

DISTRICT COURT, LARIMER (FT COLLINS) COUNTY, COLORADO Court Address: 201 Laporte Avenue, Suite 100, Fort Collins, CO, 80521 <b>Plaintiff(s)</b> SHANNON M LEWIS v. <b>Defendant(s)</b> CHARLES C RICHARDS et al.	<b>DATE FILED:</b> January 8, 2018 2:10 PM <b>CASE NUMBER:</b> 2015CV30864
<b>△ COURT USE ONLY △</b>	
Case Number: 2015CV30864 Division: 5C      Courtroom:	
<b>Order: Amended Proposed Case Management Order</b>	

The motion/proposed order attached hereto: APPROVED.

Court approves parties' proposed case management order with the following additions:

Non-expert discovery deadline: June 1, 2018

Counsel may file a notice to set in the month of February, 2018 to obtain a three day jury trial date any time after August 1, 2018 or soon thereafter.

Issue Date: 1/8/2018



THOMAS R FRENCH  
 District Court Judge

<p><b>DISTRICT COURT, COUNTY OF LARIMER, STATE OF COLORADO</b> 201 La Porte Avenue, Ste. 100 Fort Collins, CO 80521 Telephone: (970) 494-3500</p> <p><b>Plaintiffs:</b> SHANNON M. LEWIS, v.  <b>Defendants:</b> CHARLES C. RICHARDS and THE CITY OF LOVELAND.</p>	<p style="text-align: right;">^Court Use Only^</p>
	Case No.: 2015CV30864  Courtroom/Div.: 5C
<b>AMENDED PROPOSED CASE MANAGEMENT ORDER</b>	

1. The “at issue date” is: December 11, 2015
2. Responsible attorney’s name, address, phone number and email address:

Name:	David J. Furtado, Esq.
Address:	Furtado Law PC 3773 Cherry Creek North Drive, Ste. 575 Denver, CO 80209
Phone Number:	(303) 755-2929
Email Address:	<a href="mailto:dfurtado@furtadolaw.com">dfurtado@furtadolaw.com</a>

3. The lead counsel for each party, David J. Furtado, Esq., for Plaintiff and Bradley D. Tucker, Esq., for Defendants, met and conferred in person or by telephone concerning this Proposed Order and each of the issues listed in Rule 16(b)(3)(A) through (E) on January 20, 2016.
4. Brief description of the case and identification of the issues to be tried (not more than one page, double-spaced, for each side):

Plaintiff was traveling westbound on E. Eisenhower Boulevard in the lane next to Defendant Richards’ vehicle. Defendant failed to keep a proper lookout and failed to yield the right of way while making an illegal right turn onto N. Madison Avenue from the middle lane colliding with Plaintiff’s vehicle forcing Plaintiff onto the curb where she struck a stationary pole. As a result of Defendants’ negligence, Plaintiff suffered physical injuries, pain and suffering, permanent disability, loss of enjoyment of life and other economic and non-economic damages.

Defendant's' Statement: Defendants' deny liability for the accident. At the time of the accident, Charles Richards was engaged in snow removal operations. At all

times relevant, the warning lights on the plow being operated by Defendant Richards were engaged. Plaintiff was statutorily required to maintain more than ordinary care and caution which she failed to do. Plaintiff's negligence was greater than any negligence attributable to Defendants. Defendants deny the nature and extent of Plaintiff's claimed injuries and deny the injuries were caused by any alleged negligence of Defendants.

**5. The following motions have been filed and are unresolved:**

None at this time.

**6. Brief assessment of each Party's position on the application of the proportionality factors, including those listed in C.R.C.P. 26(b)(1):**

The parties believe that the discovery limitations set forth in the Colorado Rules of Civil Procedure will allow both parties to take discovery and proceed with this case in an efficient manner allowing for the possible resolution of this case once discovery is complete. A diligent, focused discovery process will for resolution that will allow for savings of time spent at trial.

**7. The lead counsel for each party, David J. Furtado, Esq., for Plaintiff and Bradley D. Tucker, Esq., for Defendants, met and conferred concerning possible settlement. The prospects for settlement are:**

Parties are willing to attend a settlement conference following adequate discovery, and will discuss that possibility at the appropriate time. Ongoing informal settlement discussions will be maintained.

