

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CURTIS LARRICK,)	
)	Civil Action No. 16-cv-282
Plaintiff,)	
)	United States Magistrate Judge
v.)	Cynthia Reed Eddy
)	
BEAVER COUNTY, PENNSYLVANIA,)	
ANTHONY GUY, Sheriff of Beaver)	
County in his individual capacity)	
)	
Defendants.)	

PRETRIAL ORDER

AND NOW, this 11th day of April, 2018, IT IS HEREBY ORDERED as follows:

1. **Jury Selection & Trial.** Jury selection is set for **October 31, 2018 at 9:30 a.m.** and trial is set for **November 5, 2018 through November 9, 2018** in Courtroom 10A, 10th Floor, United States Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania.
2. **Pretrial Conferences.** A preliminary pretrial conference with the Court's law clerk shall be held in Courtroom 10A on **October 22, 2018 at 2:00 p.m.** A final pretrial conference with Judge Eddy and her staff shall be held in Courtroom 10A on **October 26, 2018 at 2:00 p.m.**
3. **Pretrial Statements.** On or before **October 15, 2018,** counsel for the plaintiff or an unrepresented plaintiff shall file and serve a pretrial statement which shall include:
 - a. a brief narrative statement of the material facts that will be offered at trial;
 - b. a statement of all damages claimed, including the amount and the method of calculation of all economic damages;
 - c. a list of legal issues that the party believes should be addressed at the final pretrial conference.

4. On or before **October 17, 2018**, counsel for the defendant or an unrepresented defendant shall file a pretrial statement meeting the requirements set forth in ¶ 3, including defenses to the damages claims asserted against the defendant by any party and a statement of all damages claimed by the defendant in connection with a counterclaim, cross-claim or third party claim, including the amount and the method of calculation of all economic damages.

5. **Exchange of Witness Lists and Exhibits.**

a. Plaintiff shall file and serve Plaintiff's list of trial witnesses, listing separately the witnesses Plaintiff will call and the witnesses Plaintiff may call if needed (other than purely for impeachment). For each witness listed, Plaintiff shall provide an offer of proof explaining the substance of the witness' testimony. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Plaintiff's witness list and offers of proof shall be due by **October 15, 2018**.

b. Defendant shall file and serve Defendant's list of trial witnesses, listing separately the witnesses Defendant will call and the witnesses Defendant may call if needed (other than purely for impeachment). For each witness listed, Defendant shall provide an offer of proof explaining the substance of the witness' testimony. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Defendant's witness list and offers of proof shall be due by **October 17, 2018**.

c. The parties shall confer regarding all exhibits, including designation of excerpts from depositions, interrogatory answers, and responses to requests for admission, to be offered at trial (other than for impeachment), and shall exchange the same on or before **October 15, 2018**. Counter designations (if any) shall be exchanged by **October 17, 2018**. In order to avoid duplicate exhibits and for purposes of clarity, the parties shall compile and agree to a list of Joint Exhibits,

consisting of the documents which they *both* plan to offer at trial. The Joint Exhibits shall be numbered (e.g., “Joint Exhibit 1”). To the extent that that the parties do not agree to all of the proposed Joint Exhibits, Plaintiff’s Exhibits shall be numbered (e.g., “Plaintiff’s Exhibit 1”) and Defendant’s Exhibits shall be lettered (e.g., “Defendant’s Exhibit A”).

d. The parties shall provide four (4) copies of binders containing the Joint Exhibits, Plaintiff’s Exhibits, and Defendant’s Exhibits before the preliminary pretrial conference on **October 19, 2018 by 4:00 p.m.** The binders shall be properly marked in accordance with ¶ 5.c. Additionally, the parties shall jointly submit a chart to the Court identifying each exhibit by name, providing a brief description of the nature of the objection (if any), and a space for the Court’s ruling on the objection(s), which shall be contained in the binder and e-mailed in Word format to amanda.thomas@pawd.uscourts.gov on or before **October 19, 2018 by 4:00 p.m.** Objections will be resolved at or before the final pretrial conference.

e. Voluminous data shall be presented by summary exhibits pursuant to Fed.R.Evid. 1006, and voluminous exhibits shall be redacted to eliminate irrelevant material (which shall remain available for examination by opposing counsel). Where copies of documents are offered, the originals shall be available for examination, unless waived by stipulation.

6. **Joint Stipulations.** The parties shall file joint stipulations by **October 19, 2018.**

All possible stipulations shall be made as to:

- a. Facts (both liability and damages);
- b. Issues to be decided;
- c. The authenticity and admissibility of exhibits;
- d. Expert qualifications and reports;
- e. Deposition testimony to be read into the record; and

f. A brief, neutral statement of the case (claims and defenses) in general terms to be read to the jury to introduce the trial and for use during voir dire. Said statement shall not exceed 1 page, and is to be double-spaced with size 12 font.

Counsel shall meet at a mutually convenient time and place to produce the joint stipulation in time for filing as ordered above.

7. **Motions.** The parties shall file all motions in limine, including motions under Fed.R.Evid. 104(a) and motions to limit or sever issues, together with supporting briefs or memoranda of law, by **September 26, 2018**. The motions shall comply with LCvR 16.1.C.4.¹ Responses shall be filed by **October 3, 2018**. All briefs supporting or opposing such motions are limited to 5 pages.

