STATE OF MINNESOTA

COUNTY OF OTTER TAIL

FILED
JUL 31 2013
COURT ADMINISTRATOR
OTTER TAIL COUNTY, MINN.

DISTRICT COURT

SEVENTH JUDICIAL DISTRICT

Court File No. 56-CV-13-228
Honorable Mark F. Hansen

Western Mutual Fire Insurance Company,
As subrogee of Robert Russell and Lois Russell

Plaintiffs,

vs.

Ugstad Plumbing, Inc., and Wolverine Brass Inc.,

Defendants.

STIPULATION TO EXTEND SCHEDULING ORDER DEADLINES AND ORDER

The parties, through their undersigned counsel, have determined that the Court's Scheduling Order dated April 12, 2013 does not allow the parties adequate time within which to comply with the various deadlines set forth therein. As such, the parties hereto, by and through their respective counsel, stipulate to the extension of the deadlines in the Court's Scheduling Order dated April 12, 2013 as follows:

1. The selection of a mediator shall be made on or before February 15, 2014.

2. The Plaintiff shall disclose the identity of its expert(s), expert opinions, and the basis for said opinions in accordance with Rule 26.02(b) on or before March 1, 2014.

3. The Defendants shall disclose the identity of their expert(s), expert opinions, and the basis for said opinions in accordance with Rule 26.02(b) on or before April 1, 2014.

4. The Plaintiff shall disclose the identity of its rebuttal expert(s), and any rebuttal expert opinions on or before May 1, 2014.

5. Dispositive motions shall be served and filed no later than May 15, 2014.

6. Non-dispositive motions shall be served and filed no later than June 15, 2014.

7. Mediation shall be completed (either because a settlement has been reached or impasse has been declared) no later than July 1, 2014.

8. A Pretrial Conference will be held at a date to be determined by the Court.

9. The parties shall complete all general (non-expert) discovery in this case on or before July 1, 2014.

10. A three to five (3-5) day jury trial will be set by the Court.

YOST & BAILL, LLP

Dated: 7/17/13 By:_____
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COUSINEAU McGUIRE CHARTERED

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STICH, ANGELL, KREIDLER, DODGE & UNKE, P.A.

Dated:_____ By:_____
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ORDER

The above-entitled matter came on before the undersigned, Judge of the District Court, upon a Stipulation by counsel. Pursuant to Rule 16 of the Minnesota Rules of Civil Procedure and Rule 111.03 of the Minnesota General Rules of Practice, **IT IS HEREBY ORDERED**:

1. The Parties shall complete all general (non-expert) discovery in this case on or before July 1, 2014.

2. A formal discovery conference will not be scheduled unless otherwise requested.

3. The Plaintiff shall disclose the identity of its expert(s), expert opinions, and the basis for said opinions in accordance with Rule 26.02(b) on or before March 1, 2014.

4. The Defendants shall disclose the identity of their expert(s), expert opinions, and the basis for said opinions in accordance with Rule 26.02(b) on or before April 1, 2014.

5. The Plaintiff shall disclose the identity of its rebuttal expert(s), and any rebuttal expert opinions on or before May 1, 2014.

6. All discovery depositions of any expert witnesses shall be completed no later than thirty (30) days before the date of the Trial.

7. Dispositive motions shall be served and filed no later than May 15, 2014.

8. Non-dispositive motions shall be served and filed no later than June 15, 2014.

9. The parties shall file all proposed jury instructions and proposed verdict forms five (5) calendar days prior to the commencement of trial.

10. Any motions in limine or other non-dispositive pretrial evidentiary motions shall be served and filed ten (10) calendar days prior to the commencement of trial.

11. A pretrial conference will be held in the above matter on August 18, 2014 @ 10:00 am before the Honorable Mark F. Hansen, at the Otter Tail County Courthouse, in the City of Fergus Falls, Minnesota. Counsel who will be trying the case

must attend the pretrial conference in person. The parties, or representative of the parties with authority to negotiate settlement, must attend the pretrial conference.

12. At least fourteen (14) days before said pretrial conference, each party shall file a Pretrial Statement in conformance with the Pretrial Order marked "Schedule A" attached hereto and made a part hereof; alternatively, when possible, the parties shall file a Joint Statement of the Case as specified in the Minnesota General Rules of Practice 112.

13. The above matter is set for a three to five (3-5) day jury trial commencing Sept. 16, 2014 @ 9:30 a.m. before the Honorable Mark F. Hansen, at the Otter Tail County Courthouse, in the City of Fergus Falls, Minnesota.

14. No amendments to this Scheduling Order shall occur in the absence of a written stipulation between the parties, which is approved by the Court; or, upon motion by a party for good cause.

15. The attached documents entitled "checklist for Trial," "Voir Dire Guidelines" and "Pretrial Chambers Conference Checklist" are incorporated herein by reference.

MEDIATION ORDER

Based on the file and proceedings in this case, **THIS COURT ORDERS**:

1. Mediation is an appropriate dispute resolution process for this case.

2. The parties shall select a mediator to attempt to achieve a settlement of this case. The selection of a mediator shall be done on or before February 15, 2014.

3. Within eight (8) days of the date of selection of the mediator, the parties shall provide to the mediator the following information:

   a. A brief summary of the facts of this dispute;
   b. A brief summary of the issues to be resolved;
   c. A brief description of the settlement discussions to date including the most recent demand and offer;
   d. A brief summary of any obstacles to settlement; and
   e. Any other comments or suggestions for settlement.

4. The parties shall timely comply with all requests and notices from the selected mediator and shall cooperate in the mediation process. The selected mediator shall inform the Court in writing only of matters specified in Rule 114.10(c) of the General Rules of Practice for District

Court (GRP) and shall provide a copy of all such correspondence to the parties.

5. Mediation shall be completed (either because a settlement has been reached or impasse has been declared) no later than July 1, 2014.

6. This mediation shall proceed in accordance with GRP 114 and the following directions which incorporate relevant portions of GRP 114.

   a. Scheduling of Mediation. The mediator shall promptly schedule the mediation and inform the parties of the date and place thereof. The mediation shall be held at a time and place established by the mediator. GRP 114.06(b).

   b. Mandatory Attendance. The mediation sessions shall be attended by individuals with the authority to settle the case including but not limited to the parties involved in the litigation. GRP 114.07(c). The participants in the mediation shall negotiate and mediate in good faith and shall spend as much time mediating as is necessary until the case is settled or until an impasse is declared. This Court may impose sanctions for failure to attend mediation in violation of GRP 114.07.

   c. Continuance. After a mediation session has been scheduled, a continuance shall not be granted except upon a showing of good cause. A party who seeks a continuance shall, immediately upon discovering the need for a continuance, file with the mediator and serve on the other parties a request explaining the good cause reasons. A party shall also pay a scheduling fee set in advance by the mediator with payment made at the time of the request. The mediator shall promptly inform the parties whether a continuance has been granted or denied. After a party has once obtained a continuance, another continuance shall only be permitted in exceptional circumstances.

   d. Confidentiality. Without the consent of all parties and an order from the Court, no evidence that there has been a mediation or any fact concerning the mediation may be admitted in a trial *de novo* or in any subsequent proceeding involving any of the issues or parties to the mediation. Statements made and documents produced during mediation, which are not otherwise discoverable, are not subject to discovery or other disclosure and are not admissible as evidence for any other purpose at the trial including impeachment except as provided in GRP 114.08(d). Notes, record, and recollections of the mediator are confidential, which means they shall not be disclosed to the parties, the public or anyone other than

the mediator. Unless (1) all parties and the neutral agree to such disclosure or (2) required by law or other applicable professional codes. No record shall be made without the agreement of both parties, except for a memorandum of issues that are resolved. GRP 114.08.

e. Conclusion of Mediation. The mediator shall inform this Court in writing whether the parties have reached settlement or impasse. If the case is settled, the attorneys shall complete the appropriate court documents to bring the case to a final disposition. If the case is not settled, the case shall proceed in accord with the scheduling order. GRP 114.06(c). This mediation may be terminated by the mediator by declaring an impasse.

f. Cost of Mediation. The parties shall inform this Court in writing whether the parties have reached settlement or impasse. If the case is settled, the attorneys shall complete the appropriate court documents to bring the case to a final disposition. If the case is not settled, the case shall proceed in accord with the scheduling order. GRP 114.06©. This mediation may be terminated by the mediator by declaring an impasse.

7. Failure to comply with any part of this Order may subject the parties to appropriate sanctions, including the assessment of costs and attorney's fees agains the non-complying party or attorney, dismissal, or other relief as the Court may deem appropriate.

Dated this 31 of July, 2013

Honorable Mark F. Hansen
Judge of District Court

MINNESOTA JUDICIAL BRANCH