**8. Deadlines for:**

- a. Amending or supplementing pleadings: (Not more than 105 days (15 weeks) from at-issue date): February 4, 2018.
- b. Joinder of additional parties: (Not more than 105 days (15 weeks) from at-issue date.) February 4, 2018.
- c. Identifying non-parties at fault: February 4, 2018.
- d. The parties shall engage in ADR, which shall be completed by no later than: June 15, 2018.

**9. Dates of initial disclosures:**

Defendant made its disclosures on January 15, 2016.

Plaintiff disclosed its disclosures on January 21, 2016.

**10. If full disclosure of information under C.R.C.P. 26(a)(1)(C) was not made because of a Party's inability to provide it, provide a brief statement of reasons for that party's inability and the expected timing of full disclosures: Defendant is still waiting production of Plaintiff's medical records and bills, as well as any documentation**

supporting a claim for lost wages, income, or earning capacity.

Expected completion of discovery on damages: August 1, 2018

**11.** This Court, and the Eighth Judicial District, do not typically set district court civil cases for trial until after non-expert discovery has been completed. This allows better access to the courts for those cases likely to go to trial. As such, do not set this case for trial date. Absent good cause, the Court will presumptively set the case for trial only after completion of non-expert discovery. This means that some presumptive deadlines which are calculated from the trial date cannot be determined presumptively. As such, the Court will rely on counsel and pro se parties to agree to some specific calendar dates for these deadlines, e.g., date for completion of discovery, date to complete non-expert discovery, and dates for expert disclosures.

**12.** Proposed limitations on and modifications to the scope and types of discovery, consistent with the proportionality factors in C.R.C.P. 26(b)(1):

- a. Number of depositions per party (C.R.C.P. 26(b)(2)(A) (presumptive limit: 1 of adverse Party + 2 others + experts per C.R.C.P. 26(b)(2)(A))): Plaintiff wishes to depose the driver of the snow plow, the passenger and a 30(b)(6) witness. Defendant wishes to depose Plaintiff and her experts per C.R.C.P. 26(b)(4)(A)).
- b. Number of interrogatories per Party (C.R.C.P. 26(b)(2)(B) (presumptive limit of 30)): Thirty per Party.
- c. Number of requests for production of documents per Party (C.R.C.P. 26(b)(2)(D) (presumptive limit of 20)): Twenty per Party.
- d. Number of requests for admission per Party (C.R.C.P. 26(b)(2)(E) (presumptive limit of 20)): Twenty per Party.
- e. Any physical or mental examination per C.R.C.P. 35: Defendant wishes Plaintiff to attend a C.R.C.P. 35 examination.
- f. State the justifications for any modifications in the foregoing C.R.C.P. 26(b)(2) limitations on discovery:

**13.** Number of experts, subjects for anticipated expert testimony, and whether experts will be under C.R.C.P. 26(a)(2)(B)(I) or (B)(II):

Plaintiff will be calling her treating providers as non-retained experts. Plaintiff will also call rebuttal experts as necessary. Defendant anticipates retaining a physician to perform a Rule 35 examination and may retain an engineer to perform an accident reconstruction and/or an expert in municipal snow removal operations depending on how discovery progresses.

- a. If more than one expert in any subject per side is anticipated, state the reasons why such expert is appropriate consistent with the proportionality

factors in C.R.C.P. (26)(b)(1) and any differences among the positions of multiple Parties on the same side:

**14. Proposed deadlines for expert witness disclosure if other than those in C.R.C.P. 26(a)(2):**

- a. Production of Expert Reports:
  - i. Plaintiff/Claimant: April 15, 2018.
  - ii. Defendant/Opposing Party: May 14, 2018.
- b. Production of Rebuttal Expert Reports: June 4, 2018.
- c. Date for completion of non-expert discovery: July 2, 2018.
- d. Date for completion of all discovery: July 2, 2018.

**15. Electronically Stored Information:** The Parties do/do not anticipate needing to discover a significant amount of electronically stored information. The following is a brief report concerning their agreements or positions on search terms to be used, if any, and relating to the production, continued preservations and restoration of electronically stored information, including the form in which it is to be produced and an estimate of the attendant costs.

**16. Parties' best estimate as to trial start date:** August 20, 2018.

Parties' best estimate of the length of the trial: Five (5) Day Jury Trial

**17. Additional Matters:**

- a. **In typical cases, the Court expects the case to be completed within 12 months of the date of filing, and discovery to be complete within four to six months from the “at issue” date. Trials are typically held within eight to ten months from the “at issue” date.**

b. Confer Before Filing Motions.

