

COURT OF COMMON PLEAS
CIVIL DIVISION
BUTLER COUNTY, OHIO

FILED
ADAMS COUNTY
CLERK OF COURTS
2024 MAR 13 AM 9:52

Larry Heller
CLERK

SHAWN D. COOLEY, ET. AL.

Plaintiffs

vs.

JOSEPH EDGAR FOREMAN, ET. AL.
AKA AFROMAN, et. al.

Defendants

:

:

:

:

:

:

CASE NO. CVH 20230069

CIVIL CASE SCHEDULING ORDER
ISSUED PURSUANT TO CIV.R. 26(B)

IT IS ORDERED BY THE COURT AS FOLLOWS:

1. **ADOPTION OF CIVIL RULE 26(F) REPORT OF THE PARTIES:** The court has received a Civ.R. 26(F) Conference Report and Joint Proposed Discovery Plan from the parties. The Plan, which was prepared by the parties and filed with the court on March 1, 2024, is approved and adopted by the court, particularly as it relates to the setting of deadlines, which are adopted herein by reference as an Order of the court except to the extent varied herein.
2. **AMENDMENT OF PLEADINGS AND/OR JOINDER OF NEW PARTIES:** Any motion to amend the pleadings and/or to add new parties shall be filed no later than March 29, 2024.
3. **DEADLINE FOR INITIAL DISCLOSURES IN ACCORDANCE WITH CIV.R. 26(B):** The parties have agreed that all initial disclosures were to have been made by March 8, 2024. The court would remind the parties that initial disclosures must be provided

as required and within the timelines set forth in Civ.R. 26(B). These disclosures must include 1) identifying information as to each person *likely* to have discoverable information that the disclosing party *may* use to support its claims or defenses, 2) a copy of *all* documents, electronic information, and tangible things that the disclosing party has in its possession or control that it *may* use to support its claims and defenses, 3) a computation of each category of damages claimed by the disclosing party including materials on which computation is based, including materials bearing on the nature and extent of injuries suffered, and 4) any insurance agreement under which an insurance business *may* be liable for all or any part of judgment or to indemnify or reimburse for payments made to satisfy judgment.

4. **SETTLEMENT AND MEDIATION:** The parties have indicated that the deadline to request mediation will be mid-September 2024 to mid-October 2024. A Mediation Conference may be scheduled/rescheduled if necessary or desired by the parties. Counsel are welcome to schedule a mediation conference through a court mediator, if one is provided, or through a private mediator. In any event, it is expected that counsel will attempt to resolve their case through mediation or other informal means before taking the time of either the court or a jury to decide their case.
5. **DISCOVERY DEADLINES:** In accordance with the agreement of the parties, all fact discovery shall be completed by September 5, 2024.
6. **CONFERENCE WITH COURT REQUIRED BEFORE MOTION RELATING TO DISCOVERY IS FILED:** Before moving for an order relating to discovery, the movant must request a conference with the court. At least 48 hours before the conference is held, each counsel involved in the discovery dispute shall submit to the court a

written statement setting forth the essential facts related to the dispute, counsel's position as to the dispute, and a summary of the law supporting counsel's position.

7. **PROCEDURE WITH RELATION TO MOTIONS FILED AS TO DISCOVERY DISPUTES:**

With respect to any discovery dispute that is raised by motion for the court's determination, each side shall submit a document which lists in chart form 1) each interrogatory or part thereof, or request for production of document(s), or other matter which is in dispute, 2) a statement as to the relevance and importance of the discovery, 3) the response or answer or listing of documentation which was provided thereto, 4) what additional response or answer or documentation is necessary to fully respond to the discovery item, and 5) the party's argument with respect to the discovery dispute as to that item. In lieu of the requested information being provided in a chart form, counsel may provide the information in a different format as long as the court is able to easily discern as to each item of discovery which is in dispute the information which is necessary for the court to review and rule on the dispute.

8. **BRIEFING AND DECISION AS TO DISCOVERY DISPUTES:** With respect to each motion pertaining to discovery that is filed, the opposing side shall respond within 10 days to the request unless additional time is requested and granted. Any reply shall be filed within 7 days of the service of the response. The motion will then be decided without oral argument unless oral argument is requested within 3 days after the time for filing a reply has elapsed, or the reply has been served or filed, whichever first occurs.

9. **COOPERATION IN RESOLVING DISCOVERY DISPUTES:** Counsel are expected to cooperate with one another to resolve all discovery disputes extrajudicially. If a

dispute is brought before the court for determination, reasonable expenses, including attorney fees, may be awarded in accordance with Civ.R. 37.

10. **SUPPLEMENTATION OF DISCOVERY RESPONSES**: Through the time of trial, each party has a duty to supplement responses to discovery requests, as well as initial disclosures, to include information acquired after the time the response or disclosure was given, or to correct any inaccuracies contained therein.

