

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

<p>SHIRLEY L. PHELPS-ROPER,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>DAVE HEINEMAN, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p style="text-align: right;">CASE NO. 4:09CV3268</p> <p style="text-align: center;">ORDER RE: TRIAL PREPARATION (CIVIL NON-JURY TRIAL)</p>
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1. CIVIL TRIAL SCHEDULE:

This matter is scheduled for trial the week of **March 16, 2015**, and the first day of trial will be **Tuesday, March 17, 2015**, subject only to the Court's need to commence any previously scheduled criminal trial in which a Speedy Trial Act deadline exists. Generally, but not always, cases begin on Tuesday of the trial week.

2. PRETRIAL MOTIONS:

A. Continuance

Motions to continue trial are referred to Magistrate Judge F.A. Gossett for decision. Any motion to continue trial must be filed electronically, together with a supporting affidavit, as soon as is practicable. The moving party shall send a proposed order to Magistrate Judge Gossett at gossett@ned.uscourts.gov.

B. Evidentiary Hearings

Please notify my chambers by email at smithcamp@ned.uscourts.gov immediately upon filing any pretrial motion requiring an evidentiary hearing pursuant to Fed. R. Evid. 104 so that a hearing may be held within sixty (60) days before trial. Absence of a request for an evidentiary hearing before trial may be deemed a waiver of such hearing. If the requested evidentiary hearing involves a *Daubert-Kumho* question regarding an expert, the expert's disclosure under Fed. R. Civ. P. 26(a)(2) must be submitted to my chambers by email when the motion for the Rule 104 hearing is filed. All other material regarding a requested Rule 104 hearing must be submitted to my chambers by email when the motion for a Rule 104 hearing is filed. Each party must also file a brief electronically regarding each question raised by a motion requiring a Rule 104 hearing.

3. **PRETRIAL SUBMISSIONS:**

- A. **Trial Brief:** At least seven (7) days before the scheduled date of trial, a trial brief as required by NECivR¹ 39.2(a) shall be filed electronically with the Clerk of the Court.
- B. **Exhibit List:** At least seven (7) days before the scheduled date of trial, each party shall email an exhibit list as required by NECivR 16.2(a)(1) to my chambers at smithcamp@ned.uscourts.gov in Microsoft Word or Wordperfect format. If the exhibit list was not incorporated into the final pretrial order, then the exhibit list should also be filed electronically with the Clerk of the Court at least seven (7) days before the scheduled date of trial.
- C. **Witness List:** At least seven (7) days before the scheduled date of trial, each party shall email a witness list as required by NECivR 16.2(a)(2)(D) to my chambers at smithcamp@ned.uscourts.gov in Microsoft Word or Wordperfect format. If the witness list was not incorporated into the final pretrial order, then the witness list should also be filed electronically with the Clerk of the Court at least seven (7) days before the scheduled date of trial.
- D. **Proposed Findings of Fact:** Proposed findings of fact as required by NECivR 52.1 shall be filed electrically with the Clerk of the Court at least seven (7) days before the scheduled date of trial.
- E. **Conclusions of Law:** Proposed conclusions of law shall be filed electronically with the Clerk of the Court at least seven (7) days before the scheduled date of trial.

4. **DISCOVERY MATERIAL:**

Parties seeking to submit materials in a manner different from the following requirements must seek authorization from the court. Unless the court orders otherwise, materials submitted in a manner outside the following requirements may be deemed withdrawn. Use of discovery material as substantive evidence is controlled by the Pretrial Order and the following requirements:

¹NECivR refers to the local rules for the District of Nebraska. The 2014 rules can be found at <http://www.ned.uscourts.gov/attorney/local-rules>.

A. Depositions:

Proponent: The party seeking to use a deposition at trial must email a copy of the deposition to my chambers at smithcamp@ned.uscourts.gov at least 24 hours before the deposition is to be presented at trial. If less than the entire deposition will be offered, the proponent must deliver: (1) a list or index designating by page and line(s) the testimony to be offered, and (2) a copy of the entire deposition with highlighted parts to be offered.

Objections: The party seeking to use a deposition at trial must also submit a list or index of unresolved objections to the court in a motion in limine filed electrically with the Clerk of the Court at least 24 hours before the deposition is to be presented at trial. The list or index of objections must identify the location of the objection by page and line as well as the precise nature of the objection.

B. Video Depositions:

Proponent: At least seven (7) days before trial, the party seeking to use a video deposition must email a copy of the transcript to my chambers at smithcamp@ned.uscourts.gov.

Objections: The party seeking to use a video deposition must also submit a list or index of unresolved objections to the court in a motion in limine filed electronically with the Clerk of the Court at least seven (7) days before trial as required by NECivR 30.1(f). The list or index of objections must identify the location of the objection by page and line as well as the precise nature of the objection. After the court rules on the unresolved objections, the party seeking to use the video deposition must then edit the video as required by NECivR 32.1.

C. Interrogatories and Requests for Admissions:

Proponent: At least seven (7) days before trial, a party seeking to use interrogatories or requests for admission must email a copy of the interrogatories or requests for admissions to my chambers at smithcamp@ned.uscourts.gov.

Objections: The party seeking to use the interrogatories or requests for admissions must also submit a list or index of unresolved objections to the court in a motion in limine filed electronically with the Clerk of the Court at least seven (7) days before trial. The list or index of objections must identify the location of the objection by page and line as well as the precise nature of the objection.

These requirements apply to answers to interrogatories and requests for admissions including matters deemed admitted because unanswered. See Fed. R. Civ. P. 36(a).

5. **EXHIBITS:**

A. **Court's Copies:**

Each proponent of exhibits must prepare two copies of each original exhibit to be offered. Each set of copies must be placed in three-ring binders. The binders must be numbered in accordance with NECivR 39.3(d) and organized by dividers and numbered tabs for quick retrieval of copies of exhibits during trial. The binders with copies of exhibits must be delivered to chambers no later than seven (7) days before the scheduled date of trial. **The copies of exhibits delivered to chambers are not the original exhibits to be used at trial.**

B. **Original Exhibits:**

The parties should deliver original exhibits to the court in accordance with NECivR 39.3. Exhibits shall be properly listed and identified on the exhibit form supplied by the Clerk of Court's Office, also available at the court website: www.ned.uscourts.gov/local/local.html.

C. **Marking of Exhibits:**

The parties should number exhibits as required by NECivR 39.3(d). Plaintiff's exhibits will begin with number "1." Defendant's exhibits will begin with the three-digit number rounded to the next hundred after plaintiff's last exhibit. Additionally, all exhibits must be pre-marked with stickers that indicate whether the government, the plaintiff, or the defendant is offering the exhibit.

6. **WITNESSES:**

A. **Lists:**

A party's witness list shall include the full name and address for each such witness. Witnesses who do not appear to testify when scheduled will be considered withdrawn.

B. **Rule 26 Disclosures and Reports:**

At least seven (7) days before trial, the proponent of an expert witness must email a copy of Fed. R. Civ. P. 26(a)(2) disclosures to chambers at smithcamp@ned.uscourts.gov for each expert witness identified in the Pretrial Order. Any expert whose Rule 26 disclosure is not received by the court within seven (7) days before trial, or earlier if requested by the court, will be considered withdrawn.

7. REQUESTS FOR INTERPRETERS OR COURTROOM EQUIPMENT:

Interpreters: A party requiring an interpreter must notify the courtroom deputy by email at Marian_Lea_Frahm@ned.uscourts.gov or by phone at (402) 661-7337 at least seven (7) days before trial.

Courtroom Equipment: Information regarding courtroom technology is available at www.ned.uscourts.gov/attorney/courtroom-technology. Technology in Judge Smith Camp's courtroom includes: a large flat screen television, document cameras (ELMOs), attorney & witness monitors with annotation abilities, jury box monitors for viewing evidence, video conferencing, telephone conferencing, VHS/DVD player, headsets for the hearing impaired, an easel, and table interfaces at attorney tables to allow connection to laptops for displaying digital documents, video, etc.. Parties requesting a time for technology training, parties requesting the use of the document cameras (ELMOs), and/or parties intending to play a video recording during trial must contact the courtroom deputy by email or phone (listed above) no later than three (3) working days before trial.

8. CONDUCT OF TRIAL:

Trial will commence at 9:00 a.m. each day, unless otherwise ordered. Examination of witnesses will be by direct, cross, and redirect examination, but not recross unless authorized by the court.

9. SETTLEMENT:

By noon on the Friday before trial is scheduled to occur, counsel for all parties shall contact chambers to receive instructions regarding how the court may be notified of any settlement reached when the court is not open for business. It is the responsibility of the counsel for all parties to notify the court immediately of any settlement.

DATED this 18th day of February, 2015.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge