, the attorneys will first contact Jeff Severson, the law clerk assigned to this case, and shall provide him with a brief written summary of the dispute and the parties'

respective positions. Mr. Severson may be able to offer suggestions that will resolve the dispute without the need of my involvement. If necessary, an off-the-record telephonic conference with me will then be scheduled as soon as possible. I will seek to resolve the dispute during that conference and may enter appropriate orders on the basis of the conference. I will only authorize the filing of a discovery motion and written briefing if we are unable to resolve the dispute during the conference.

- iv. Prior to filing any discovery motions, counsel must certify, not only that they have complied with Local Rule 37.1, but that they have complied with the foregoing procedures.
- v. With regard to any scheduling matters or calendar issues, please contact my deputy clerk, Jamie Gearhart at (208) 334-9021.
- vi. If you have a docketing question, please contact a docket clerk at (208) 334-1361.

DATED: **February 12, 2013**





B. LYNN WINMILL
Chief U.S. District Court Judge