

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

RYSTA LEONA SUSMAN, Both Individually
and as Legal Guardian of Shane Allen
Loveland; and JACOB SUMMERS,

Plaintiffs,

vs.

THE GOODYEAR TIRE & RUBBER
COMPANY,

Defendant.

8:18CV127

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

A telephone conference was held in this matter on November 1, 2019 to discuss the Defendant's Motion to Continue Trial Date, Motion for Special Setting, and Motion for Modification of Progression Order. ([Filing No. 145](#).) The motion is granted in part, as follows:

IT IS ORDERED that the provisions of the Court's earlier final progression order remain in effect, and in addition to those provisions, the following shall apply:

1. **Pretrial Disclosures.** Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall serve opposing counsel and file a redacted version as applicable with the following information regarding the evidence it may present at trial other than solely for impeachment purposes as soon as practicable but not later than the date specified:

- a. **Nonexpert Witnesses - On or before January 28, 2020:** The name, address and telephone number¹ of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.
- b. **Deposition Testimony and Discovery** - The designation of discovery testimony and discovery responses intended to be utilized at trial is not required at this time.
- c. **Trial Exhibits - On or before January 28, 2020:** A list of all exhibits it expects to offer by providing a numbered listing and permitting examination of such exhibits, designating on the list those exhibits it may offer only if the need arises.

¹ In accordance with the E-Government Act, counsel shall, on witness lists, exhibits, and other disclosures and/or *documents filed with the Court*, redact Social Security numbers, home addresses, telephone numbers, and other personally identifying information of witnesses, but shall serve an unredacted version on opposing parties. See NECivR 5.3.

- d. **Waiver of Objections.** Any and all objections to the use of the witnesses, deposition testimony, discovery responses, or exhibits disclosed pursuant to the above subparagraphs, including any objection pursuant to Fed. R. Civ. P. 32(a) that a deponent is available to testify at the trial, shall be made a part of the pretrial order. Failure to list objections (except those under Fed. R. Evid. 402 and 403) is a waiver of such objections, unless excused by the Court for good cause shown.

2. **Motions in Limine.**

- a. 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 by **August 12, 2019**, and 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.
- b. Any other motions in limine shall be filed on or before **February 4, 2020**. Any responses to motions in limine shall be filed on or before **February 11, 2020**.

3. A telephonic conference to discuss the status of case progression and the parties' interest in settlement will be held with the undersigned magistrate judge on **January 21, 2020 at 11:00 a.m.** Counsel shall use the conferencing instructions assigned to this case to participate in the conference.

4. The **Final Pretrial Conference** with the assigned magistrate judge is set for **February 18, 2020, at 10:00 a.m.** and will be conducted by internet/telephonic conferencing. Counsel shall use the conferencing instructions assigned to this case to participate in the conference. (If counsel wishes to appear in person, counsel must contact chambers requesting permission to do so. Before contacting chambers to request such relief, counsel shall confer regarding the issue.) The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to bazis@ned.uscourts.gov, in Word format, **by 12:00 p.m. on February 13, 2020**.

5. **Mediation and Settlement:**

- a. If the parties intend to mediate their dispute, **notice of the mediation** shall be given to the staff of the assigned magistrate judge's office. The filing of a mediation reference order will terminate pending motions, without prejudice to refile. If the mediation is not successful, the moving party may reinstate such a motion by filing a written notice to that effect, and the other parties may respond in accordance with the local rules, regarding the date of the notice as reinstating the response/reply time that remained as of the date the mediation reference order was filed.
- b. Not later than **two weeks prior to trial**, plaintiff or plaintiff's counsel shall serve on Defendant or Defendant's counsel a written, updated settlement

proposal. Defendant or Defendant's counsel shall respond in writing to such proposal not later than one week before trial.

- c. **Notice of settlement** shall be given to the trial judge's office as soon as practicable but in any event in time to avoid summoning a jury. If a case settles and notice of settlement is not given in sufficient time to avoid summoning a jury, assessment of jury costs may – and normally will – be made against a party and/or counsel for one or more of the parties. For purposes of this paragraph, a jury is considered summoned for a trial at noon the business day prior to the designated date of trial.

6. **A 10-day jury trial** is set to commence, at the Court's call, during the week of **March 17, 2020**, in **Omaha**, Nebraska, before the **Honorable Laurie Smith Camp**, Senior United States District Judge. Unless otherwise ordered, jury selection shall be at the commencement of trial.

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

Dated this 1st day of November, 2019.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge