

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BRUCE RICHARD FRIEDMAN,

Plaintiff,

vs.

NATIONAL INDEMNITY COMPANY,

Defendant.

**8:16CV258**

**ORDER**

The court conferred with counsel today to determine how to proceed with this case in light of the extensive discovery served, the proportionality issues raised, and Plaintiff's motions to compel. After considering the parties' respective positions, to further the purposes of Rule 1 of the Federal Rules of Civil Procedure, the discovery in this case will first address, through depositions only at this time, whether Plaintiff can present facts supporting a claim that he was unlawfully classified as an exempt employee while working for defendant. Accordingly,

**IT IS ORDERED:**

1) All written discovery to corroborate or refute the description of Plaintiff's job, and all discovery (written or deposition) as to the actual hours Plaintiff worked is stayed pending a ruling on whether, assuming all inferences in favor of Plaintiff, Plaintiff's job was exempt or non-exempt. This paragraph shall not be construed as foreclosing the parties from performing written discovery and deposing or re-deposing any witness following the summary judgment ruling as to all issues of the case, including the issue of Plaintiff's job description and responsibilities.

3) The deposition discovery as to the initial exempt/non-exempt issue shall be completed on or before August 15, 2017.

4) On or before September 15, 2017, the parties shall file their respective cross-motions for summary judgment on the issue of whether Plaintiff can present facts supporting an FLSA claim for unlawful classification as an exempt employee. Responses shall be filed within 20 days thereafter. No reply shall be filed absent leave of the court for good cause shown.

5) Plaintiff's motions to compel, (Filing Nos. 31, 35, and 36), are denied without prejudice to re-filing, if necessary, after the court rules on the parties' cross-motions for summary judgment on the exempt/non-exempt issue.

March 21, 2017.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge