

CAUSE NO. DC-13-09969

JO N. HOPPER,

Plaintiff,

v.

LAURA S. WASSMER AND
STEPHEN B. HOPPER,

Defendants.

§
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§

IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

44th JUDICIAL DISTRICT

**AGREED JOINT MOTION FOR
CONTINUANCE OF TRIAL SETTING AND ENTRY OF SECOND AMENDED
SCHEDULING ORDER**

Plaintiff Jo Hopper (“Plaintiff”) and Defendants Laura S. Wassmer and Stephen B. Hopper (“Defendants”) (all collectively, the “Parties”) file this *Agreed Joint Motion for Continuance of Trial Setting and Entry of Second Amended Scheduling Order* (“Motion”), pursuant to, *inter alia*, Rule 251 of the Texas Rules of Civil Procedure. In support thereof, the Parties would respectfully show this Court as follows:

**I.
GROUNDS FOR MOTION**

A. A Continuance of the Trial Setting is Necessary to Allow Settlement Negotiations to Proceed.

1. Trial is currently set in this matter for February 8, 2016.
2. The Parties have agreed to mediate this case. The mediation is scheduled for November 9, 2015. The Parties have put a hold on further discovery or motion practice in this case until the mediation is completed.
3. The Parties agree that the trial, and the pre-trial deadlines associated therewith, should be delayed while the Parties attempt to settle this matter.

4. The Parties agreed to reschedule the trial for March 28, 2016.

5. Accordingly, the Parties request that this Court continue the Trial to March 28, 2016.

B. The Relief Requested Herein is Not Sought For Delay.

7. This Motion represents the second continuance sought regarding the trial.

8. This Motion is not made for the purposes of delay or harassment, but only so that justice may be done.

9. Continuance of this action will not unreasonably delay or otherwise interfere with the other business of the Court.

C. Request for Entry of Amended Scheduling Order.

11. The Parties also request that this Court enter the Second Amended Scheduling Order attached to this Motion as Exhibit A.

II.
REQUESTED RELIEF

WHEREFORE, PREMISES CONSIDERED, the Parties respectfully request that this Court:

- (a) Grant this Motion in its entirety;
- (b) Continue the trial setting to March 28, 2016; and
- (c) Enter the Second Amended Scheduling Order.

Dated: November 25, 2015.

Respectfully submitted,

LOEWINSOHN FLEGLE DEARY, L.L.P.

By: /s/ Alan S. Loewinsohn

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AND

/s/ Christopher McNeill

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Dallas, Texas 75225

COUNSEL FOR DEFENDANTS

/s/ Alan S. Loewinsohn

ALAN S. LOEWINSOHN

AGREED:



JOHN HOPPER

PLAINTIFF

DATE: 11/21/15

AGREED:

STEPHEN B. HOPPER

DEFENDANT

DATE: _____

AGREED:

LAURA S. WASSMER

DEFENDANT

DATE: _____

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served upon the following counsel of record via e-filing this 25th day of November, 2015:

Christopher M. McNeill
BLOCK & GARDEN, LLP
Sterling Plaza
5949 Sherry Lane, Suite 900
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/s/ Alan S. Loewinsohn

ALAN S. LOEWINSOHN

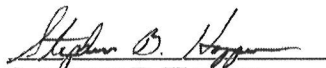
AGREED:

JO N. HOPPER

PLAINTIFF

DATE: _____

AGREED:



STEPHEN B. HOPPER

DEFENDANT

DATE: 11/23/2015

AGREED:

LAURA S. WASSMER

DEFENDANT

DATE: _____

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served upon the following counsel of record via e-filing this 23rd day of November, 2015:

Christopher M. McNeill
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Dallas, Texas 75225

/s/ Alan S. Loewinsohn

ALAN S. LOEWINSOHN

AGREED:

JO N. HOPPER

PLAINTIFF

DATE: _____


AGREED:

STEPHEN B. HOPPER

DEFENDANT

DATE: _____

AGREED:



LAURA S. WASSMER

DEFENDANT

DATE: 11/23/15

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Dallas, Texas 75225

/s/ Alan S. Loewinsohn

ALAN S. LOEWINSOHN

Exhibit A

JO N. HOPPER,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
vs.	§	44 th JUDICIAL DISTRICT
	§	
LAURA S. WASSMER and	§	
STEPHEN B. HOPPER,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

SECOND AGREED AMENDED SCHEDULING ORDER

In accordance with Rules 166, 190 and 192 of the Texas Rules of Civil Procedure, the Court makes the following order to control discovery and the schedule of this cause:

1. Pretrial matters will be complete by the following dates:

Deadline for Objections to Self-Authentication of Document. A party must serve written objections to the self-authentication of documents it has produced, as provided for by Rule 193.7, within 10 days after receiving written notice of an opposing Party’s intent to use those documents at trial, or such objection is waived.

DATE	DEADLINE
11/16/2015	Deadline for filing Amended Pleadings Asserting New Claims or Defenses * - Parties shall file all amended pleadings asserting new claims or defenses by this date. *Amended pleadings responsive to timely filed pleadings under this scheduling order may be filed after this deadline, if filed within 2 weeks after the pleadings to which they respond.

- 09/22/2015 Deadline to Join Additional Parties. No additional parties may be joined after this date, except on motion to leave showing good cause, this paragraph does not otherwise alter the requirements of Rule 38. This paragraph does not limit a claimant's ability to join a person designated as a responsible third party, as provided for under §33.004 Civ. Prac. & Rem. Code. This party joining an additional party shall serve a copy of this Order on the new party concurrently with the pleading joining the party.
- 12/14/2015 Deadline for Any Party Seeking Affirmative Relief to Designate Expert Witnesses and Produce Expert Reports. Any party seeking affirmative relief shall designate all witnesses from whom that Party intends to elicit expert opinion testimony no later than the date and shall simultaneously produce written reports, containing information described in Rule 195.5 for all experts retained by, employed by, or otherwise subject to that Party's control.
- 01/15/2016 Deadline for Any Party Opposing Affirmative Relief to Designate Expert Witnesses and Produce Expert Reports. Any Party opposing affirmative relief shall designate all witnesses from whom that Party intends to elicit expert opinion testimony no later than this date and shall simultaneously produce written reports, containing information described in Rule 195.5 for all other experts retained by, employed by, or otherwise subject to that Party's control.
- 01/29/2016 Deadline for Designation of Rebuttal Experts and Provide Reports. The Parties shall designate rebuttal experts from whom they intend to elicit expert opinion testimony regarding matters not reasonably anticipated prior to that Party's original expert designation deadline. Any Party designating a rebuttal expert shall simultaneously produce written reports, containing information described in Rule 195.5 for all rebuttal experts retained by, employed by, or otherwise subject to the designation Party's control.
- 02/05/2016 Deadline to file Motions Challenging Expert Qualifications (Daubert/Robinson Motions). Any objection or motion to exclude or limit expert testimony due to qualifications of the expert of reliability of opinions must be filed no later than this date. All evidence to offer in support of such motion must be filed with the motion.
- 02/08/2016 Deadline to file Dispositive Motions: All dispositive motions shall be filed no later than this date.
- 12/08/2015 Deadline to Designate Responsible Third Parties. Defendants shall file any motions for leave to designate responsible third parties, under §33.04 Civ. Prac. & Rem.Code by this date.

- 01/29/2016 Discovery Closes. All depositions other than if rebuttal experts, if any, are deposed, shall be completed by this date and all written discovery requests shall be served so that responses are due no later than this date. Depositions of rebuttal experts, if any, shall be completed by 02/12/2016.
- 01/29/2016 Deadline to File Motion to Compel. Any motion to compel responses to discovery must be filed and heard no later than this date, except for motions for sanctions as provided for by Rule 193.6
- 11/15/2015 Mediation Deadline. The Parties shall mediate the case no later than this date.
- 03/04/2016 Exchange Trial Deadline Materials. The Parties shall exchange* the following materials by this date.
1. Proposed jury panel questionnaires, if any;
 2. Motions in Limine;
 3. Information described in Rule 166(h) (*fact witness information*), (i) (*expert witness information*), and (k) (*jury charge information*);
 4. Designations of deposition testimony to be offered in direct examination;
 5. List of Exhibits;
 6. Any affidavits; and
 7. Any Exhibits not previously produced.
- *The Parties shall not file these materials with the Court at this time.
- **Each exhibit must be identified separately (rather than by category or group), except for records to offered by way of business records affidavit.
- ***Over-designation is strongly discouraged and may be sanctioned.
- 03/18/2016 Deadline to Exchange Objections to Opposing Party's Trial Materials. The Parties shall exchange* the following materials by this date:
1. Objections to opposing Party's proposed jury panel questionnaires, if any;
 2. Written objections to the opposing Party's Motion in Limine;
 3. Cross-designation of deposition testimony to be offered in direct examination;
 4. Written objections to the opposing Party's proposed exhibits, or affidavits; and
 5. Written objections to the opposing Party's designations of deposition testimony to be offered in direct examination.

*The Parties shall not file these materials with the Court at this time.

03/21/2016

The Parties shall exchange:

1. Written objections to the Parties cross-designations of deposition testimony; and
2. Rebuttal designations of deposition testimony.

03/23/2016

The Parties shall exchange objections to rebuttal deposition designations.

03/24/2016

Deadline to Confer on Trial Matters. The attorneys in charge for all Parties shall meet in person to confer on agreements and stipulations regarding the materials listed below and make every effort to maximize agreement:

1. Jury panel questionnaires, if any;
2. Motions in Limine;
3. Exhibits, or affidavits;
4. Designations (and cross-designations) of deposition testimony to be offered at trial; and
5. Items and Materials specified in Rule 168(d)-(m).

03/24/2016

Deadline for Parties* ** to File Materials with the Court. The Parties shall file the following materials with the Court by this date:

1. An estimate of the length of trial;
2. Motions in Limine;
3. Items and Materials stated in Rule 166(d)-(m);
4. Designation of deposition testimony to be offered in direct examination;
5. Cross-designation of deposition testimony to be offered; and
6. Objections to opposing Parties; Proposed jury panel questionnaire; Motion in Limine; Designation of deposition testimony; Proposed exhibits; and Affidavits.

*Plaintiff shall be responsible for filing a joint Pre-Trial Statement of the Parties containing all information required under this deadline that is agreed upon by the Parties.

**Each Party shall file materials separately that are not agreed upon by the Parties.

03/21/2016

Pretrial Conference. ***A conference shall be held with the Court on this date, during which the Court shall consider (*and rule upon, to the extent possible*): Motions in Limine; Designations (*and cross-designations*) of deposition

testimony; Exhibits; Witness lists; Demonstrative Aids; Affidavits; and Proposed jury instruction and questions.

*The Parties shall be prepared to present to the Court all documentary evidence (*including deposition designations, exhibits*) for consideration of authenticity and admissibility to which stipulation could not be reached.

** Evidence may be used during Voir Dire and Opening Statements. The Parties will be permitted to use pre-admitted exhibits, documentary evidence, and pre-admitted deposition testimony (*either by written transcript or videotape*) during voir dire and opening statements. **Parties shall exchange by 7:00 p.m. the night before any trial day all demonstrative aids intended to be used the following the trial day and any objections to those aids shall be exchanged by 9:00 p.m. that same night.**

03/24/2016

Deadline to Announce Ready for Trial.

03/28/2016

TRIAL DATE NON-JURY DOCKET

The parties may by written agreement alter these deadlines.

1. A Mediation Order was signed by the Court on December 30, 2013 and a mediator was appointed, Mr. Paul Salzburger. The Parties have agreed to substitute Ross Stoddard as the mediator.

2. All pleadings, papers or notices required to be served pursuant to Rule 21a of the Texas Rules of Civil Procedure (unless personal service is required after citation, under the Rules) may be served by email and email service shall be treated the same as facsimile service under the Rules (i.e., that is service by email will be considered to be served, just like facsimile service, on the date emailed, if emailed on or before 5:00 p.m. on said day, and if emailed after 5:00 p.m., will be considered served the next day). For all purposes hereunder, whenever email service is employed, three additional counting days shall be added to the prescribed period for response, just as the Rule applies under Rule 21a for facsimile service.

SIGNED on this _____ day of _____, 2015.

PRESIDING JUDGE

APPROVED:

/s/ Alan S. Loewinsohn

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