11. **MOTIONS FOR SUMMARY JUDGMENT**: The deadline for filing any motion for summary judgment is December 1, 2024, as agreed by the parties. Any evidence to be submitted by the movant must be served and filed with the motion. No evidence may be submitted by the movant in support of the motion after the time of filing of the motion absent the written agreement of opposing counsel to the consideration of the additional evidence. The times within which to respond to a summary judgment motion and to file a reply are as set forth in Civ.R. 6. The motion(s) will be decided without oral argument unless a timely request is made for oral argument. A request may be made no later than seven days after a reply to the response of the non-movant is filed, or seven days after the time for filing a reply has elapsed, whichever first occurs. Oral argument shall be scheduled no later than three weeks after a reply to the response of the non-movant is filed, or three weeks after the time for filing a reply has elapsed, whichever first occurs.

12. **OTHER MOTIONS**: Counsel shall file any motions which require pre-trial determination by the court, including motions *in limine*, as soon as practicable and within the time limits prescribed herein and pursuant to the applicable rules. Any motions shall state specifically the relief sought and shall be supported by a written

memorandum which shall include citations of authority. Where documents (except transcripts) are relied upon which consist of more than one page, the citation shall be to the document and page or paragraph number internal to the document. The memorandum shall include a table of contents, including a table of cases and authorities relied upon with the page references to each item listed. Counsel shall also provide to the judge copies of any memorandum or brief which is filed pertaining to the motion.

13. **REPLIES AND RESPONSES AND HEARINGS ON MOTIONS OTHER THAN MOTIONS**

FOR SUMMARY JUDGMENT: The time for responses and replies to motions is set forth in Civ.R. 6. If an evidentiary hearing is required, or if oral argument is requested, as to a motion other than a motion for summary judgment, parties are hereby notified of their obligations to contact the court to request a date and time for the evidentiary hearing and/or argument, to advise the court as to the amount of time required, and to advise all parties of the hearing scheduled.

14. **DIGITAL COPIES FOR JUDGE OF MOTIONS, AND RESPONSES AND REPLIES AS TO**

MOTIONS AND OTHER FILINGS, FILED WITH CLERK: At the time that a motion of any type requesting any action or ruling by the court is filed, or any response or reply is filed with respect to the motion, a copy of the motion, reply, or response, together with all memoranda and attachments, shall be e-mailed in a digital format (preferably in Word) to Retired Judge R. McBride, at jerrymcbride081251@gmail.com. This generally will apply also to all other filings that are required to be made with the court as hereinafter set forth, even when it is not explicitly set forth herein.

15. **EXCHANGE OF EXPERT REPORTS:** By agreement of the parties, each party's deadline to disclose expert witnesses is October 1, 2024, and the deadline for rebuttal expert reports is November 1, 2024. These deadlines may be modified for good cause shown upon agreement of counsel or by the court *sua sponte*. Counsel are reminded of the following provisions from Civ.R. 26(B)(7) with regard to exchange of expert reports: The reports of expert witnesses expected to be called by each party shall be exchanged with all other parties. The parties shall submit expert reports and curricula vitae in accordance with the time schedule established by the Court, which is based upon the agreement of the parties.
16. **OTHER REQUIREMENTS AS TO EXPERT WITNESSES:** Other than under subsection Civ.R. 26(B)(7)(d), a party may not call an expert witness to testify unless a written report has been procured from the witness and provided to opposing counsel. The report of an expert must disclose a complete statement of all opinions and the basis and reasons for them as to each matter on which the expert will testify. It must also state the compensation for the expert's study or testimony. An expert will not be permitted to testify or provide opinions on matters not disclosed in his or her report.
17. **FINAL PRE-TRIAL CONFERENCE:** An in-person final pretrial conference will be held on May 19, 2025 at 9:00 a.m.
18. **JURY TRIAL:** A jury trial will be held on June 2-11, 2025, commencing at 8:30 a.m. on each day of the trial.
19. **OTHER SCHEDULING MATTERS AND DEADLINES AS TO TRIAL PREPARATION:**
The following additional deadlines will apply:
Filing of pretrial statement- May 9, 2025.

Filing of a complete set of agreed upon jury instructions, and submission of any proposed jury instructions that are not agreed upon together with arguments, and interrogatories- May 9, 2025.

Exchange of exhibits- May 9, 2025.

Filing of motions in limine- May 7, 2025.

Response to motions in limine- May 12, 2025.

All exhibits must be marked before trial and a list of exhibits provided to opposing counsel, court, and the bailiff.

20. **REQUEST FOR SCHEDULING OF CONFERENCES:** Either of the attorneys in the case may request the scheduling of a conference at any time if there are scheduling or other matters that need to be addressed, or for the purpose of keeping the court informed as to the progress of the parties in meeting the deadlines set forth in the schedule.

21. **SERVICE UPON COUNSEL OF RECORD AND UNREPRESENTED PARTIES:** Copies of the Order shall be served upon all counsel of record and unrepresented parties in the manner required by law.

IT IS SO ORDERED.

DATED: 3-11-23

J. R. McBride

Retired Judge Jerry R. McBride