

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN BERNHOLT, and BERNHOLT
DESIGN SOLUTIONS, INC.,

Plaintiffs,

vs.

JEFF ALLEN, ABP ENGINEERING, LLC,
MMIS HOLDINGS, LLC, and MIDWEST
MECHANICAL INDUSTRIAL
SERVICES, LLC,

Defendants.

8:19CV419

**FINAL PROGRESSION ORDER
(AMENDED)**

IT IS ORDERED that the parties' joint motion to modify the progression order is granted. (Filing No. 57). The final progression order is amended as follows:

- 1) Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by June 28, 2021.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 2) The deadline for identifying expert witnesses expected to testify at the trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), is April 14, 2021.
- 3) The deadlines for complete expert disclosures¹ for all experts expected to testify at trial, (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 the plaintiff(s):

May 3, 2021.

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

For the defendant(s): June 14, 2021.
Plaintiff(s)' rebuttal: June 28, 2021.

- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is June 28, 2021.
- 5) The deadline for filing motions to dismiss and motions for summary judgment is June 28, 2021.
- 6) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is June 28, 2021.
- 7) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 8) 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.
- 9) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 31st day of March, 2021.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge