

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CV-662-D

POLYZEN, INC.,)
)
)
Plaintiff,)
)
v.) **CASE MANAGEMENT ORDER**
)
RADIADYNE, LLC,)
)
Defendant.)

RadiaDyne's motion for a trial setting [D.E. 312] is granted. This order governs future proceedings in this action. The trial is set for Monday, April 17, 2017, in courtroom one of the Terry Sanford Federal Building and United States Courthouse, Raleigh, North Carolina. Jury selection shall begin at 10:00 a.m. We will not hold court on April 21, 2017. The case will take no more than five trial days. The court will set and enforce time limits on each side.

Pursuant to Federal Rule of Civil Procedure 16(e), a final pretrial conference shall be held on Friday, March 24, 2017, at 1:00 p.m., in courtroom one of the Terry Sanford Federal Building and United States Courthouse, Raleigh, North Carolina. Each party shall be represented by an attorney who will conduct the trial on behalf of such party. Adherence to this order's time requirements, some of which deviate from the deadlines provided for in the Local Rules, is necessary for in-chambers preparation for the final pretrial conference and the trial. By Friday, February 24, 2017, each party shall provide the other party with the pretrial disclosure required by Federal Rule of Civil Procedure 26(a)(3). See Local Civil Rule 16.1(b)(1). By Friday, March 3, 2017, pursuant to Federal Rule of Civil Procedure 26(a)(3)(B), each party may serve and file objections to the other party's pretrial disclosure. See Local Civil Rule 16.1(b)(1).

Continuance of the pretrial conference at a party's request is highly unlikely. Counsel should

plan to do the necessary pretrial work in a manner that will ensure its timely completion before the final pretrial conference. At the final pretrial conference the court anticipates that it will:

1. Rule upon any dispute concerning the contents of the final pretrial order. Local Civil Rule 16.1(d)(1).
2. Rule upon any dispute where video depositions are to be used and the parties have been unable to reach agreement on editing. Local Civil Rule 16.1(b)(2).
3. Preview proposed testimony and exhibits, and rule on contested issues of law, and anticipated evidentiary objections, to the extent possible in advance of trial.

Not later than Friday, March 10, 2017, the parties shall submit to chambers memoranda of authorities on all anticipated evidentiary questions and on all contested issues of law. Any motions relating to the admissibility of evidence are also due at this time. Responses are due Friday, March 17, 2017. No replies are permitted.

This action involves a jury trial. Not later than Friday, March 10, 2017, the parties shall jointly file proposed jury instructions. Where there is disagreement as to any instruction, this jointly prepared submission shall disclose the basis for a party's objection and, if applicable, each party shall submit a proposed alternative instruction. See Local Civil Rule 51.1.

The parties' joint submission of jury instructions shall include a proposed verdict form. If there is a disagreement as to the verdict form, this jointly prepared submission shall disclose the basis for a party's objection and shall include each party's proposed alternative verdict form.

The court will conduct the examination of prospective jurors. Not later than Friday, March 10, 2017, counsel shall file any proposed voir dire questions. See Local Civil Rule 47.1(b).

The court will read a brief statement of the case to the prospective panel of jurors before commencement of voir dire. Counsel shall jointly file a proposed brief statement of the case not

later than Friday, March 10, 2017.

Not later than Friday, March 10, 2017, the parties shall submit to chambers (but not file) copies of all exhibits, properly bound. See Local Civil Rule 39.1(b)(2).

The final pretrial conference is an opportunity to prevent wasting trial time on pointless or undisputed matters. The parties shall be prepared to address how to streamline the trial, including but not limited to, presentation of testimony by deposition excerpts and stipulations.

Not later than Friday, March 17, 2017, counsel shall submit to chambers (but not file) the parties' proposed pretrial order. Local Civil Rule 16.1(b)(1). This submission shall comply with the form specified in Local Civil Rule 16.1(c).

Because the trial may involve numerous exhibits, the court encourages counsel, preferably by agreement, to consider ways in which testimony about exhibits may be clarified during its presentation. With respect to presenting exhibits to the jury, counsel shall use (if possible) computer technology. Such technology avoids the need of handing exhibits to the jurors. Before trial, counsel shall familiarize himself or herself with the courtroom's technology. Of course, counsel also shall provide a hard copy of exhibits to the clerk. See Local Civil Rule 39.1(b).

This order shall not be modified except by leave of the court upon a showing of good cause. The court expects the parties to abide by these deadlines. Furthermore, all requirements set forth in the court's Local Rules governing pretrial and trial procedures not altered herein shall be strictly observed.

SO ORDERED. This 11 day of December 2016.



JAMES C. DEVER III
Chief United States District Judge