

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EVANSTON INSURANCE)
COMPANY, an Illinois Corporation,)
and DORE & ASSOCIATES)
CONTRACTING, INC., an Indiana)
Corporation,)

4:09CV3011

Plaintiffs,)

v.)

MEMORANDUM AND ORDER

LEXINGTON INSURANCE)
COMPANY, a Delaware Corporation,)
Defendant.)

Pursuant to the agreement of the parties, the final progression order is amended as follows:

- a. A jury trial is set to commence on January 10, 2011 before Judge Urbom. No more than three (3) days are allocated to the trial of this case and counsel shall plan accordingly. This case is subject to the prior trial of criminal cases and such other civil cases as may be scheduled for trial before this one.
- b. The pretrial conference will be held before the undersigned magistrate judge on December 16, 2010 at 10:00 a.m. One-half hour is allocated to this conference. Counsel shall email a draft pretrial conference order to zwart@ned.uscourts.gov, in either MS Word or WordPerfect format, by 5:00 p.m. on December 15, 2010, and the draft order shall conform to the requirements of the local rules.
- c. As to the issue of liability, the discovery and deposition deadline is July 30, 2010. Motions to compel discovery must be filed at least 15 days prior to the discovery and deposition deadline.

- d. If the parties believe the case can be resolved by cross-motions for summary judgment, they shall file their summary judgment motions, along with their stipulation of facts and affidavits, on or before September 1, 2010.
- e. Absent an agreement by the parties to submit this case on cross motions for summary judgment, the deadline for filing motions to dismiss, motions for summary judgment or motions to exclude expert testimony on *Daubert* and related grounds is September 7, 2010.
- f. The deposition deadline set forth in paragraph “c” does not apply to proving plaintiff’s damages at trial. If this case is not resolved by summary judgment in favor of the defendant, the parties will be allowed to depose witnesses on the issue of damages for the purpose of securing trial testimony.

DATED this 10th day of May, 2010.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge