

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

JOHN HASTINGS,

Plaintiff,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Defendant.

Case No. CV01-21-17825

**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 **TUESDAY, JANUARY 4, 2022 at 2:30 p.m.** 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, 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 **digitally filed with the court the day before the scheduling conference. (Stipulations sometimes take up to 48 hours after digital filing to reach the court).****

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

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

1. Chambers copies are not required but are appreciated if the matters filed are voluminous. If in a brief you rely upon any case decided by an appellate court outside of Idaho, you must provide by e-mail a copy of that case to the judge's staff attorney.

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

3. Please do not assume that because a hearing time is already set in your case, that you can simply notice a hearing on another motion at the same time. The Court sets civil hearings back-to-back because of its other judicial responsibilities. You must contact the In-Court Clerk by email to get a new hearing date and time for each motion.

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 If a notice of hearing is not filed within fourteen (14) days after the motion is filed, the motion will be deemed withdrawn.

5. 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)(5) 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.

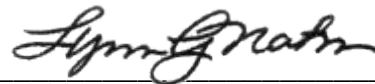
3. The service of briefs and affidavits shall be according to the schedule set forth in Idaho Rule of Civil Procedure 56(b), amended effective July 1, 2016.

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 e-mailing the judge's court clerk. This pertains to all motions for summary judgment and motions for partial summary judgment.

D. ANSWER

An answer has not been filed in this case. The Court is required by Rule 16(a)(1) to set this scheduling conference in spite of an answer not being filed. The Court hereby orders that an answer or a Rule 12 motion must be filed within 14 days of the entry of this order.

Dated: December 15, 2021.



LYNN G. NORTON
District Judge

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JOHN HASTINGS,

Plaintiff,

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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—retained or non-retained)

1. _____ days **(at least 120)** 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 120)** 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—retained or non-retained)

4. _____ days **(at least 95)** 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 95)** 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—retained or non-retained)

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.

(Defendant's rebuttal experts—retained or non-retained)

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

8. _____ days **(at least 30)** before trial, defendant shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding its rebuttal expert witnesses.

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

B. LAY WITNESSES

1. _____ days **(at least 60)** before trial, plaintiff shall disclose each person plaintiff intends to call as a lay witness at trial (excluding impeachment witnesses).

2. _____ days **(at least 53)** before trial, defendant shall disclose each person defendant intends to call as a lay witness at trial (excluding impeachment witnesses).

3. _____ days **(at least 42)** 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 **(at least 35)** before trial, defendant 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.

5. _____ days before trial, all parties shall complete any depositions of lay witnesses.

C. DEADLINES FOR INITIATING DISCOVERY

1. _____ days **(at least 70)** 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 **(at least 70)** before trial is the last day for filing motions for a physical or mental examination.

D. DEADLINE FOR SUPPLEMENTAL RESPONSES TO DISCOVERY

_____ days **(at least 42)** before trial, all parties must serve any supplemental response to discovery required by Rule 26(e) of the Idaho Rules of Civil Procedure or seek leave from the Court showing good cause for a late disclosure.

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 **(at least 120)** before trial is the last day to file motions to add additional parties to the lawsuit.

2. _____ days **(at least 120)** 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 at least forty-five (45) days and heard at least thirty (30) days before trial.**

4. All motions in limine must be **filed before the pretrial conference which is at least thirty (30) days before trial and heard at least fourteen (14) days** before the trial date, or good cause must be shown why such motions were not filed within this timeframe.

G. MOTIONS FOR SUMMARY JUDGMENT OR OTHER DISPOSITIVE MOTIONS

All motions for summary judgment or other dispositive motions must be filed at least **ninety (90) days** and heard at least **sixty (60) days** before trial as is required by I.R.C.P. 56.

H. JOINT STATUS REPORT: The parties shall **jointly file** a brief status report between **120 days and 130 days** before trial addressing the conduct of discovery, whether mediation is scheduled, and/or requesting a Rule 16 conference if it appears there could be an issue that may delay the scheduled trial date.

I. 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. The parties elect for this matter to be tried by a jury of six or twelve.
5. Parties preference for trial dates: _____

J. 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. 37.1.
 - b. The mediator must be selected **at least sixty (60) days** before 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. The parties cannot amend the summary judgment deadline, the deadline to amend pleadings or add parties, or the trial date without approval of the Court so if you are seeking to amend those dates, please contact the In-Court Clerk to get a hearing date.

Dated _____, 2021.

Appearances:

Counsel for Plaintiff(s)

Attorney at Law

Counsel for Defendant(s)

Attorney at Law

CERTIFICATE OF MAILING

I hereby certify that on December 15, 2021, I e-mailed (served) a true and correct copy of the within instrument to:

Jacob Becker
kahle@kahlebeckerlaw.com

Garrick Baxter
Garrick.baxter@idwr.idaho.gov

Meghan Carter
Meghan.carter@idwr.idaho.gov

PHIL McGRANE
Clerk of the District Court

By: *Jannie Kowen*
Deputy Court Clerk 12/15/2021 4:35:06 PM