8. **Proposed Jury Instructions & Verdict Slips.** Counsel shall meet in an attempt to agree on a joint set of proposed substantive jury instructions regarding plaintiff(s)' claims and their elements, any defenses and their elements, and any evidentiary or other matters particular or unique to this case; the parties need not submit "boilerplate" or standard civil jury instructions. After said meeting, and on or before **September 24, 2018** counsel shall file a unified (meaning *one*) combined set of proposed instructions, and shall email a copy of the unified, combined set of proposed instructions in Word format to amanda.thomas@pawd.uscourts.gov.

¹ Local Civil Rule 16.1.C.4 provides:

Before filing a motion *in limine*, counsel or an unrepresented party shall confer with all other counsel and unrepresented parties in an effort to reach agreement on the issue to be raised by the motion. In the event an agreement is not reached, the motion *in limine* shall be accompanied by a certificate of the movant denominated a Motion in Limine Certificate stating that all parties made a reasonable effort to reach agreement on the issue raised by the motion.

The filed set of instructions shall include both the agreed upon instructions and any proposed instructions to which the parties have not agreed. Each agreed upon instruction shall include the following notation at the bottom: “This proposed instruction is agreed upon by the parties.”

Each instruction to which the parties have not agreed shall indicate at the bottom the name of the party proffering the instruction. Competing proposed instructions by different parties on a given point shall be “matched” together, or the objection to a proposed instruction shall immediately follow the objectionable instruction. The Court will not accept separate proposed jury instructions from the parties.

A charging conference will be held, at which time a ruling will be made on each point for charge and a copy of the Court’s proposed charge will be supplied to counsel. Counsel are required to state objections to the proposed charge at the charging conference and to supply alternate language, together with case authority.

9. **Proposed Voir Dire.** Counsel are permitted to supplement the standard questions provided that the proposed supplemental voir dire questions are submitted to the Court in writing by **September 24, 2018.**

10. **Neutral Statement of Claims and Defenses.** To the extent that the parties are unable to stipulate under ¶ 6.f., they shall e-mail the Court at amanda.thomas@pawd.uscourts.gov a brief, neutral statement of the case (claims and defenses) in general terms to be read to the jury to introduce the trial and for use during voir dire on or before **September 24, 2018.** Said statement shall not exceed 1 page, double-spaced with size 12 font.

11. Counsel must meet to discuss settlement by **August 31, 2018.**

12. **Courtesy Copies.** Unless requested, courtesy copies of the above items should not be delivered to chambers.

TRIAL PROCEDURE

1. **Hours.** Court is in trial session, unless otherwise ordered by the Court, Monday through Friday, 9:00 a.m. to 5:00 p.m. with breaks where appropriate. All counsel are expected to be in their seats and ready to commence at the appointed times.

2. **Exhibits.** Because counsel will have previously marked and exchanged all exhibits and provided a copy to the Court, it will not be necessary during the trial to show exhibits to opposing counsel prior to using them.

3. **Approaching the Witness.** It is not necessary for counsel to request permission to approach a witness.

4. **Opening Statement and Closing Argument.** The Court permits thirty (30) minutes to each side for opening and closing statements, depending on the complexity of the case. Counsel may use exhibits or charts in opening statement provided they have been provided to opposing counsel beforehand and either agreement was reached or the Court has ruled upon the matter.

5. **Side Bar Conferences.** Side bar conferences are highly disfavored because they waste the jury's time and unduly extend the length of the trial. Counsel will meet with the Court at 9:00 a.m. each day (or earlier if necessary to ensure that trial commences on time) to raise points of evidence or other issues that would otherwise necessitate a side bar conference. The Court will also be available at the end of the court day to resolve such matters. Failure to raise issues at that time will generally result in a disposition of the in-court objection in the presence of the jury. If

necessary, counsel and the Court may amplify their objections and rulings on the record after the jury has been excused for a break, for lunch or for the day.

In addition, it is expected that counsel will anticipate evidentiary issues requiring argument and will take up such matters out of the presence of the jury. The Court will be available at 8:30 a.m. each morning to address such issues. It is the responsibility of counsel to notify the Court's staff and other counsel of the need for a conference at 8:30 a.m., and all other counsel will be expected to be there at the appointed time for argument. The Court will not delay the proceedings to respond to last minute requests for conferences to discuss matters which, in the exercise of reasonable diligence, could have been heard at the morning conference.

6. **Witness List.** Prior to the commencement of the trial, counsel shall provide opposing counsel with a complete witness list, and shall provide opposing counsel throughout the trial with the actual list of the next day's witnesses by 5:00 p.m. in the order they are expected to be called. The same procedure will be employed by both sides at the end of each trial day. Counsel should be sure that they have adequate witnesses to fill the time allotted each day, included on the day of jury selection.

7. **Note Taking.** The jury shall be permitted to take notes.

8. **Jury Questions.** All written questions submitted by the jury are supplied to counsel. Counsel and the Court will meet to discuss and hopefully agree on a reply. The jury is then summoned to the Courtroom in most cases and the verbal reply is given to them. A written reply is provided where appropriate.

9. **Jury Instructions.** A copy of the jury instructions shall be provided to the jury for use during its deliberations.

10. **Jury Access to Exhibits.** Unless otherwise advised by counsel or ruled by the Court, it will be assumed that all admitted exhibits will be sent out with the jury.

11. **Rule 50 Motions.** Any Rule 50 Motions shall be made in writing and shall be accompanied by a supporting Brief.

BY THE COURT:

s/Cynthia Reed Eddy
Cynthia Reed Eddy
United States Magistrate Judge

cc: all counsel registered on CM/ECF