

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

Chambers of
Richard D. Bennett
United States District Judge
Northern Division

U.S.Courthouse - Chambers 5D
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February 23, 2007

LETTER ORDER

TO COUNSEL OF RECORD

Re: Snyder v. Phelps, et al.
Civil No. RDB 06-1389

Dear Counsel:

I have entered an Order on this date, pursuant to our telephonic hearing, granting the Plaintiff's Motion to Amend the Complaint (Paper # 53) and granting the Defendants' Motion for Extension of Time with respect to experts (Paper #58). In addition to the reasons stated on the record, I would note that this Court, in interpreting Rule 15(a) of the Federal Rules of Civil Procedure with respect to amendment of pleadings, has specifically noted that such leave "shall be freely given when justice so requires." *Lance v. Prince George's County, Maryland*, 199 F.Supp.2d 297, 300-01 (D. Md. 2002). Furthermore, the United States Court of Appeals for the Fourth Circuit recently held that Rule 15 "gives effect to the federal policy in favor of resolving cases on their merits instead of disposing of them on technicalities." *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006).

As discussed with counsel in the telephonic hearing, the scheduling order entered by this Court is further modified as follows:

Plaintiff's Rule 26(a)(2)
disclosures re experts

March 30, 2007

Defendant's Rule 26(a)(2)
disclosures re experts

May 18, 2007

Plaintiff's rebuttal Rule 26(a)(2) disclosures <u>re</u> experts	June 1, 2007
Rule 26(e)(2) supplementation of disclosures and responses	June 18, 2007
<u>Discovery deadline: submission of status report</u>	July 6, 2007
Requests for admission	July 13, 2007
<u>Dispositive pretrial motions deadline</u>	July 31, 2007

Defense counsel has suggested that he may request that questionnaires be forwarded to the prospective jurors. The Court will certainly entertain that request. Accordingly, a date has been scheduled for the submission of proposed questionnaires.

Deadline for submitting proposed Questionnaire to prospective jury panel.	August 31, 2007
Pretrial conference (Chambers 5D)	October 15, 2007 at 4:30 p.m.
Jury trial (2 weeks) (Courtroom 5D)	October 22, 2007 at 9:30 a.m.

Counsel should also note the following:

Pretrial Order

Your pretrial order is due in accordance with Local Rule 106, and must be received in chambers five (5) business days before the scheduled conference, pursuant to Local Rule 106.4. Counsel are reminded to comply with this rule with respect to the contents and preparation of the order.

Counsel of Record

Motions *in Limine*

Any motions *in limine* shall be filed in compliance with Local Rule 105 by the date of the pretrial conference.

Voir Dire and Jury Instructions

At the pretrial conference, you should submit proposed joint *voir dire* questions, proposed joint jury instructions on issues specifically relating to this case, and proposed joint special verdict forms. You should submit separately any *voir dire* questions, jury instructions and special verdict forms upon which you cannot agree. All of your proposed *voir dire* questions, jury instructions and special verdict forms should be submitted in hard copy and on IBM compatible, Word Perfect 8.0 diskettes as well as a copy e-mailed to chambers at MDD_RDBChambers@mdd.uscourts.gov. The Court requests, that to the extent possible, counsel reference Sands and Siffert, Modern Federal Jury Instructions (Lexis/Nexis).

Your proposed joint *voir dire* should include a brief proposed statement to be read to the venire panel explaining the nature of the case in general terms.

Your proposed jury instructions should be: (a) typed one per page, (b) be numbered and assembled in the order in which you request that they be read to the jury, and (c) include a citation of the authorities supporting the instruction.

Guaranteeing Witness Availability

Absent emergency circumstances, a party will guarantee the presence at trial of any witness that party lists in the pretrial order, in accordance with Local Rule 106.2.i., as “expecting to present” at trial.

Disclosure of Opinions of Expert Witnesses

In addition to the information required by Local Rule 106.2.j., the pretrial order shall include for each party a concise summary of the opinion testimony expected from each witness identified by that party pursuant to Fed. R. Civ. P. 26(a)(2)(A) and (B) who may testify at trial. The parties shall identify those witnesses designated pursuant to Rule 26(a)(2)(A) separately from those designated pursuant to Rule 26(a)(2)(B).

Exhibits

Please be prepared to advise me at the pretrial conference if there are any objections to the documents and exhibits listed in the pretrial order in accordance with Local Rule 106.2.h. Any objections not disclosed at that time, other than objections under Fed. Rs. Evid. 401 and 403 shall be deemed waived at trial, unless excused for good cause shown.

All exhibits must be tagged and numbered prior to trial in accordance with Local Rule 106.7.a. You must meet with one another prior to trial to review and make available for copying one another's exhibits in accordance with Local Rule 106.7.b.

Use of Courtroom Equipment

Please be prepared to advise me at the conference, if you have not already done so, if you would like to use at trial any courtroom equipment. The Court has available for your use VCRs and monitors, x-ray boxes, and one electronic evidence presenter. The electronic evidence presenter may be reserved on a first come, first served basis in cases which are expected to last longer than one week and involve numerous documents.

Courtroom Etiquette

You are reminded to review the provisions of Local Rule 107 concerning courtroom etiquette.

Settlement

Unless the Court is notified of any settlement no later than one full business day prior to the day on which the trial is scheduled to begin, jury costs will be imposed in accordance with Local Rule 107.4. Ordinarily, in civil cases 25-28 potential jurors are called as members of the venire panel and the cost per juror is approximately \$70.

Counsel of Record
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Despite the informal nature of this letter, it shall nonetheless constitute an Order of Court, and the Clerk is directed to docket it accordingly.

Sincerely,

/s/
Richard D. Bennett
United States District Judge

RDB/skp