

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

CHARLES A. SMITH, SR.,)	
)	
Plaintiff,)	Case No. 1:08CV00036
)	
v.)	SCHEDULING ORDER
)	
DIKAR S. COOP, ET AL.,)	By: James P. Jones
)	Chief United States District Judge
Defendants.)	

The court proposes the following as a scheduling order pursuant to Federal Rule of Civil Procedure 16(b). If no party request changes within 10 days, it will constitute the scheduling order in this case. It may be amended by the court on the basis of any agreed discovery plan under Rule 26(f) submitted by the parties within 90 days.

It is **ORDERED** as follows:

Trial

- 1. This case is set for a jury trial in Abingdon at 9:00 a.m. on June 1, 2 and 3, 2010.**
- Proposed jury instructions must be submitted to the court at least 7 days prior to trial, with copies provided to opposing counsel.

3. If the case is settled, the court will dismiss the case from the docket and if no agreed final order or judgment is thereafter submitted within 60 days, or if no party files a motion to reopen within such time, the case shall, without further order, stand dismissed with prejudice.

Motions

4. A supporting brief must accompany all motions, unless the motion itself contains the legal argument necessary to support it. If a motion has been filed prior to this order and legal argument did not support it, the movant must file a supporting brief within 14 days of the date of this order. If the motion is opposed, a brief in opposition must be filed within 14 days of the service of the movant's brief (or within 14 days of this order if a motion and supporting brief have been served prior to this order). Except for good cause shown, if a brief opposing a motion is not timely filed, it will be considered that the motion is unopposed. If the moving party desires to submit a reply brief it must be filed within 7 days of the date of service of the brief opposing the motion.

5. If any party desires a hearing on a motion, the hearing may be scheduled with the court prior to or after the filing of the motion, but must be scheduled no later than promptly following the filing of the last brief, or it will be considered that the motion is submitted for decision without hearing.

6. Motions for summary judgment must be filed no later than 30 days prior to trial. Any response to the motion, including the brief in opposition, must be filed prior to the day of the hearing, or, in any event, no later than 14 days after service of the motion.

7. If a motion is unopposed and the moving party certifies such fact in the motion, no brief need be filed, nor response made to the motion. Procedural motions, including motions for enlargement of time, whether or not opposed, may be acted upon at any time by the court, without awaiting a response, and any party adversely affected by such action may request reconsideration, vacation or modification of such action.

8. Any motion to join other parties and to amend the pleadings must be filed prior to the cutoff date for discovery.

Discovery

9. The parties must confer and develop a discovery plan as required by Rule 26(f) and make initial disclosures as required by Rule 26(a)(1), unless the parties stipulate otherwise.

10. All discovery must be completed at least 45 days prior to trial. This schedule requires that written discovery be served in sufficient time to allow the responding party time to respond before the cutoff date for discovery.

11. Discovery and disclosure material is not to be filed unless and until actually used in the proceeding, except as to the disclosures under Rule 26(a)(3) of trial witnesses and exhibits, which must be filed.

12. All discovery disputes are hereby referred to the Honorable Pamela Meade Sargent, United States Magistrate Judge, for hearing and determination, pursuant to 28 U.S.C. § 636(b)(1)(A) and Rule 72(a). The briefing requirements set forth in this order do not apply to motions before the magistrate judge, who shall determine any briefing requirements with respect to such motions.

Witnesses

13. The parties must disclose expert testimony as required by Rule 26(a)(2). The parties are encouraged to stipulate as to cutoff dates for disclosure in the discovery plan or otherwise.

14. Any motion to exclude the testimony of an expert based on the sufficiency or reliability of the expert's testimony must be filed no later than the deadline for filing motions for summary judgment.

15. At least 14 days prior to trial, the parties must make the pretrial disclosures of witnesses and exhibits as required by Rule 26(a)(3), and must make objections to deposition testimony and exhibits at least 7 days prior to trial.

Mediation

16. At any time, the court may refer the case to the magistrate judge to conduct nonbinding mediation. Any party may make a confidential and ex parte request for such mediation.

Summary of Deadlines

17. Trial Date	June 1, 2 and 3, 2010
Submit Jury Instructions	7 days before trial
Object to Deposition Testimony and Exhibits	7 days before trial
Disclose Witnesses and Exhibits	14 days before trial
File Summary Judgment Motions and Motions to Exclude Experts	30 days before trial
Complete Discovery	45 days before trial

ENTER: November 30, 2009

/s/ JAMES P. JONES
Chief United States District Judge