

11/24/01

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JAMES A. KNAUER,)	
)	
Plaintiff,)	
)	
vs.)	IP 01-1168-C K/T
)	
JONATHON ROBERTS FINANCIAL)	
GROUP, INC., et al.,)	
)	
Defendants.)	

NOTICE OF INITIAL PRETRIAL CONFERENCE

This case is hereby assigned for an initial pretrial conference before United States Magistrate Judge Tim A. Baker on Wednesday, January 2, 2002 at 9:30 a.m. in Room 234, United States Courthouse, 46 East Ohio Street, Indianapolis, Indiana. The parties are ORDERED to confer and prepare a proposed case management plan. The plan shall comply with LR 16.1(c) & (d), and shall address discovery issues as required by Fed. R. Civ. P. 26(f). The parties shall file such plan no less than seven (7) days prior to the pretrial conference. In addition, counsel and parties are encouraged to review the attached advisory concerning electronic access to the Court's docketing system. **Filing of the plan will not automatically vacate the pretrial conference.** The conference will remain set unless specifically vacated by the Court, which is unlikely.

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Counsel who attend the conference should include the principle attorney responsible for trying the case, and counsel should be familiar with the facts and relevant legal issues in the case. Counsel should be familiar with the facts and relevant legal issues in the case. No issue, claim, or defense shall be maintained at the conference by any party as to which there are no presently known

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facts which support the issue, claim, or defense. Counsel should expect to be asked to set forth specific, known facts that support the issue, claim, or defense. Where it appears at the conference that there is no factual or legal basis to support any issue, claim, or defense, the Court will enter an order dismissing such issue, claim, or defense without prejudice to refiling in the event subsequent discovery demonstrates the existence of facts or law supporting the issue, claim, or defense.

Pursuant to LR 16.1(h), counsel should also be prepared to discuss settlement at the initial pretrial conference (as at any pretrial conference).

The Court encourages counsel to agree on a numbering system for exhibits in discovery that will assign a unique number to each exhibit, so that the same exhibit number can be used at all depositions and at trial.

A sample case management plan form with suggested deadlines has been attached following the Court's advisory concerning electronic access to the Court's docketing system. Please note that both the form and deadlines are suggestions. Although they work well for many cases, the court recognizes that they are not appropriate for all cases. For example, if it appears unlikely that a motion for summary judgment will be filed, the time for trial can sometimes be accelerated by several months. Or if accelerating or delaying expert discovery is likely to produce a net savings in cost, counsel should feel free to modify the suggested schedule accordingly. Also, if the parties anticipate seeking a protective order to protect the confidentiality of trade secrets or other confidential information, they should consider the Seventh Circuit's opinion in *Citizens First National Bank of Princeton v. Cincinnati Insurance Co.*, 178 F.3d 943 (7th Cir. May 28, 1999).

So ordered.

DATED this 26th day of November 2001.

/s/ *Jim A. Baker*

Tim A. Baker, Magistrate Judge
United States District Court
Southern District of Indiana

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ADVISORY ON ELECTRONIC ACCESS TO DOCKET INFORMATION

The public, through the Internet, is now able to obtain information about cases filed in the U.S. District Court for the Southern District of Indiana without visiting the courthouse or talking to anyone. This information may be downloaded to the personal computer and printed at no cost wherever that computer is located.

The Southern District of Indiana now has its own website which can provide case information to the public through the Court's JAMS docketing and case information system. The Internet address for the website is **www.insd.uscourts.gov**. The public can search for a given case by case division, case number, or party name, or any combination thereof. Information normally available on the JAMS docket sheet, such as parties, counsel name and address, and full docket sheet, is available for viewing. The case information which can be accessed through the website on any given day should be current as of 11:59 p.m. of the preceding day.

Previously, most requests for information about federal cases pending within the Southern District of Indiana were made by telephone to or in person at the U.S. District Court Clerk's Office in Indianapolis, Terre Haute, Evansville and New Albany. The public could access JAMS only through computers in the lobby of the U.S. District Court Clerk's Office but had no ability to print the information found in JAMS. When someone requested a copy of court docket sheets, the Clerk was required by statute to charge 50 cents per page in most instances.

Any standard Internet browser such as Netscape Navigator or Microsoft Explorer can be used to access the Southern District of Indiana's website.

For more information, please contact Dale Nellis at (317) 229-3730.

INSTRUCTIONS FOR PREPARING CASE MANAGEMENT PLAN

The following provisions apply to civil cases filed in the United States District Court for the Southern District of Indiana that are not exempt from filing a Case Management Plan ("CMP") under Local Rule 16.1.

Special Instructions For *Pro Se* Parties

Any party who is not represented by counsel (known as a *pro se* party) and who is not incarcerated may participate fully in the preparation of the CMP. Alternatively, however, non-incarcerated *pro se* parties may simply mail a letter containing that party's complete name, address, telephone number, and a summary of the case that includes only the main or major facts. This letter must be mailed to all opposing counsel (or parties, if unrepresented) within 70 days from the date that the case was filed or removed to this Court. *Pro se* parties may obtain the names and addresses of counsel for opposing parties by calling the clerk's office at 317-229-3700 or conducting a case search on the Court's webpage at www.insd.uscourts.gov. Counsel for opposing parties shall then incorporate the information from the *pro se* party's letter, timely sign and submit the CMP to the Court, and serve a copy on the *pro se* party.

General Instructions For All Cases

Unless the plaintiff is *pro se*, counsel for plaintiff shall be responsible for coordinating timely completion of the CMP. The deadline for filing the CMP is 90 days from the date the case was filed or removed. The deadline for filing the CMP shall not be extended without written motion which establishes good cause to extend the deadline. Regardless of the status of the CMP, the parties are free to engage in discovery in compliance with the Federal Rules of Civil Procedure and Local Rules of this Court.

The calculation of all deadlines for the CMP is based on the "Anchor Date," which means the date that the case was filed or removed to the Court. Because all CMP deadlines are linked to the Anchor Date, plaintiffs must promptly effectuate service on all defendants. The Court may entertain requests from defendants to modify/lengthen all CMP deadlines if service is not made promptly.

The use of the term "months" for calculating the dates (rather than counting days) is for ease of calculation. Thus, for example, if the Anchor Date is the 20th of the month, most of CMP deadlines will fall on the 20th of the respective months regardless of how many days comprise the intervening months.

District Judges and Magistrate Judges regularly receive documents filed by all parties. Therefore, parties shall not bring "courtesy copies" to any chambers unless specifically directed to do so by the Court. Also, documents which are already part of the record of the case should not be re-submitted with later-filed documents. Rather, the later documents should cross-reference the earlier filed document by name, date of filing, and (if available) the Court's docket number (updated daily on the Court's website). In accordance with Local Rule 26.2, discovery papers are not ordinarily filed with the Court.

If feasible, the parties shall, at the time of service, exchange discovery requests and Local Rule 56.1 Statements of Material Facts (and responses and replies thereto) electronically and/or via computer disk.

In addition to those conferences required by Local Rule 37.1, counsel are encouraged to hold informal conferences in person or by phone to resolve any disputes involving non-dispositive issues that may otherwise require submission of a motion to the Court. **This requirement does not apply to cases involving *pro se* parties.** Therefore, prior to filing any non-dispositive motion (including motions for extension of time), the moving party must contact opposing counsel to determine whether there is an objection to any non-dispositive motion (including motions for extension of time), and state in the motion whether opposing counsel objects to the motion. If an objection cannot be resolved by counsel, the opposing counsel's position shall be stated within the motion. The motion should also indicate whether opposing counsel plans to file a written objection to the motion and the date by which the Court can expect to receive the objection (within the time limits set in Local Rule 7.1). If after a reasonable effort, opposing counsel cannot be reached, the moving party shall recite in the motion the dates and times that messages were left for opposing counsel.

[INSERT CASE CAPTION]

CASE MANAGEMENT PLAN

I. Parties and Representatives

- A. [Insert correct name of each party]
- B. [Insert full name, address, telephone, fax number, and e-mail address of all counsel]

II. Synopsis of Case

- A. [Insert brief statement of plaintiff's claims, including relevant facts, legal theories, basis for subject matter jurisdiction, and an estimate of damages.]
- B. [Insert brief responsive statement of defendant's claims, including relevant facts, legal theories, affirmative defenses, counterclaims, subject matter jurisdiction, and damages.]

III. Pretrial Pleadings and Disclosures

- A. The parties shall serve their Fed. R. Civ. P. 26 initial disclosures on or before _____ [4 months from Anchor Date], and shall at that time file a notice with the Court that such disclosures have been served. [Note: Fed. R. Civ. P. 26(a)(1)(E) permits the parties to object to making initial disclosures or to stipulate to a different deadline for making such disclosures based upon the circumstances of the action. If any objection and/or stipulation is made to initial disclosures in the CMP, the parties shall briefly state the circumstances justifying their respective positions.]
- B. Plaintiff(s) shall file preliminary witness and exhibit lists on or before _____ [5 months from Anchor Date].
- C. Defendant(s) shall file preliminary witness and exhibit lists on or before _____ [6 months from Anchor Date].
- D. All motions for leave to amend the pleadings and/or to join additional parties shall be filed on or before _____ [5 months from Anchor Date].

- E. Plaintiff(s) shall serve Defendant(s) (but not file with the Court) a statement of special damages, if any, and make a settlement demand, on or before _____ [9 months from the Anchor Date]. Defendant(s) shall serve on the Plaintiff(s) (but not file with the Court) a response thereto within 15 days after receipt of the demand.
- F. Plaintiff(s) shall disclose the name, address, and vita of all expert witnesses, and shall serve the report required by Fed. R. Civ. P. 26(a)(2)(B) on or before _____ [13 months from Anchor Date]. However, if Plaintiff uses expert witness testimony at the summary judgment stage, such disclosures must be made no later than 60 days prior to the summary judgment deadline.
- G. Defendant(s) shall disclose the name, address, and vita of all expert witnesses, and shall serve the report required by Fed. R. Civ. P. 26(a)(2)(B) within 30 days after Plaintiff(s) serves its expert witness disclosure; or if none, Defendant(s) shall make its expert disclosure on or before _____ [14 months from Anchor Date]. However, if Defendant uses expert witness testimony at the summary judgment stage, such disclosures must be made no later than 30 days prior to the summary judgment deadline.
- H. Any party who wishes to preclude expert testimony at trial shall file any such objections by _____ [16 months from Anchor Date or two months before trial, whichever date is earlier]. Any party who wishes to preclude expert witness testimony at the summary judgment stage shall file any such objections with their responsive brief within the briefing schedule established by Local Rule 56.1.
- I. All parties shall file and serve their final witness and exhibit lists on or before _____ [14 months from Anchor Date].
- J. Any party who believes that bifurcation of discovery and/or trial is appropriate with respect to any issue or claim shall notify the Court as soon as practicable.

IV. Discovery and Dispositive Motions

Due to the time and expense involved in conducting expert witness depositions and other discovery, as well as preparing and resolving dispositive motions, the Court requires counsel to use the CMP as an opportunity to seriously explore whether this case is appropriate for such motions (including specifically motions for summary judgment), whether expert witnesses will be needed, and how long discovery should continue. To this end, counsel must select the track set forth below that they believe best suits this case. If the parties are unable to agree on a track, the parties must: (1) state this fact in the CMP where indicated below; (2) indicate which track each counsel believes is most appropriate; and (3) provide a brief statement supporting the reasons for the track each counsel believes is most appropriate. If the parties are unable

to agree on a track, the Court will pick the track it finds most appropriate, based upon the contents of the CMP or, if necessary, after receiving additional input at an initial pretrial conference.

- A. Does any party believe that this case may be appropriate for summary judgment or other dispositive motion? If yes, the party(ies) that expect to file such a motion must provide a brief statement of the factual and/or legal basis for such a motion. [Note: A statement such as, "Defendant will seek summary judgment because no material facts are in dispute," is insufficient. Such a statement does not indicate to the Court that the parties used the CMP as an opportunity to seriously explore whether this case is appropriate for summary judgment or other dispositive motion. However, the failure to set forth a basis for a dispositive motion in the CMP will not bar a party from raising this argument at the motions stage.]
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- B. Select the track that best suits this case:

_____ Track 1: No dispositive motions are anticipated. All discovery shall be completed¹ by _____ [16 months from Anchor Date]. [Note: Given that no dispositive motions are anticipated, the parties should consider accelerating discovery and other pretrial deadlines to the extent practicable and suggest a trial date (Section VI) substantially earlier than the presumptive trial date of 18 months from the Anchor Date. The Court encourages a track faster than the standard track in all cases in which dispositive motions are not anticipated].

_____ Track 2: Dispositive motions are expected and shall be filed by _____ [13 months from Anchor Date]; non-expert witness discovery and discovery relating to liability issues shall be completed by _____ [8-12 months from Anchor Date]²; expert witness discovery and discovery relating to damages

¹ The term "completed," as used in Section III.B, means that counsel must serve their discovery requests in sufficient time to receive responses before this deadline. Counsel may not serve discovery requests within the 30-day period before this deadline unless they seek leave of Court to serve a belated request and show good cause for the same. In such event, the proposed belated discovery request shall be filed with the motion, and the opposing party will receive it with service of the motion but need not respond to the same until such time as the Court grants the motion.

²The parties shall pick specific dates within each four-month range. The parties shall set these dates in a manner that will most likely leave sufficient time to complete discovery, if necessary, after any dispositive motion ruling.

shall be completed by _____ [12-16 months from Anchor Date]. [Note: The Court expects this will be the typical track when dispositive motions are anticipated.]

_____ Track 3: Dispositive motions are expected and shall be filed no later than _____ [13 months from Anchor Date]; expert witness discovery that may be necessary at the dispositive motions stage shall be completed by _____ [8-12 months from Anchor Date]; all remaining discovery shall be completed by [12-16 months from Anchor Date]. [Note: The Court expects that this will not be the typical track when dispositive motions are anticipated.]

_____ Track 4: Dispositive motions shall be filed by _____ [not later than 13 months from the Anchor Date]; non-expert discovery shall be completed by _____; expert witness discovery shall be completed by _____. [Note: The Court provides Track 4 as an open option because it recognizes that there may be unusual cases for which special circumstances necessitate additional flexibility. However, the Court has found that Tracks 1-3 are appropriate in the large majority of cases, and therefore the parties must briefly state below the special circumstances justifying a departure from Tracks 1-3.]

V. Pre-Trial/Settlement Conferences

Indicate here whether any of the parties deem it helpful to hold an initial conference with the magistrate or judge, and if so, the suggested timing and forum (i.e., in person or by telephone) of such a conference. At any time, any party may call the Magistrate's Judge's chambers to request a conference, or the Court may *sua sponte* schedule a conference at any time.

VI. Trial Date

The presumptive trial date is _____ [18 months from the Anchor Date]. The trial is by _____ [Court or jury] and is anticipated to take _____ hours/days. Counsel should indicate here the reasons that a shorter or longer track is appropriate. While all dates herein must be initially scheduled to match the presumptive trial date, if the Court agrees that a different track is appropriate, the case management order approving the plan will indicate the number of months by which all or certain deadlines will be extended to match the track approved by the Court.

VII. Referral to Magistrate Judge

At this time, all parties _____ [do/do not] consent to refer this matter to the Magistrate Judge pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 73 for all further proceedings including trial. [If the parties consent to the referral of this case to the Magistrate Judge, they must file signed consents.

VIII. Required Pre-Trial Preparation

- A. **TWO WEEKS BEFORE THE FINAL PRETRIAL CONFERENCE**, the parties shall:
1. File a list of witnesses who are expected to be called to testify at trial.
 2. Number in sequential order all exhibits, including graphs, charts and the like, that will be used during the trial. Provide the Court with a list of these exhibits, including a description of each exhibit and the identifying designation. Make the original exhibits available for inspection by opposing counsel. Stipulations as to the authenticity and admissibility of exhibits are encouraged to the greatest extent possible.
 3. Submit all stipulations of facts in writing to the Court. Stipulations are always encouraged so that at trial, counsel can concentrate on relevant contested facts.
 4. A party who intends to offer any depositions into evidence during the party's case in chief shall prepare and file with the Court and copy to all opposing parties either:
 - a. brief written summaries of the relevant facts in the depositions that will be offered. (Because such a summary will be used in lieu of the actual deposition testimony to eliminate time reading depositions in a question and answer format, this is strongly encouraged.); or
 - b. if a summary is inappropriate, a document which lists the portions of the deposition(s), including the specific page and line numbers, that will be read, or, in the event of a video-taped deposition, the portions of the deposition that will be played, designated specifically by counter-numbers.
 5. Provide all other parties and the Court with any trial briefs and motions in limine, along with all proposed jury instructions, voir dire questions, and areas of inquiry

for voir dire (or, if the trial is to the Court, with proposed findings of fact and conclusions of law).

6. Notify the Court and opposing counsel of the anticipated use of any evidence presentation equipment.

B. ONE WEEK BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:

1. Notify opposing counsel in writing of any objections to the proposed exhibits. If the parties desire a ruling on the objection prior to trial, a motion should be filed noting the objection and a description and designation of the exhibit, the basis of the objection, and the legal authorities supporting the objection.
2. If a party has an objection to the deposition summary or to a designated portion of a deposition that will be offered at trial, or if a party intends to offer additional portions at trial in response to the opponent's designation, and the parties desire a ruling on the objection prior to trial, the party shall submit the objections and counter summaries or designations to the Court in writing. Any objections shall be made in the same manner as for proposed exhibits. However, in the case of objections to video-taped depositions, the objections shall be brought to the Court's immediate attention to allow adequate time for editing of the deposition prior to trial.
3. File objections to any motions in limine, proposed instructions, and voir dire questions submitted by the opposing parties.
4. Notify the Court and opposing counsel of requests for separation of witnesses at trial.

IX. Other Matters

[Insert any other matters any party believes should be brought to the Court's attention]

[INSERT SIGNATURE BLOCKS FOR ALL COUNSEL TO SIGN THE CMP HERE]
