UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHARLES M. PATEMAN,

Plaintiff,

-against-

THE CITY OF WHITE PLAINS, et al.,

Defendants.

ORDER

17-CV-06156 (PMH)

PHILIP M. HALPERN, United States District Judge:

A final pretrial conference was held at The Hon. Charles L. Brieant Jr. Federal Building and Courthouse, 300 Quarropas Street, White Plains, New York, in Courtroom 520 at 4:00 p.m. on January 12, 2022. Counsel for all parties, as well as Plaintiff, appeared.

I. Motions *In Limine*

On December 22, 2021, Defendants filed their omnibus motion *in limine*, which contains five separate branches. (Docs. 128-130). On January 6, 2022, Plaintiff filed his opposition. (Docs. 133-134). For the reasons set forth on the record: (1) Defendant's motion to preclude Dr. Sandra Carniciu, Dr. Jozef Debiec, Dr. Keyur Thakar, and Mr. Larry Torrisi, LCSW from testifying as witnesses under Federal Rule of Civil Procedure 26(a)(2)(C) is GRANTED without opposition from Plaintiff; (2) Defendant's motion to preclude Dr. Shameela Chorny, Dr. John Robbins, Dr. Eric Spencer, and Dr. Steven Sullivan from testifying as witnesses under Federal Rule of Civil Procedure 26(a)(2)(C) is DENIED; (3) Defendant's motion to preclude Dr. Sandeep Gulati from testifying at trial is GRANTED without opposition from Plaintiff; (4) Defendant's motion to preclude Dr. Keyur Thakar from offering forensic science opinions is GRANTED without opposition from Plaintiff; (5) Defendant's motion to preclude Plaintiff from recovering economic loss damages is DENIED; and (6) Plaintiff's Sixth Claim for Relief (Negligence) as asserted

against Defendant City of White Plains, to the extent it is asserted under a failure-to-supervise theory of liability, is dismissed with prejudice on consent of Plaintiff.

II. Joint Pretrial Order

A joint pretrial order was filed by the parties on June 29, 2020 and so-oredered on March 1, 2021. (Doc. 94; Doc. 118). For the reasons set forth on the record, by January 21, 2022, the parties are directed to meet and confer and file a revised joint pretrial order containing the following revisions:

A. Economic Loss Damages

In light of Plaintiff's conceded scrivener's error, Plaintiff is directed to amend ¶ 12(a) of the joint pretrial order to including economic loss damages. Plaintiff is directed to (1) notify Defendants regarding the period during which he suffered economic loss damages (which is not to exceed two to three years); and (2) disclose his economic loss damages calculation to Defendants under Federal Rule of Civil Procedure 26. Plaintiff and Andrew Todd will be the only witnesses permitted to testify at trial on Plaintiff's behalf regarding Plaintiff's economic loss damages.

B. Witnesses

Plaintiff is directed to amend his witness list in the following manner: (1) Plaintiff's witness list, as more fully set forth on the record, shall include only one police officer witness in addition to Maurice Love; (2) Plaintiff's witness list shall include only one EMT witness; (3) Plaintiff shall remove the following witnesses: Dr. Yan Li, Dr. Jeffrey Sturza, Dr. Keyur Thakur, Dr. Sandeep Gulati, Dr. David Chen, Dr. Chimere Mba, Ms. Michelle Schmitt, FNP, and Mr. Larry Torrisi, LCSW.

C. Exhibits

The parties are directed to meet and confer regarding their respective exhibit lists and (1) eliminate duplicative exhibits from their respective witness lists; (2) remove all exhibits pertaining to witnesses that will not be testifying at trial; and (3) group all exhibits by witness.[1] The parties are further directed to contact the Court's IT department (212-085-0134) regarding any electronic exhibits. All electronic exhibits shall be placed on a flashdrive and sent to the Court by January 21, 2022.

III. Joint Summary of the Case

By January 14, 2022 at 5:00 p.m., the parties are directed to meet and confer and file a joint summary of the case.

IV. Voir Dire

On January 6, 2022, the parties filed their Revised Joint Proposed Jury Voir Dire. (Doc. 136-1). As set forth on the record, the following portions of the Revised Joint Proposed Jury Voir Dire are DENIED: Defendant's proposed Introductory Statement (pp. 1-2) and Questions 12, 18, 23, 37-39, 41. The following portions of the Revised Joint Proposed Jury Voir Dire are GRANTED: Questions 29-32. The remainder of the questions contained in the Revised Joint Proposed Jury Voir Dire are GRANTED IN SUBSTANCE.

At the conference, the Court provided the parties with copies of its voir dire questionnaire. To the extent the parties have any objections to the questions contained therein, the parties shall notify the Court of such objections by January 14, 2022 at 5:00 p.m.

V. Deposition Testimony

[1] For example, all medical records for a particular doctor shall be grouped together as a single exhibit.

In ¶ 10 of the joint pretrial order, Defendants designate portions of Plaintiff's 50-h Examination, Plaintiff's Deposition, Manuel Perlera's Deposition, and Benito Loria's Deposition. Defendants are precluded from reading any such testimony into evidence at trial, unless a witness is deemed unavailable under Federal Rule of Civil Procedure 32(a)(4). Of course, Defendants are free to cross-examine, should they be so advised, witnesses by using prior deposition testimony.

CONCLUSION

The parties are now on five-days trial notice. The Clerk of the Court is respectfully directed to terminate the motion sequences pending at Doc. 128 and Doc. 133.

SO ORDERED:

Dated: White Plains, New York
January 13, 2022

PHILIP M. HALPERN
United States District Judge