

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II,

Plaintiff and Counter-defendant,

v.

AMBER LAURA HEARD,

Defendant and Counter-plaintiff.

Civil Action No.: CL-2019-0002911

SCHEDULING ORDER

A SCHEDULED CONFERENCE was held on March 26, 2021.

After discussing the various issues presented, it was **ORDERED**:

I. Trial

The trial date is April 11, 2022 (with a jury). The estimated length of the trial is four weeks.

II. Discovery

The parties shall complete discovery, including depositions, by thirty (30) days before trial, or by March 11, 2022; however, depositions taken in lieu of live testimony will be permitted until forty-five (45) days before trial, or by February 25, 2022. "Complete" means that all interrogatories, requests for production, requests for admissions and other discovery must be served sufficiently in advance of trial to allow a timely response 30 days before trial. Depositions may be taken after the specified time period by agreement of counsel of record or for good cause shown, provided however, that the taking of a deposition after the deadlines established herein shall not provide a basis for continuance of the trial date or the scheduling of motions inconsistent with the normal procedures of the court. The parties have a duty to seasonably supplement and amend discovery responses pursuant to Rule 4:1 (e) of the Rules of the Supreme Court of Virginia. "Seasonably" means as soon as practical. No provision of this Order supersedes the Rules of the Supreme Court of Virginia governing discovery. Any discovery motion filed shall contain a certification that counsel has made a good faith effort to resolve the matters set forth in the motion with opposing counsel.

III. Designation of Experts

If requested in discovery, plaintiff's, counter-claimant, third party plaintiff's and cross-claimant's experts shall be identified on or before ninety (90) days before trial, or by January 11, 2022. If requested in discovery, defendants and all opposing experts shall be identified on or before sixty (60) days before trial, or by February 10, 2022. If requested in discovery, experts or

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opinions responsive to new matters raised in the opposing parties' identification of experts shall be designated no later than forty-five (45) days before trial, or by February 25, 2022. If requested, all information discoverable under Rule 4:1 (b) (4) (A) (1) of the Rules of the Supreme Court of Virginia shall be provided or the expert will not ordinarily be permitted to express any non-disclosed opinions at trial. The foregoing deadlines shall not relieve a party of the obligation to respond to discovery requests within the time periods set forth in the Rules of the Supreme Court of Virginia, including, in particular, the duty to supplement or amend prior responses pursuant to Rule 4:1 (e).

IV. Dispositive Motions

All dispositive motions shall be presented to the court for hearing as far in advance of the trial date as practical. All counsel of record are encouraged to bring on for hearing all demurrers, special pleas, motions for summary judgment, or other dispositive motions not more than sixty (60) days after being filed.

V. Exhibit and Witness List

Counsel of record shall exchange by March 14, 2022 a list specifically identifying each exhibit to be introduced at trial, copies of all exhibits, marked, tabbed and indexed, and a list of witnesses proposed to be introduced at trial. The lists of exhibits and witnesses shall be filed with the Clerk of the Court simultaneously therewith but the exhibits shall not then be filed. Any exhibit or witness not so identified and filed will not be received in evidence, except in rebuttal or for impeachment or unless the admission of such exhibit or testimony of the witness would cause no surprise or prejudice to the opposing party and the failure to list the exhibit or witness was through inadvertence. Any objections to exhibits or witnesses shall state the legal reasons therefore except on relevancy grounds, and shall be filed with the Clerk of the Court and a copy delivered to opposing counsel by March 24, 2022 or the objections will be deemed waived absent leave of court for good cause shown.

VI. Pretrial Conferences

Pursuant to Rule 4:13 of the Rules of the Supreme Court of Virginia, a pretrial conference shall be held on February 9, 2022 at 10:00 a.m., wherein the briefing schedule for motions *in limine*, settlement discussions and other pretrial motions or matters which may aid in the disposition of this action can be heard. Also, to the extent not resolved prior to February 9, 2022, counsel for the parties shall present to the Court their respective positions as to how any claims for attorneys' fees and costs should be adjudicated at some point after the trial. Pursuant to the Court's Order of January 27, 2021, attorneys' fees and costs will not be tried in the corpus of the trial, now starting April 11, 2022 and attorneys' fees experts need not be identified by the deadlines set forth in Section III, *supra*.

VII. Motions in Limine

Absent leave of court, any motion *in limine* which requires argument exceeding five (5) minutes shall be duly noticed and heard before the day of trial. Objections to deposition excerpts addressed in Section XI *infra*, and Motions *in Limine* shall be heard at 10:00 a.m. on March 30, 2022 and March 31, 2022.

VIII. Witness Subpoenas

Early filing of a request for witness subpoenas is encouraged so that such subpoenas may be served at least ten (10) days before trial.

IX. Continuances

Continuances will only be granted by the court for good cause shown.

X. Jury Instructions

Counsel of record, unless compliance is waived by the court, shall by April 1, 2022 exchange proposed jury instructions. The parties shall confer and exchange objections by April 6, 2022 and shall confer with respect to the objections by April 8, 2022. At the commencement of trial, counsel of record shall tender the court the originals of all agreed upon instructions and copies of all contested instructions with appropriate citations. This requirement shall not preclude the offering of additional instructions at the trial.

XI. Deposition Transcripts to be Used at Trial

Counsel of record shall confer and attempt to identify and resolve all issues regarding the use of depositions at trial. It is the obligation of the proponent of any deposition of any non-party witness who will not appear at trial to advise opposing counsel of record of counsel's intent to use all or a portion of the deposition at trial at the earliest reasonable opportunity. Other than trial depositions taken after completion of discovery under Paragraph II, designations of portions of non-party depositions, other than for rebuttal or impeachment, shall be exchanged by no later than March 9, 2022, except for good cause shown or by agreement of counsel. All objections and counter-designations shall be exchanged by March 18, 2022, and any rebuttal and objections to the counter-designations shall be exchanged no later than March 23, 2022. The parties shall file with the Court deposition transcripts with the designations, counter-designations and rebuttal designations and all remaining objections no later than March 25, 2022. A hearing on all the remaining objections to designations shall be heard at 10:00 a.m. on March 30, 2022 and continuing into March 31, 2022, along with the Motions *in Limine*.

XII. Waiver or Modification of Terms of Order

Upon motion, the time limits and prohibitions contained in this order may be waived or modified by leave of court for good cause shown.

Entered this 22 day of ~~March~~ ^{April}, 2021.

[Redacted]

JUDGE

Donney S. Azcarate

[Redacted]

SB# 2913

Counsel for Plaintiff

[Redacted]

Counsel for Defendant