

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(Effective 10/4/10)

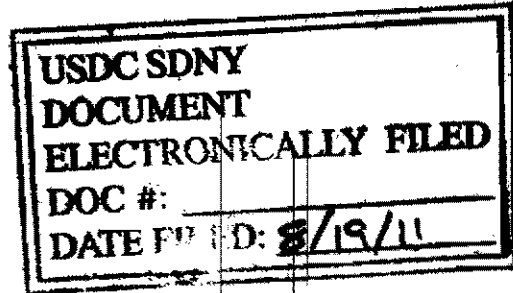
Deborah R. Cooke and
Christina M. Rodino,
Plaintiff(s),

11 Civ. 201 (AKH)

-against-

CIVIL CASE MANAGEMENT PLAN

DB 85 Gym Corp. d/b/a
David Barton Gym Defendant(s).
et al.



After consultation with counsel for the parties, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

- A. The case (is) (is not) to be tried to a jury. [Circle as appropriate].
- B. Non-Expert Discovery:
 - 1. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All non-expert discovery is to be completed by 2/29/12, which date shall not be adjourned except upon a showing of good cause and further order of the Court. Interim deadlines for specific discovery activities may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.
 - a. The parties shall list the contemplated discovery activities and anticipated completion dates in Attachment A, annexed hereto.
 - 2. Joinder of additional parties must be accomplished by 9/16/11.
 - 3. Amended pleadings may be filed without leave of the Court until 10/14/11.
- C. For all causes of action seeking monetary damages, each party shall identify and

quantify in Attachment B, annexed hereto, each component of damages alleged; or, if not known, specify and indicate by what date Attachment B shall be filed providing such information.

D. Motions, Settlement, Second Pre-Trial Conference, and Expert Discovery:

1. Upon the conclusion of non-expert discovery, and no later than the date provided below, the parties may file dispositive motions. The parties shall agree to a schedule, and promptly submit same for the Court's approval, providing for no more than three rounds of serving and filing papers: supporting affidavits and briefs, opposing affidavits and briefs, and reply affidavits and briefs. The last day for filing dispositive motions shall be 4/30/12. (Counsel shall insert a date 30 days after the completion date for non-expert discovery.)
 - a. There shall be no cross-motions. Any motions not made by the agreed date shall, unless the court orders otherwise, not be considered until after the timely-filed motion is determined.
 - b. Papers served and filed by the parties shall conform to the requirements set out in the Court's Individual Rules.
2. Either before or after the motion schedule set out above, counsel for the parties shall meet for at least two hours at the office of plaintiff's counsel, to discuss settlement. The date for the meeting is 1/30/12, at 10:00 a.m. (Counsel shall insert a date but, at the option of either, the date may be canceled upon the service or filing of a dispositive motion and notice to the court.)
3. Approximately one week thereafter, the parties shall meet with the Court for a Second Case Management Conference to discuss the status of the case, the status and prospects of settlement and whether alternative disputes-resolution procedures should be utilized, the need for and a schedule regulating experts and expert-discovery, a discovery bar date, and any other issue counsel or the Court wish to discuss. The Case Management Conference will be held on 3/16/12, at 10:00 a.m. (The Court will set this date at the Initial Case Management Conference.)

- E.** Any request for relief from any date provided in this Case Management Plan shall conform to the Court's Individual Rules, and include an order, showing consents and disagreements of all counsel, setting out all dates that are likely to be affected by the granting of the relief requested, and proposed modified dates. Unless and until the Court approves the proposed order, the dates provided in this Plan shall be binding.

ATTACHMENT A

The Parties are to list the discovery activities (i.e., production of documents, number of depositions, requests to admit, interrogatories) and anticipated completion dates:

<u>DISCOVERY ACTIVITIES</u>	<u>COMPLETION DATE</u>
1. Initial Disclosures	September 1, 2011 September 16, 2011
2. First Set of Interrogatories	August 1, 2011 September 16, 2011
3. First Request for the Production of Documents	August 1, 2011 September 16, 2011
4. Response to First Set of Interrogatories and Request for the Production of Documents	September 1, 2011 October 14, 2011
5. Plaintiff Deborah Cooke's Deposition	ON OR ABOUT September 1, 2011 October 24, 2011
6. Plaintiff Christina Rodino's Deposition	ON OR ABOUT September 1, 2011 October 26, 2011
7. Deposition of Kevin Kavanaugh	ON OR ABOUT October 21, 2011 November 7, 2011
8. Defendant Carl Helmle's Deposition	ON OR October 20, 2011 ABOUT November 14, 2011
9. Deposition of Lamar Talbert	ON OR November 1, 2011 ABOUT November 21, 2011
10. Deposition of Mark Cohen	ON OR ABOUT November 29, 2011
11. Deposition of Alon Ben-Avi	November 18, 2011 December 5, 2011
12. Deposition of David Martinez	November 21, 2011 December 12, 2011
13. Deposition of David Barton	November 21, 2011 December January 9, 2012
14. 30(b)(6) Deposition	November 21, 2011 JANUARY 17, 2012

* There may be other depositions.

ATTACHMENT B

For all causes of action seeking monetary damages, each party shall identify and quantify each component of damages alleged:

1. **PLAINTIFF'S CLAIMS:**

This is an action to recover damages for sexual orientation discrimination and gender discrimination in the terms, conditions and privileges of employment under the New York Executive Law Sec. 290, et seq. and damages for sexual orientation and gender discrimination in the terms, conditions and privileges of employment under the Administrative Code of the City of New York, Sec. 8-801, et seq. These allegations are based on a pattern and practice of sexual orientation and gender discrimination.

At the present time, Plaintiffs identify the following categories of damages: (1) back pay (approximately \$90,000 at the present time); (2) front pay; (3) compensatory damages for pain and suffering (to be determined by a jury); (4) punitive (to be determined by a jury); and (5) attorneys' fees (\$15,000).

2. **COUNTERCLAIMS AND CROSS-CLAIMS:**

Defendants reserve their right to interpose counterclaims.

3. **THIRD-PARTY CLAIMS:**

Defendants reserve their right to ~~interpose~~ bring third party claims.

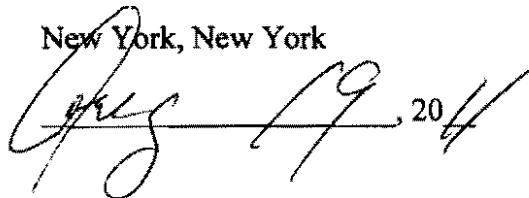
F. A final pre-trial conference will be held on a date to be set, as close as possible to the date that trial is expected to begin. The parties, three days before said meeting, shall submit their pre-trial order, conforming to the Court's Individual Rules and, at the conference, deliver their exhibit books containing all exhibits the parties actually intend to offer at the trial.

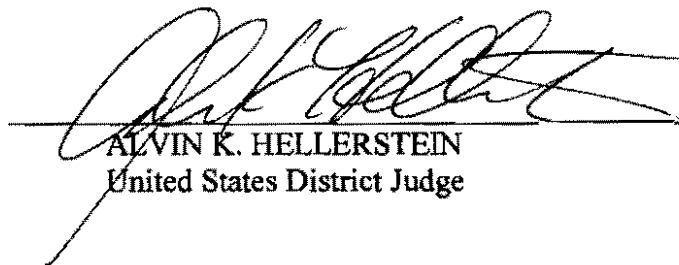
G. Pre-Trial Motions:

Applications for adjournments and for discovery or procedural rulings will reflect or contain the positions of all parties, and otherwise conform to my Individual Rule 1(D). Unless the Court rules otherwise, motions shall not modify or delay the conduct of discovery or the schedules provided in this Case Management Plan.

SO ORDERED.

DATED: New York, New York

 2011


ALVIN K. HELLERSTEIN
United States District Judge