

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

TIMOTHY A. GILKERSON,

Plaintiff,

vs.

NEBRASKA COLOCATION CENTERS,  
L.L.C., AMERICAN NEBRASKA  
LIMITED PARTNERSHIP, RALPH  
EDWARDS PRODUCTIONS, INC.,

Defendants.

**8:15CV00037**

**AMENDED PROGRESSION ORDER**

This matter is before the court on the parties' joint motion to amend the final progression order in this case. (Filing No. 29). Based on the representations of the parties, the motion is granted as set forth below.

IT IS ORDERED:

- 1) The parties' joint motion to amend, (Filing No. 29), is granted.
- 2) The parties will conduct mediation before an agreed upon mediator by October 16, 2015. Once a mediator is selected, the parties shall advise the court of the mediator's name. A separate mediation reference order will be filed in this case.
- 3) On or before August 18, 2015, Defendant shall provide any objections it may have to the Interrogatories, Requests for Production of Documents and Requests for Admissions propounded by Plaintiff on June 30, 2015. Defendant shall provide responses to the aforementioned written discovery on or before September 4, 2015. Defendant's responses on September 4, 2015, may incorporate any objections asserted by Defendant on or before August 18, 2015, but shall not include any new objections.
- 4) Except as set forth in this order, the parties will not conduct discovery pending the outcome of the mediation.
- 5) The Final Progression Order is amended as follows:

- a. The written discovery and deposition deadlines are November 30, 2015. Each party shall be limited to: (1) an additional 15 interrogatories beyond the discovery already propounded; (2) an additional 15 requests for production of documents beyond the discovery already propounded; and (3) any subpoenas as may be necessary.
  - b. The expert witness disclosure deadlines are as follows:
    - i. For the Plaintiff: October 30, 2015; and
    - ii. For the Defendant: November 27, 2015.
  - c. Motions to dismiss and motions for summary judgment shall be filed by January 29, 2016.
  - d. Motions to exclude testimony on *Daubert* related grounds shall be filed by December 30, 2015.
  - e. The jury trial of this case is set to commence before John M. Gerrard, United States District Judge, in the Special Proceedings Courtroom, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska, at 9:00 a.m. on June 27, 2016, or as soon thereafter as the case may be called, for a duration of four (4) 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 the commencement of trial.
  - f. The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on June 14, 2016 at **9:00 a.m.**, and will be conducted by WebEx conferencing. A separate order will be entered with the instructions and codes for participating in the pretrial conference by WebEx. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to [zwart@ned.uscourts.gov](mailto:zwart@ned.uscourts.gov), in either Word Perfect or Word format, by 5:00 p.m. on June 10, 2016.
- 6) Within five (5) days of this order Plaintiff will withdraw all pending Notices of Depositions, Notices of Intent to Serve Subpoenas Duces Tecum and any accompanying Subpoenas Duces Tecum.

- 7) Plaintiff may conduct depositions only of the following non-expert witnesses: Jerry Appel (individually and as 30(b)(6) representative), Martin Appel, Don Phares, Mike Losole, and Roger Willey. The deposition of Martin Appel will be taken by telephone and that the parties will work together to schedule the deposition of Jerry Appel on a date that Mr. Appel can travel from California to be present in Omaha. Both parties may depose any designated expert witnesses.
- 8) The remaining pending motions and objections, Filing Nos. 14, 17, 19, 22, and 24 are denied as moot.

Dated this 7th day of August, 2015

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge