

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

BRYAN ANTHONY REO,)	
)	
Plaintiff,)	
)	
v.)	No. 14-5093-CV-SW-MJW
)	
)	
MARTIN LINDSTEDT,)	
)	
Defendant.)	

JURY TRIAL ORDER

The following schedule is hereby established:

A. TRIAL SETTING

This case is set for a jury trial commencing at 9:00 a.m. on January 19, 2016, in the United States Courthouse, 222 North John Q. Hammons Parkway, Springfield, Missouri. This is a special setting, and the parties should stay in touch with Jackie Price, Courtroom Deputy, (Jackie_Price@mow.uscourts.gov) to determine if there are any changes.

B. PRETRIAL CONFERENCES

1. A pretrial telephone conference will be held on Thursday January 7, 2016, at 10:00 a.m. to discuss preliminary matters. Counsel shall call the conference line: 877-336-1829, access code 1233420.
2. **Final Conference.** A final pretrial conference will be held at 8:30 a.m. on the day of trial in the Courtroom.

C. WITNESS LIST

At least *five (5) days* prior to the first conference, each party shall file a list of all witnesses who may be called at trial. Witnesses not named on the witness lists will not be permitted to testify without leave of Court.

D. EXHIBITS

At least *five (5) days* prior to the first conference, each party shall file a list of all exhibits which may be offered at trial. The required form may be obtained from the Court's Website at www.mow.uscourts.gov. ***On the morning of trial, the parties shall provide a paper copy to the Courtroom Deputy for use at trial.***

1. **Exhibit List.** Except with leave of Court for good cause, no exhibit will be received in evidence if it is not listed.
2. **Marking.** All exhibits must be marked by the parties prior to trial. Plaintiff and Defendant shall use numbers, designating who is offering the exhibit (P1 for Plaintiff's Exhibit 1,

D1 for Defendant's Exhibit 1, J1 for Joint Exhibits, etc.). Each item, i.e., each photograph, each document, must have its own exhibit number.

3. **Copy of Exhibits for the Court.** Unless other arrangements are discussed at the first conference, *the parties shall provide a copy of the exhibits to the Court and to my law clerk prior to opening statements.*

E. REQUESTED VOIR DIRE QUESTIONS

Requested voir dire questions must be filed at least *five (5) days* prior to the first conference.

F. JURY STATEMENT

The parties are directed to prepare a joint statement very briefly setting forth the background of the case and the claims being asserted. This statement will be read to the jury panel prior to the voir dire. The jury statement shall be filed electronically and e-mailed to the Courtroom Deputy in Word or compatible software format at least *five (5) days* prior to trial.

G. INSTRUCTIONS

1. **Requested Jury Instructions.** Proposed jury instructions shall be filed at least *five (5) days* prior to the first conference, as set forth below:

a. ***The parties shall confer in person or by telephone to assist in filing an agreed-upon, single, unified (meaning one) set of proposed jury instructions.*** Agreed-upon instructions shall include the following notation at the bottom of the proposed instructions: "This proposed instruction is agreed upon by the parties." If a party proposes an instruction that is not agreed upon, the proposed instruction shall indicate which party is proffering the instruction. Proposed instructions by opposing parties on the same subject matter shall be grouped together. (For example, if each party proposed a different preponderance of the evidence instruction, Instruction No. 10A would be the Plaintiff's proffered preponderance of the evidence instruction and Instruction No. 10B would be the Defendant's proffered preponderance of the evidence instruction.) Each instruction shall be numbered individually and shall begin on a separate sheet of paper.

b. At the bottom of each instruction, the party offering it shall set forth the citation of the patterned instruction, decision, statute, regulation or other supporting authority.

c. Any modification of a pattern instruction shall be disclosed.

d. Plaintiff's counsel shall initiate the instruction meeting with defense counsel, make arrangements to obtain defense counsel's proposed instructions should the parties not agree, and file the unified set of proposed instructions prior to the first conference. ***A courtesy copy of the instructions shall be e-mailed to the Courtroom Deputy in Word or compatible software format at the time of filing.***

e. Instructions not filed prior to the first conference, as set forth above, shall be deemed to have been not properly requested within the meaning of Rule 51 of the Federal Rules of Civil Procedure, ***and shall be deemed waived*** unless the subject of the request is one arising in the course of the trial and which could not reasonably have been anticipated from the pleadings, discovery or nature of the case prior to trial.

H. MOTIONS IN LIMINE

Motions in limine must be filed at least *five (5) days* prior to the first conference and responses must be filed at least *two (2) days* prior to the first conference.

I. DAUBERT MOTIONS

Any motions to limit or exclude expert witness testimony under factors set forth in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 592-93 (1993), shall be filed as soon as possible after expert witnesses are endorsed, but in no event later than *sixty (60) days* prior to trial.

J. STIPULATIONS

Stipulations shall be prepared and filed at least *five (5) days* prior to trial, and should include appropriate items which would expedite matters at trial, such as basic facts not in dispute, foundation evidence for exhibits, etc.

K. TESTIMONY BY DEPOSITION

1. **Deposition Designations.** *Twenty-one (21) days* before the first conference, each party shall file a designation, by page and line number, of any deposition testimony to be offered in evidence as a part of that party's case.

2. **Objections to Deposition Designations and Counter Designations.** *Fourteen (14) days* before the first conference, each party shall file:

a. Any objections to proposed deposition testimony;

b. A designation, by page and line number, of any proposed deposition testimony to be offered as cross-examination to deposition testimony designated by other parties.

3. **Objections to Counter Designations.** *Five (5) days* before the first conference, each party shall file and serve objections to proposed deposition testimony to be offered as cross-examination.

4. **Marking Depositions.** *At the first conference*, each party shall submit to the Court properly marked (color coded) deposition designations, objections and counter designations. Counsel should contact the Courtroom Deputy for instructions on color coding the deposition testimony.

L. SETTLEMENT DEADLINE

The parties are directed to participate in timely settlement negotiations, and within *ten (10) days* following the discussions, notify the Courtroom Deputy by e-mail that settlement negotiations have occurred. If a mediator is requested, the parties are to notify the Court as soon as possible.

Unless otherwise ordered, the Court hereby imposes a settlement deadline of *12:00 Noon on the Friday before trial*. If the case is settled after that date, the Court may enter an order to show cause why certain costs should not be imposed on the party or parties causing the delay in settlement.

IT IS SO ORDERED.

Dated this 17th day of February, 2015, at Jefferson City, Missouri.

/s/ *Matt J. Whitworth*

MATT J. WHITWORTH
United States Magistrate Judge