

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LIVINGSTON ENTERPRISES, INC.,

Plaintiff,

vs.

LEXTRON, INC., a Colorado corporation;
ANIMAL HEALTH INTERNATIONAL,
INC., a Colorado corporation; and
BOEHRINGER INGELHEIM
VETMEDICA, INC., a Delaware
corporation;

Defendants.

8:11CV352

AMENDED PROGRESSION ORDER

ANIMAL HEALTH INTERNATIONAL,
INC., a Colorado corporation;

Plaintiff,

vs.

LIVINGSTON ENTERPRISES, INC., a
Nebraska corporation;

Defendant.

8:12CV144

AMENDED PROGRESSION ORDER

This matter is before the court on the Plaintiff Livingston Enterprises, Inc.'s motions to extend certain deadlines related to its claims against defendant Boehringer Ingelheim Vetametica, Inc., (filing no. 76; case no 8:11cv352 and filing no. 54; case 8:12cv144).

IT IS ORDERED:

The respective motions are granted and the Progression Order is Amended as follows:

- 1) The jury trial of this case is set to commence before John M. Gerrard, United States District Judge, in the Special Proceedings Courtroom, United States Courthouse, Omaha, Nebraska at 9:00 a.m. on **April 22, 2014**, or as soon thereafter as the case may be called, for a duration of seven (7) trial days. 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. Jury selection will be held at commencement of trial.

- 2) The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on **April 8, 2014 at 10:00 a.m.**, and will be conducted by WebEx conferencing. To facilitate this conferencing method, the parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to zwart@ned.uscourts.gov, in either Word Perfect or Word format, by 5:00 p.m. on April 7, 2014. An email will be sent to counsel of record with the instructions and codes for participating in the pretrial conference by WebEx.

- 3) A telephonic conference with the undersigned magistrate judge will be held on **September 11, 2013 at 10:00 a.m.** to discuss the status of case progression and potential settlement. Counsel for plaintiff shall place the call.

- 4) The deadlines for moving to amend pleadings or add parties are:

For the plaintiff(s):	April 29, 2013
For the defendant(s):	May 28, 2013

- 5) As to all issues (both liability and damages) on all claims and defenses between all parties, Livingston may take 15 depositions; Animal Health and Boehringer may, collectively, take 20 depositions.

- 6) As to the **liability** issues, and defenses on such issues, on all claims between Livingston and Boehringer:
 - a. The deadlines for serving complete expert disclosures for liability experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Livingston:	April 30, 2013
For Boehringer:	June 4, 2013

- b. The deadline for completing discovery (both written and deposition) is July 15, 2013. Motions to compel Rule 33 through 36 written discovery must be filed by July 1, 2013.
 - c. As to the **liability** issues, and related defenses, on claims between Livingston and Boehringer, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is August 16, 2013.
- 7) As to the **liability** issues, and defenses on such issues, on all claims between Livingston and Animal Health:
- a. The deadlines for identifying liability expert witnesses expected to testify at the trial are:

For Livingston:	August 1, 2013
For Animal Health:	August 29, 2013
 - b. The deadlines for serving complete expert disclosures for liability experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Livingston:	October 29, 2013
For Animal Health:	November 29, 2013
 - c. The deadline for completing written discovery is November 29, 2013. Motions to compel Rule 33 through 36 written discovery must be filed by November 15, 2013.
 - d. The deposition deadline is December 12, 2013.
 - e. As the **liability** issues, and related defenses, on claims between Livingston and Animal Health, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is December 30, 2013.
- 8) As to the **damage** issues, and defenses to such issues, on all claims between all parties:
- a. The deadlines for identifying damage expert witnesses expected to testify at the trial are:

For Livingston:	August 1, 2013
For Animal Health and Boehringer:	August 29, 2013

- b. The deadlines for serving complete expert disclosures for damage experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Livingston: October 29, 2013
For Animal Health and Boehringer: November 29, 2013

- c. The deadline for completing written discovery is November 29, 2013. Motions to compel Rule 33 through 36 written discovery must be filed by November 15, 2013.
- d. The deposition deadline is December 12, 2013.
- e. As to the issue of **damages**, and all related defenses, on all claims between all parties, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is December 30, 2013.
- 9) Motions in limine shall be filed five business days prior to trial. It is not the normal practice to hold hearings on motions in limine or to rule on them in advance. Counsel should plan accordingly.
- 10) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.

January 18, 2013.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge