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14 **IN THE UNITED STATES DISTRICT COURT**
 15 **FOR THE DISTRICT OF NEVADA**

16 IRMA WIDNER,
 17
 Plaintiff,
 18 vs.

Case No.: 2:19-cv-01607-APG-VCF

19 JOSEPH DARGER; EDGE TRANSPORTATION,
 20 LLC, a Kentucky Limited Liability Company;
 DOES I through X; and ROE BUSINESS
 21 ENTITIES I through X, inclusive,
 22
 Defendants.

23
 24 **JOINT PRE-TRIAL ORDER**

25 In compliance with LR 16-3 and LR 16-4 and the Order of the Court (ECF No. 52 and ECF
 26 No. 59), counsel for Plaintiff IRMA WIDNER (“Plaintiff”) and Counsel for Defendants JOSEPH
 27 DARGER and EDGE TRANSPORTATION (“Defendants”), hereby submit the following Joint
 28 Pre-Trial Order in the above-referenced matter.

1 Following pretrial proceedings in this cause,

2 IT IS ORDERED:

3
4 **I. NATURE OF ACTION, RELIEF SOUGHT AND IDENTIFICATION AND**
5 **CONTENTIONS OF PARTIES**

6 This dispute arises from a motor vehicle accident that occurred in Las Vegas, Nevada, on
7 June 20, 2017, when Ms. Widner was operating a 2008 Toyota Highlander and Defendant
8 DARGER, within the course and scope of his employment with Defendant EDGE
9 TRANSPORTATION, was operating a Kenworth Tractor owned by Defendant EDGE
10 TRANSPORTATION.

11 Ms. Widner alleges that Defendant DARGER, while traveling directly behind her,
12 negligently, carelessly and recklessly rear-ended her vehicle with the tractor, causing Ms. Widner
13 to suffer serious injury. Defendants contend both Plaintiff and DARGER were both stopped at the
14 red light at the intersection of waiting for the light to change when DARGER inadvertently took
15 his foot off the brake pedal twice.

16 On March 9, 2021, the Court granted, Plaintiff's Motion to Strike Defendants' Answer.
17 See ECF No. 52. The minutes of the proceedings read, in relevant part: IT IS ORDERED that
18 ECF No. 46, Motion to Strike, and ECF No. 48 Motion for Default Judgment are GRANTED in
19 PART.... Bench Trial on damages and some aspects of causation will be set..." *Id.*

20 **II. STATEMENT OF JURISDICTION**

21 This Court has jurisdiction over this matter pursuant to pursuant to Article III, Section 2 of
22 the United States Constitution and 28 USC § 1332 based upon diversity as the amount in
23 controversy exceeds \$75,000.00, as the Plaintiff is diverse from all Defendants in this matter.
24 Plaintiff's Complaint identifies Plaintiff as a resident of Clark County Nevada, Defendant
25 DARGER is a resident of Utah, and Defendant EDGE TRANSPORTATION, is a Domestic
26 Limited Liability Company in the state of Utah, is not incorporated in Nevada and does not
27 maintain a principal place of business in Nevada.

28 Venue is proper in this Court under 28 U.S.C., Section 1391.

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1 **III. FACTS ADMITTED BY PARTIES**

2 The following facts have been established and/or admitted as a function of the Court's Rule
3 37 findings and order: Defendants owed a duty to Ms. Widner and breached said duty.

4 **IV. FACTS NOT CONTESTED**

5 The following facts will not be contested at trial by evidence to the contrary: Defendants
6 owed a duty to Ms. Widner and breached this duty.

7 **V. ISSUES OF FACT TO BE TRIED**

8 The following are the issues of fact to be tried and determined upon trial:

9 **A. Plaintiff's Issues of Fact:**

10 1. The type, nature and scope of Ms. Widner's injuries as a result of Defendants'
11 breach;

12 2. The damages to Ms. Widner, including without limitation, the expenses of past
13 medical treatment, past lost wages, past pain and suffering, the expenses of future medical
14 treatment and future pain and suffering.

15 **B. Defendants' Issues of Fact:**

- 16 1. Causation of Plaintiff's alleged injuries;
- 17 2. Plaintiff's complaints of injuries, or some of the injuries alleged, were pre-existing
18 in nature, and/or an aggravation of pre-existing injuries; and
- 19 3. Damages.

20 **VI. ISSUES OF LAW TO BE TRIED**

21 The following are the issues of law to be tried and determined upon trial:

22 **A. Plaintiff's Issues of Law:**

23 1. Rule 37's impact on Plaintiff's obligation to prove legal causation under the facts
24 and circumstances of the instant dispute.

25 **B. Defendants' Issues of Law:**

26 1. Plaintiff's witness Dr. Gross should be limited in his testimony to that of
27 non-retained treating physician.

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V. EXHIBITS

A. Joint Exhibit List with Objections:

The undersigned parties are continuing to refine their joint exhibit list to avoid duplication and to stipulate as feasible. A Joint Trial Exhibit List to be submitted on or before April 30, 2021.

B. Stipulated Exhibits

A Joint Trial Exhibit List to be submitted on or before April 30, 2021 and will include the parties' stipulations and objections.

To avoid the unnecessary duplication of identified exhibits, the parties agree that exhibits identified by one party, without waiving any objections as to admissibility, may be introduced by another party at the time of trial. All parties reserve the right to introduce additional exhibits at the time of trial for purposes of impeachment or rebuttal. The parties currently reserve any objections as to foundation and admissibility, but agree to continue conferring on the attached exhibit lists with the intent of identifying all exhibits that may be stipulated into evidence prior to the time of trial.

C. Other Stipulated Exhibits

None.

D. Depositions:

1. Plaintiff will offer the following depositions:

Deponent	Deposition Date	Page & Lines
Non-Appearance of Defendant Darger	07/16/2020	na
Non-Appearance of Defendant Darger	11/02/2020	na
Non-Appearance of PMK for Defendant Edge Transportation	07/01/2020	na
Non-Appearance of PMK for Defendant Edge Transportation	11/02/2020	na

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2. Defendant will offer the following depositions:

Deponent	Deposition Date	Page & Lines
Irma Widner	07/14/2020	
Hugh Selznick, MD	Attempting to coordinate a date for the doctor's deposition as he is not available to testify either of the available trial dates (in New York); have provided two deposition dates to Plaintiff's counsel	

3. Plaintiff objects to Defendants' depositions as follows:

- a. Renews objection under Rule 37; unable to take depositions of Defendants.
- b. Reserves right to object to pre-trial deposition of Hugh Selznick, MD.

4. Defendant objects to Plaintiff's depositions as follows:

- a. No objection, except for Custodians of Records' depositions. The only deposition taken was Plaintiff's.

Pursuant to FRCP Rule 32, the parties object to the admissibility of designated testimony to the extent that the deponent will be a witness at the time of trial.

VII. WITNESSES

The following witnesses may be called by the parties upon trial:

A. Plaintiff's Witnesses:

- 1. Plaintiff IRMA WIDNER
c/o THE702FIRM INJURY ATTORNEYS
400 South Seventh Street, Suite 400
Las Vegas, NV 89101
- 2. MICHAEL WIDNER
7524 Flowing Stream Drive
Las Vegas, NV 89131
- 3. Jeffrey D. Gross, M.D. and/or
Person Most Knowledgeable and/or Custodian of Records for
SPINE 1661 W. Horizon Ridge Parkway, Suite 280
Henderson, NV 89012

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4. EDNA HURST
7208 Eagle Crest Street
Las Vegas, NV 89131

B. Defendant’s Witnesses

1. IRMA WIDNER
c/o Leila L. Hale, Esq.
c/o THE702FIRM INJURY ATTORNEYS
400 South Seventh Street, Suite 400
Las Vegas, NV 89101

2. Hugh S. Selznick, M.D. – expert witness
Consultants Medical Group, LLC
2500 West Sahara Ave., Suite 207
Las Vegas, NV 89102

3. David L. Ginsberg, M.D. – expert witness
851 S. Rampart Blvd.
Suite 115
Las Vegas, NV 89145

In addition, should any party to this case withdraw the designation of a witness listed in this Joint Pretrial Report, the parties reserve the right to re-designate the withdrawn witness.

VIII. TRIAL DATE

The parties have agreed and the Court has set trial for the dates of May 19, 2021 and May 20, 2021.

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(d) Court trials:

Proposed finding of fact and conclusions of law shall be filed on or before
May 14, 2021

The foregoing pretrial order has been approved by the parties to this action as evidenced by the signatures of their counsel herein, and the order is hereby entered and will govern the trial of this case. This order shall not be amended except by order of the Court pursuant to an agreement of the parties or to prevent manifest injustice.

DATED: April 22, 2021.



UNITED STATES MAGISTRATE JUDGE