Counsel shall confer with each other before filing motions. That means you shall talk to each other before filing motions. In the absence of good cause, failure to follow this order shall presumptively result in the Court striking any pleading or motion filed where counsel have not conferred before filing. Good cause is not “I called counsel today or emailed counsel today, and they did not respond.”

c. Format of Pleadings and Motions.

All pleadings, motions and briefs filed with the Court shall comply with the following requirements:

- i. No such pleading, motion or brief shall exceed 4000 words, inclusive

of caption, signature block, footnotes, end-notes, and certificate of service. Attachments do not count toward the 4,000-word limit.

Replies shall not exceed 2500 words.

- ii. Each pleading, motion shall contain a certificate of counsel stating compliance with the above stated word limitation.
- iii. No less than 12-point font may be used on any pleading or document.
- iv. All pleadings, motions or briefs shall be double spaced or 1.5 spaced.

d. Documents not to be Filed with the Court.

The following shall not be filed with the Court, but only with opposing counsel or pro se parties:

- i. Rule 26 disclosures.
- ii. Deposition notices.
- iii. Requests for production of documents.
- iv. Requests for admission.
- v. Interrogatories.
- vi. Responses to requests for production of documents.
- vii. Responses to requests for admission.
- viii. Responses to interrogatories.

e. Written Discovery Motions.

No written discovery motion (motion to compel discovery, motion to preclude discovery, motion to limit discovery, motion to expand discovery, motion to conduct ex parte interviews, motion to limit questioning at depositions, motion to order discovery, etc.) shall be filed until the following procedures have been met.

If counsel for any party desires to file a written motion for discovery, counsel shall discuss the subject matter of the motion with opposing counsel. After that discussion, counsel may call the Court's clerk and request a discovery conference. At that conference, the Court and counsel will discuss the desired discovery order. Only after that discovery conference may Counsel file a written discovery motion. Any written discovery motion filed without having undergone these procedures will be stricken.

f. Case Management Conference.

The Court is willing to conduct a case management conference, as contemplated by C.R.C.P. 16(d), whenever that may be of assistance. If you desire such a

conference, please follow our district court setting procedures located on the Court's website. The Court's Division Clerk, Ms. Julie Foster, Esq., may be reached at 970-494-3820, for questions regarding clarification of the setting procedures.

- g. The Court will not vacate trials or hearings because you have a settlement, unless you have filed a stipulation for dismissal, and a proposed Motion to Dismiss has been granted. Short of those filings and the dismissal, the trial or the hearing will proceed.
- h. If you treat the division clerk, Ms. Foster, with dignity and respect, you will earn her respect and gratitude and the respect and gratitude of the Court.
- i. Civil settings are conducted Tuesdays and Thursdays at 1:15 PM. Counsel or assistant with setting authority may appear in person or by telephone. For trial settings, the court requires counsel be available rather than an assistant. The parties shall select a mutually agreeable setting date. The responsible party shall file a Notice to Set seven (7) business days prior to the requested setting date. For any matter requiring shorter notice, the responsible party shall contact division staff to pre-clear a setting date. The parties are directed to use Courtroom 5C's conference call-in for the setting. The responsible party shall provide the following call-in information in their notice to set: Dial-in Number: 970-494- 3777. Participation Access Code: 239 769 08.  
If more than one setting is noticed on the same day, participants shall wait on the line until their case is called. Parties who do not participate in the setting are advised that the matter will be set in their absence.
- j. How can counsel incur the Court's disfavor? Ignore this Order.

Dated this 4 <sup>th</sup> day of January 2018.	Dated this 4th day of January 2018.
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BY: <u>/s/ David J. Furtado</u> David J. Furtado, #49572 FURTADO LAW PC 3773 Cherry Creek North Drive Ste. 575 Denver, CO 80209 <i>Attorney for the Plaintiff</i>	BY: <u>/s/ Winslow R. Taylor, III</u> Bradley D. Tucker, #22436 Winslow R. Taylor, Esq., #46898 TUCKER HOLMES, P.C. Quebec Centre II, Ste. 300 7400 East Caley Avenue Centennial, CO 80111-6714 <i>Attorneys for the Defendants</i>
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IT IS HEREBY ORDERED that the foregoing, including any modifications made by the court, is and shall be the Case Management Order in this case.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY THE COURT:

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Thomas R. French  
District Court Judge