

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STABL INC., LANT, INC., LEON
JOHNSON, and ANN JOHNSON,

Defendants.

8:16CV233

**AMENDED ORDER SETTING
FINAL SCHEDULE FOR
PROGRESSION OF CASE**

STATE OF NEBRASKA,

Plaintiff,

vs.

STABL, INC., LANT, INC., LEON
JOHNSON, and ANN JOHNSON,

Defendants.

8:16CV351

**AMENDED ORDER SETTING
FINAL SCHEDULE FOR
PROGRESSION OF CASE**

This matter comes before the Court after its review of the parties' separate proposed orders for amended case progression deadlines submitted to the Court in compliance with its previous directive. Filing No. 178-179. Plaintiffs and Defendants do not agree on further case progression deadlines. After a review of the proposed orders and the progression of the cases to date,

IT IS ORDERED that following amended case progression deadlines shall apply:

1. **Motions to Dismiss and Motions for Summary Judgment.** Motions to Dismiss and/or Motions for summary judgment shall be filed not later than **March 22, 2019**. See NECivR [56.1](#) and NECivR [7.1](#). **Within 14-days of the Court's ruling on any dispositive motion**, the parties shall contact chambers to schedule a telephone planning conference to schedule the Pretrial Conference, Trial, and any other outstanding deadlines, if necessary.

2. **Discovery Deadlines:**

a. **Deposition Deadline.** All fact depositions, whether or not they are intended to be used at trial, shall be completed by **November 30, 2018**. All expert depositions, whether or not they are intended to be used at trial, shall be completed by **March 1, 2019**.

- b. **Written Discovery Deadline.** All interrogatories, requests for admission and requests for production or inspection, whether or not they are intended to be used at trial, shall be completed by **October 12, 2018**. Counsel may stipulate to extensions of time to respond to discovery requests in accordance with Fed. R. Civ. P. 29, but such extensions shall not extend any of the dates in this order; **any request to extend the deadlines of this order shall be sought by motion.**
- c. **Discovery Motions.** Discovery motions shall be filed not later than **October 12, 2018**, as to matters which are then ripe for decision; discovery matters arising after that date may be the subject of motions until the deposition deadline. Counsel are reminded of the provisions of NECivR [7.1\(i\)](#). Motions to compel shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference to discuss the parties' dispute.

3. **Disclosure of Expert Witness¹ Reports:** Each plaintiff shall serve expert reports by **November 30, 2018**. Each defendant shall serve expert reports by **December 28, 2018**. If necessary to refute the disclosed opinions of an expert witness of an opponent, a plaintiff may disclose additional expert witness reports not later than **January 28, 2019**, and Defendants may disclose sur-rebuttal expert witness reports not later than **February 11, 2019**, provided that the disclosing party then provides all of the information described in Fed. R. Civ. P. 26(a)(2) and makes the expert witness available for deposition prior to the date set for completion of expert depositions. Supplementation of these disclosures, if originally made prior to these deadlines, shall be made on these deadlines as to any information for which supplementation is addressed in Fed. R. Civ. P. 26(e). The testimony of the expert at trial shall be limited to the information disclosed in accordance with this paragraph.

4. **Motions in Limine.** Motions in limine challenging the admissibility of expert testimony at trial under Fed. R. Evid. 702, *see Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999), and *Daubert v. Merrell-Dow Pharmaceuticals*, 509 U.S. 579 (1993), shall be filed, if necessary, **within 14-days following the Court's ruling on any dispositive motion**, and be accompanied by a request for a hearing if necessary. Failure to timely move for a hearing may constitute waiver of the request for a hearing.

5. **Motions to Consolidate Cases for Trial:** The deadline for any party to file a Motion to Consolidate Cases for Trial shall be **within 14-days following the Court's ruling on any dispositive motion**, if necessary.

6. **Motions to Alter Dates.** All requests for changes of deadlines or settings established herein shall be directed to the assigned magistrate judge by appropriate motion, including all requests for changes of trial dates. Such motions shall not be considered in the absence of a showing by counsel of due diligence in the timely development of this case for trial

¹ A treating physician must be identified pursuant to Fed. R. Civ. P. 26(a)(2)(A), but a treating physician is not deemed to be "retained or specially employed to provide expert testimony in the case" so as to require a written report under Fed. R. Civ. P. 26(a)(2)(B).

and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 9th day of October, 2018.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge