

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RICHARD JUNGMAN

Plaintiff,

v.

CSX TRANSPORTATION, INC.

Defendants.

)

)

)

)

) Case No. 3:11-0140

) Judge Haynes/Bryant

)

)

)

INITIAL CASE MANAGEMENT ORDER

The parties hereby submit this proposed Initial Case Management Order pursuant to Local Rule 11(d)(1)(b)(2).

I. Jurisdiction and Venue

This is a case brought pursuant to the Federal Employer's Liability Act and jurisdiction of this Court is invoked under the provision of Title 45 United States Code Section 56. Jurisdiction and venue are not in dispute.

II. Parties' Theories of the Case

1. Plaintiff's Theory of the Case

Plaintiff contends that the Defendant failed to provide him with a safe place to work which caused him to suffer injuries to his knees and a shoulder that have been surgically repaired but which limit his life and his ability to continue to work at the railroad in any employment in the area where he abides.

2. Defendant's Theory of the Case

CSXT asserts that it provided Plaintiff with a reasonably safe place to work throughout the entirety of his employment and did not negligently cause him injury. Further, CSXT states that Plaintiff's Complaint fails to state a cause of action upon which relief can be granted as it is barred by the applicable statute of limitations.

III. Schedule Of Pretrial Proceedings

A. Rule 26(a) (1) Disclosure

The parties shall make their Rule 26(a)(1)(A) through (E) disclosures within thirty (30) days from the date of the initial case management conference on or before **June 30, 2011**.

B. Meeting of Counsel and Parties to Discuss Settlement Prospects

Ninety (90) days from the date of the initial case management conference, counsel and clients are required to have a face-to-face meeting to discuss whether this case can be resolved without further discovery proceedings. If a party, other than a natural person, is involved in this litigation, a representative who has the authority to settle shall attend this meeting on behalf of that party. After the meeting is conducted, counsel shall prepare a report and file it with the Court reflecting that the parties met and that the parties made a good faith effort to evaluate the resolution of this case. This report should also include whether the parties believed that one of the Alternative Dispute Resolution ("ADR") procedures under the Local Rules would further assist the parties in resolving this matter.

C. Other Pretrial Discovery Matters

This action is set for a jury trial on September 11, 2012, at 9:00 a.m.

If this action is to be settled, the Law Clerk shall be notified by noon, September 7, 2012. If the settlement is reached thereafter resulting in the non-utilization of jurors, the costs of summoning jurors may be taxed to the parties dependent upon the circumstances.

A pretrial conference shall be held August 27, 2012 at 3:00 pm.

A proposed pretrial order shall be submitted at the pretrial conference.

All discovery shall be completed by the close of business on **January 31, 2012**. All written discovery shall be submitted in sufficient time so that the response shall be in hand by **January 15, 2012**. All discovery related motions shall be filed by the close of business on **February 15, 2012**. No motions related to discovery or for a protective order shall be filed until a discovery/protective order dispute conference has taken place and the attorneys of record shall attend and meet, face-to-face, in an effort to resolve the dispute and a jointly signed discovery/protective order dispute statement is submitted setting forth precisely the remaining issues in dispute and the reasons those issues remain unresolved.

All dispositive motions¹ and Daubert motions shall be filed by the close of business on **March 30, 2012**, and any response thereto shall be filed by the close of business on **April 30, 2012**. Any reply shall be filed by the close of business on **May 15, 2012**.²

Any motion to amend the pleadings or join parties shall be filed in sufficient time to permit any discovery necessary because of the proposed amendment to be obtained within the time for discovery. No amendments will be allowed if to do so will result in a delay in the disposition of the action by requiring an extension of the discovery deadline.

There shall be no stay of discovery pending disposition of any motions.

The response time for all written discovery and requests for admissions is reduced from thirty (30) to twenty (20) days.

Interrogatories pursuant to Rule 33, Federal Rules of Civil Procedure, shall be limited to sixty (60) such interrogatories. Subparts of a question shall be counted as additional questions

¹ No memorandum in support of or in opposition to any motion shall exceed twenty (20) pages. No reply shall be filed to any response unless invited by the Court.

² Strict compliance is required to Rule 8(b)(7), Local Rules of Court (effective March 1, 1994) relating to motions for summary judgment.

for purposes of the overall number. In all other respects, Rule 9(a), Local Rules of Court (effective March 1, 1994) shall govern.

By the close of business on **February 1, 2012**, Plaintiff shall declare to the Defendant (not to file with the Court) the identity of his expert witnesses and provide all the information specified in Rule 26(a)(2)(B).

By the close of business on **March 1, 2012**, Defendant shall declare to Plaintiff (not to file with the Court) the identity of its expert witnesses and provide all the information specified in Rule 26(a)(2)(B).

Any supplements to expert reports shall be filed by the close of business on **March 20, 2012**. There shall not be any rebuttal expert witnesses.

In order to reduce the needless expenditure of time and expense, there shall not be any discovery depositions taken of expert witnesses. A party may, however, serve contention interrogatories and requests for admissions upon another party's expert. If these discovery methods prove ineffective, a party may move to take the deposition of the expert. In a diversity action, a treating physician is considered a fact witness unless the physician expresses opinions beyond the physician's actual treatment of the party.

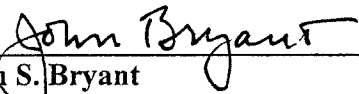
The expert witness report required by Rule 26(a)(2)(B), Federal Rules of Civil Procedure, is considered to be the expert's direct examination testimony at trial. If an expert expects to expound on his or her testimony beyond the wording of the expert's report, the party calling the expert shall inform the opposing party with the specifics of that expounding testimony at least 15 days prior to the dispositive motion deadline.

These rules on experts are to ensure full compliance with Rule 26(a)(2); to enable the parties to evaluate any Daubert challenges prior to filing dispositive motions; to avoid conflicts with the experts' schedules; and to avoid the costs of expert depositions.

Local Rule I 2(c)(6)(c) (effective March 1, 1994) relating to expert witnesses shall apply in this action, and strict compliance is required.

It is so **ORDERED**.

ENTERED this the 29th day of April, 2011.



John S. Bryant
United States Magistrate Judge