

BY:

  
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

D L EVANS BANK,

Plaintiff,

vs.

BALLENTYNE DITCH COMPANY,  
LIMITED,  
THOMAS MECHAM RICKS,  
GARY SPACKMAN,  
IDAHO DEPARTMENT OF WATER  
RESOURCES,  
AARON RICKS,  
SHAUN BOWMAN,  
JOE KING,  
STEVE SNEAD,

Defendant.

Case No. CV-OC-2013-17406

ORDER FOR SCHEDULING  
CONFERENCE AND ORDER RE:  
MOTION PRACTICE

IT IS HEREBY ORDERED that the above-captioned case is scheduled for a scheduling conference to commence on **THURSDAY, DECEMBER 04, 2014 at 02:30 PM** at the Ada County Courthouse, 200 West Front Street, Boise, Idaho.

The purpose of the conference will be to enter a scheduling order regarding the deadlines contained in the attached schedule. All parties must appear at this time in person or through counsel. Counsel must be fully familiar with the case and have authority to stipulate to scheduling deadlines, bind his or her client on all matters set forth in I.R.C.P. 16(a), (b) and (c), and to commit to such other matters as may be reasonably anticipated to be discussed.

**In lieu of this scheduling conference, all parties may stipulate** to deadlines and other information required in the enclosed **Stipulation for Scheduling and Planning**. This stipulation must be completed and signed by all parties, and filed with the court before the scheduling conference.

IT IS FURTHER ORDERED that the following shall apply to motions filed in this case.

A. MOTIONS GENERALLY (applies to **every** motion)

1. One additional copy of the motion and of all moving or opposing papers (including affidavits and briefs) must be submitted to the judge's chambers when such documents are filed or lodged with the clerk of the court. If in your brief you rely upon any case decided by an appellate court outside of Idaho, you must attach a copy of that case to the copy of your brief submitted to the judge's chambers.

2. The amount of time each side will be allotted for oral argument on a motion are set in the local rules of the Fourth Judicial District. If you need the Court to enlarge the time beyond fifteen (15) minutes each side, please contact the Clerk.

3. If a notice of hearing is not filed within fourteen (14) days after the motion is filed, the motion will be deemed withdrawn.

4. No motion will be heard within twenty-eight (28) days before trial unless the motion could not have been heard earlier.

B. MOTIONS TO COMPEL DISCOVERY

1. A motion to compel discovery must be accompanied by an affidavit showing that efforts were made to resolve the dispute before the motion was filed.

2. Reasonable expenses incurred when successfully prosecuting or opposing a motion to compel discovery shall be awarded as provided in Rule 37(a)(4) of the Idaho Rules of Civil Procedure.

C. MOTIONS FOR SUMMARY JUDGMENT


1. The party moving for summary judgment shall prepare as **separate** documents: (a) motion, (b) legal memorandum containing a written statement of reasons in support of the motion, and (c) a concise statement of the material facts. Each statement of a fact shall include a reference to the particular place in the record which supports that fact. The legal memorandum shall include a statement, supported by authority, of the elements of any claim or defense relevant to the motion.

2. The party opposing a motion for summary judgment shall prepare as **separate** documents: (a) legal memorandum containing a written statement of reasons in opposition to the motion, and (b) a concise statement of the facts which are genuine issues of material fact and/or which are material facts omitted from the moving party's statement of facts. Each statement of a fact shall include a reference to the particular place in the record which supports that fact. The legal memorandum shall include a statement, supported by authority, of the elements of any claim or defense relevant to the motion.

3. The service of briefs and affidavits shall be according to the schedule set forth in Idaho Rule of Civil Procedure 56(c).

4. The hearing on a motion for summary judgment will be set AFTER the moving party has submitted the motion, legal memorandum and statement of facts. The hearing date can then be obtained from the judge's court clerk. This pertains to all motions for summary judgment and motions for partial summary judgment.

Dated this 12<sup>th</sup> day of November, 2014.



LYNN G. NORTON  
District Judge

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
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D L EVANS BANK,

Plaintiff,

vs.

BALLENTYNE DITCH COMPANY,  
LIMITED,  
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IDAHO DEPARTMENT OF WATER  
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SHAUN BOWMAN,  
JOE KING,  
STEVE SNEAD,

Defendant.

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**STIPULATION FOR SCHEDULING  
AND PLANNING**

The above parties hereby stipulate to the following scheduling deadlines:

**A. EXPERT WITNESSES**

**(Plaintiff's experts)**

1. \_\_\_\_\_ days before trial, plaintiff shall disclose each person plaintiff intends to call as an expert witness at trial and state the subject matter on which the witness is expected to testify. \_\_\_\_\_

2. \_\_\_\_\_ days (**at least 90**) before trial, plaintiff shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses.

3. \_\_\_\_\_ days before trial, defendant shall complete any depositions of the plaintiff's initial expert witnesses.



**(Defendant's experts)**

4. \_\_\_\_\_ days before trial, defendant shall disclose each person defendant intends to call as an expert witness at trial and state the subject matter on which the witness is expected to testify.

5. \_\_\_\_\_ days (**at least 90**) before trial, defendant shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses.

6. \_\_\_\_\_ days before trial, plaintiff shall complete any depositions of the defendant's expert witnesses.

**(Plaintiff's rebuttal experts)**

7. \_\_\_\_\_ days before trial, plaintiff shall disclose each person plaintiff intends to call as an expert witness at trial to rebut new information or issues disclosed or raised by the defendant.

8. \_\_\_\_\_ days (**at least 42**) before trial, plaintiff shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding the rebuttal expert witnesses.

9. \_\_\_\_\_ days before trial, defendant shall complete any depositions of the plaintiff's rebuttal expert witnesses.

**B. LAY WITNESSES**

1. \_\_\_\_\_ days (**at least 42**) before trial, plaintiff shall disclose each person plaintiff intends to call as a lay witness at trial (excluding impeachment witnesses).

2. \_\_\_\_\_ days (**at least 42**) before trial, defendant shall disclose each person defendant intends to call as a lay witness at trial (excluding impeachment witnesses).

3. \_\_\_\_\_ days before trial, plaintiff shall disclose each lay witness (excluding impeachment witnesses) plaintiff intends to call at trial to rebut new information or issues disclosed or raised by the defendant.

4. \_\_\_\_\_ days before trial, all parties shall complete any depositions of lay witnesses.

**C. DEADLINES FOR INITIATING DISCOVERY**

1. \_\_\_\_\_ days before trial is the last day for serving interrogatories, requests for production, requests to permit entry upon land or other property, and requests for admission.

2. \_\_\_\_\_ days before trial is the last day for filing motions for a physical or mental examination.

#### **D. DEADLINE FOR SUPPLEMENTAL RESPONSES TO DISCOVERY**

\_\_\_\_\_ days before trial, all parties must serve any supplemental response to discovery required by Rule 26(e) of the Idaho Rules of Civil Procedure.

#### **E. STIPULATIONS TO ALTER DISCOVERY DEADLINES**

The parties may alter any discovery deadline by written agreement without the necessity of obtaining a court order.

#### **F. PRETRIAL MOTIONS**

1. \_\_\_\_\_ days before trial is the last day to file motions to add additional parties to the lawsuit.

2. \_\_\_\_\_ days before trial is the last day to file a motion to amend the claims between existing parties to the lawsuit, including to add a claim for punitive damages.

3. All other non-dispositive pretrial motions (excluding motions in limine) must be filed and heard twenty-one (21) days before trial.

#### **G. MOTIONS FOR SUMMARY JUDGMENT OR OTHER DISPOSITIVE MOTIONS**

All motions for summary judgment or other dispositive motions must be filed at least **ninety-one (91) days** and heard at least **sixty (60) days** before trial.

#### **H. TRIAL SETTING**

1. This case can be set for a trial to commence on or after \_\_\_\_\_.  
**(The case must be concluded within 18 months from the date the complaint was filed pursuant to Idaho Court Administrative Rule 57.)**

2. It is estimated the trial will take \_\_\_\_\_ days.

3. This case is to be tried as a:

- court trial
- jury trial

4. Parties preference for trial dates: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### I. MEDIATION

1. The parties agree to mediation: yes \_\_\_\_\_ no \_\_\_\_\_

2. If yes:

a. The parties agree to submit to mediation with a mediator mutually agreed upon under the time limits in I.R.C.P. 16(k).

b. Mediation shall begin \_\_\_\_\_ days prior to trial. The mediation must be completed and the report received by the court at least 45 days prior to trial.

c. Unless otherwise agreed in writing between the parties, the cost of mediation shall be equally divided between the parties.

**The parties reserve the right to amend this stipulation by agreement of all parties, subject to Court approval; each party reserves the right to seek amendment hereof by Court order, and to request further status conferences for such purpose, in accordance with I.R.C.P. 16(a) and 16(b).**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

#### Appearances:

Counsel for Plaintiff(s)

Jason R Naess  
Attorney at Law

Counsel for Defendant(s)

S Bryce Farris  
Attorney at Law