**USE OF THE CASE MANAGEMENT ORDER**

In lieu of a Case Management Conference or initial Status Conference in the courtroom, the parties may agree to dates controlling the litigation and submit an agreed Case Management Order [CMO] for approval by the court prior to the Case Management or Status Conference using the form provided.

Be as liberal as you need to be in setting your dates considering the nature of the case and any other practice issues you may have handling your other caseload and court obligations. Once you agree on these dates, the court is not going to change them absent extraordinary circumstances or later agreement of the parties. The press of other business sometime later will not be considered an extraordinary circumstance by the court.

These dates are for the benefit of the court in managing its docket, for the respective counsel in guiding completion of the case, and, most importantly, for the parties having an expectation that the litigation will be conducted in a timely and predictable manner upon which they may depend.

Use the CMO form provided.

NOTE TO PARTIES COMPLETING THIS FORM: You may add any additional case management terms and deadlines agreed upon by the parties. However, do not delete any standard language in the form. If sections are not applicable to your case, mark them as not applicable in the space provided for a deadline date.

Contact the court’s [Administrative Assistant](mailto:jill.boren@jocogov.org) to obtain a pretrial conference date.

Depending upon the type of case, you may want to have the pretrial conference and get a pretrial order in place to resolve notice-pleading ambiguities before your dispositive motion date. Advise the Administrative Assistant if that is needed in your case.

If you have any questions about the form, or need to schedule other hearings within the body of the CMO, please contact the AA.

You should upload the CMO in MS-Word format through the e-filing system when you have agreed to your dates.

***Please Remove this Instruction Page before Filing***

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

CIVIL DEPARTMENT

,

Plaintiff

Case No.

vs. Division 2

KSA Chapter 60

,

Defendant

CASE MANAGEMENT ORDER

Now on this day of , 2021, the following deadlines and principles, agreed upon by all of the parties, will control the progress of this litigation unless and until modification is otherwise agreed by all parties and approved by the court, or by order of the court upon a showing of extraordinary circumstances.

Deadline to exchange a preliminary witness and exhibit list:

It is not necessary to file your respective lists. Only file a certificate of service. Exchange the list. If you later find someone or something that should be added, you can add them with the agreement of counsel. Otherwise, file a motion to endorse a late witness or add an exhibit. If you can convince the court it is in the interest of justice and not prejudicial, then you will get your endorsement. Your list must include address, e-mail, and telephone number, if available, for each witness other than your client, and a short statement of the expected topic each witness would cover and a summary of their expected testimony. The list must include, at a minimum, all documents and identification of all persons upon which each respective party has relied to make the claims and defenses in their pleading.

Fact discovery cut-off date:

This is the date when all fact discovery should be completed. If you send written discovery requests, for example, fifteen days from the cut-off date, it would not be timely. Remember, this is your cut-off date and the court will enforce it absent extraordinary circumstances or later agreement of the parties. **NOTE**: Mark all of your deposition exhibits using the same numbering system you will use at trial. There are no “plaintiff’s” exhibits or “defendant’s” exhibits, plaintiff start with No. 1 and go on from there. Start a “Joint Master Exhibit List” early in the case.

Date to confer or waive ESI/EDD issues:

If you have or think you might have any electronic discovery or cost of recovery or reproduction issues, set an early date to get those resolved.

If you agree to any protective orders, you may submit them for court approval. But, you should keep in mind that papers filed with the court are, by general public policy of Kansas, matters of public record. You should keep private, confidential or protected information out of your pleadings. Keep your proposed protective orders narrowly drawn and related only to facilitate discovery and the pretrial process or they will not be approved by the court regardless of the parties’ agreement. Open record is the general public policy for the state with limited narrow exceptions. See KSA 60-2617 for guidance in narrowly drafting proposed orders. See the court’s guidelines and Model Form Agreed Protective Order on [the judge’s web page](http://courts.jocogov.org/judge_vano.aspx).

Proposed orders purporting to order or permit *ex parte* contact with treating physicians, experts or other witnesses outside of the normal statutory rules for discovery, beyond the supervision, record and control of the court, will not be approved.

Deadline for filing motions to amend and/or to add parties:

If you agree with any proposed amendment, submit an agreed Journal Entry approving the filing and immediately file the amended pleading or add the parties. If you disagree, file your motion and get a hearing date set. This is the deadline to make those decisions. This filing deadline does not apply to motions to amend to add claims for punitive damages. See KSA 60-3703.

Deadline for any party with a primary burden of proof to make its expert designation(s) and disclosure(s), if any:

Expert designations in this division, in addition to name and address, include six (6) items: (a) all of the information required under KSA 60-226, (b) a copy of the resume or c.v. that you intend to use at trial, if any, (c) copies of all published articles listed by your expert in the resume you intend to use, if any, (d) a concise summary of the qualifying evidence required under KSA 60-456, 457 and/or 458 as amended,(e) at least three deposition availability dates – and tell your expert that they are locked in with those dates because opposing counsel will adjust their schedule with other clients’ cases and incur expense in preparing to take a deposition that will be costly to change at the last minute for the expert’s convenience or time conflict, and (f) the full fee schedule being charged by your expert, if any. If you have any objections to the sufficiency of the designation, you have fourteen (14) days from the designation service to file your objections. If you cannot then resolve the objections, under the golden rule for discovery generally, then set your objections with a motion to strike, limit, or exclude testimony of the expert(s) for timely hearing. A motion to strike, limit, or exclude testimony of an expert may, but will not necessarily extend the deadline(s) for expert designation(s). Allow enough time for deposition of the opening expert(s) before the designation deadline for the opposing party.

Deadline for any party opposing the claim(s) needing initial expert support to make its expert designation(s) and disclosure(s), if any:

**NOTE:** Defendant’s IME for PI cases, if any, must be completed before this date.

Same designations requirements as the opening experts.

Deadline for rebuttal-only expert designation(s), if any: **30 days thereafter**

Same designations requirements.

Motion Practice: Prior to filing a motion to compel discovery, parties should have a conference call with the court to discuss the issues being raised. Any such motion must recite with particularity, the communications or attempted communications aimed at resolving the discovery dispute prior to filing of the motion. The motion must also reference the conference call date and the discussion with the court that is mentioned above in this paragraph. Other than dispositive motions, all other motions must contain a statement that the moving party or counsel for the moving party has attempted to consult with the opposing party or counsel, the result of those attempts, and whether or not the opposing party or counsel agree(s) to the relief sought in the motion. Except with motions which may be granted *ex parte*, the moving party shall *not* provide a proposed journal entry or order relating to the motion filed unless the journal entry or order is signed by all parties or counsel of record in the case, or the motion itself recites specifically that all parties or counsel of record have been consulted and that they agree or are not opposed to the relief granted in the proposed journal entry or order as submitted.

JIMS electronic notification of activity on your case is NOT a substitute for your obligation to serve *a copy* of any document which you file or submit in this case.

Scheduling motions and hearings: The preferred and expected method for scheduling matters in this division is by circulating e-mail to all counsel and self-represented parties with the court’s Administrative Assistant ([Jill.Boren@jocogov.org](file:///C:\Shared\Data\COURTS\DIV2\CIVIL%20DOCKET%20ADMIN\Jill.Boren@jocogov.org)). Once the date is obtained, the moving party must provide written notice of the hearing to all other parties in the case and file certification of service for the record. The court may decide matters without oral argument under Supreme Court Rule 133 regardless of scheduled hearings.

Except for motions which may be granted *ex parte* and for motions filed under S.Ct. Rule 141, this division will not rule in chambers on a pending motion deemed unopposed by default in responding until at least fourteen (14) days from the date of filing of the motion. Thereafter, the court may rule without further notice or response. If you have an agreement to stay proceedings or rulings, so advise the court in a timely manner.

Dispositive motion filing deadline:

You may file a dispositive motion anytime during the case prior to this deadline date. However, depending upon the issues, it may be premature to file before discovery is closed. A motion to extend the response deadline may be granted if the court finds more discovery is needed to allow an opportunity to respond. Extension of a Rule 141 response deadline for a dispositive motion filed after the close of discovery is not favored. “Dispositive” motions after this date, regardless of the title of the document, are treated as trial briefs only.

Pretrial conference date: @ a./p.m.

The parties should prepare and submit an agreed Pretrial Order under Local Rule 13. **Please note required additional considerations for the Pretrial Order in this Division on** [the judge’s web page](http://courts.jocogov.org/judge_vano.aspx). Opposing language for use in various sections of the PTO should be set out in differing fonts within the same proposed draft order. The court does not require filing pretrial questionnaires.

Settlement conference/mediation scheduled by or before: **may be agreed by counsel**

Ordinarily, this court does not order parties to settlement conferences or to spend money needlessly on mediation when the parties are adamant that they want their case decided by the court. However, it is without doubt always beneficial for the parties to attempt settlement or mediation with a third party. Counsel are always encouraged to attempt resolution outside of the court process. Indicate if a settlement conference is required by statute, contract, or other rule or regulation.

After the close of discovery or when both sides have an agreement or reasonable estimate on the probable length of trial, you may contact the court’s [Administrative Assistant](mailto:jill.boren@jocogov.org) by circulating e-mail with all counsel and self-represented parties to obtain a Trial setting. If you are agreed on the length and time of trial now, you can obtain a date now for the CMO. Otherwise, you can put “to be obtained later” in the FTC and JT blanks below.

If this is a jury case, a Final Trial Conference (FTC) will be set also. It is set, generally, for the Friday before Jury Trial begins.

At the FTC, the court will take up motions in limine that have been filed at least seven (7) days before the hearing. Filed responses will not be required, argument in opposition will be permitted. Complex motions should be filed more than seven days before the hearing to allow the court time for research. The court will accept proposed Jury Instructions at that time. The parties should try to reach an agreed set of instructions, including at a very minimum, agreed core instructions for the claims, defenses, liability, damages, and a verdict form. Plan to remain at court until the set of core jury instructions for use at trial is completed. Standard PIK numbers do not need to be fully reproduced, only listed in the proposed jury instructions to be filed by the parties. Modifications, however, must be fully stated and filed of record. Provide a copy of your proposed instructions to the AA in this division in MS-Word format. (Please note this is NOT the statutory Pretrial Conference.)

Final Trial Conference:  @ a./p.m.

Jury Trial:  @ a.m., for days.

Failure to appear to prosecute or defend at any subsequent hearings may result in dismissal of the action or entry of judgment without any further notice. If you are unable to attend or prevented by emergency or illness, contact the court and opposing party in a timely manner.

IT IS SO ORDERED.

JAMES F. VANO

District Judge, Division 2

Prepared, submitted and approved by:

[Add signature blocks for counsel and/or

self-represented litigants, to include bar

numbers, mailing addresses, telephone

numbers, and e-mail addresses.]

NOTICE OF SERVICE

Copies of the above and foregoing have been sent by the court to counsel and/or self-represented litigants at the address(es) provided by them as of record in the JIMS this date of filing.