

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

JOHN DOE, formerly known as JANE DOE,

Plaintiff,

v.

MICHAEL PENCE, in his official capacity as Governor of the State of Indiana; GREGORY ZOELLER, in his official capacity as Attorney General for the State of Indiana; and MYLA A. ELDRIDGE, in her official capacity as Marion County Clerk of the Court, and LILIA G. JUDSON, in her official capacity as Executive Director of the Indiana Supreme Court Division of State Court Administration,

Defendants.

Case No. 1:16-cv-02431-JMS-DML

**CASE MANAGEMENT PLAN**

**I. Parties and Representatives**

A. John Doe formerly known as Jane Done  
*Plaintiff*

Michael Pence, in his official capacity as Governor of the State of Indiana  
*Defendant*

Gregory Zoeller, in his official capacity as Attorney General for the State of Indiana  
*Defendant*

Myla A. Eldridge, in her official capacity as Marion County Clerk of the Court  
*Defendant*

Lilia G. Judson, in her official capacity as Executive Director of the Indiana Supreme Court Division of State Court Administration  
*Defendant*

B. Barbara J. Baird  
LAW OFFICE OF BARBARA J. BAIRD  
445 North Pennsylvania Street, Suite 401

Indianapolis, Indiana 46204-0000  
Telephone: (317) 637-2345  
bjbaird@bjbairdlaw.com  
*Local Counsel for Plaintiff*

Thomas A. Saenz (admitted *pro hac vice*)  
Matthew J. Barragan (admitted *pro hac vice*)  
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND  
634 South Spring Street, 11<sup>th</sup> Floor  
Los Angeles, California 90014  
Telephone: (213) 629-2512  
tsaenz@maldef.org  
mbarragan@maldef.org  
*Counsel for Plaintiff*

Ilona M. Turner (admitted *pro hac vice*)  
Shawn Thomas Meerkamper (admitted *pro hac vice*)  
TRANSGENDER LAW CENTER  
P.O. Box 70976  
Oakland, California 94612  
Telephone: (510) 587-9696  
ilona@transgenderlawcenter.org  
shawn@transgenderlawcenter.org  
*Counsel for Plaintiff*

Betsy M. Isenberg  
Matthew Keith Phillips  
OFFICE OF THE INDIANA ATTORNEY GENERAL  
Indiana Government Center South, 5th Floor  
302 W. Washington St.  
Indianapolis, IN 46204-2770  
Phone: (317) 234-2415  
Fax: (317) 232-7979  
Matthew.Phillips@atg.in.gov  
Betsy.Isenberg@atg.in.gov  
Matthew.Phillips@atg.in.gov  
*Counsel for State Defendants*

Donald E. Morgan  
Thomas J. O. Moore  
OFFICE OF CORPORATION COUNSEL  
200 East Washington Street, Room 1601  
Indianapolis, Indiana 46204  
Telephone: (317) 327-4055  
Fax: (317) 327-3968  
donald.morgan@indy.gov

thomas.moore@indy.gov  
*Counsel for County Defendant*

Counsel shall promptly file a notice with the Clerk if there is any change in this information.

## **II. Jurisdiction and Statement of Claims**

- A. The parties shall state the basis for subject matter jurisdiction. If there is disagreement, each party shall state its position.

Plaintiff: Plaintiff brings this action under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation under color of state law of rights secured by the United States Constitution. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States. This Court has the authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief under Rules 57 and 65 of the Federal Rules of Civil Procedure §§ 2201 and 2202.

Defendants (Governor Pence, Attorney General Zoeller, Director Judson): Article III standing is a threshold issue that every plaintiff must meet in order to invoke a federal court's subject matter jurisdiction, and Plaintiff cannot meet the requirements of Article III standing. Article III standing has three distinct elements: "injury in fact, a causal connection between the injury and the defendant's conduct, and likely redressability through a favorable decision." Plaintiff cannot meet any of these requirements, and the arguments related to this position is contained in Defendants' (Governor Pence, Attorney General Zoeller, Director Judson) Brief in Support of their Motion to Dismiss. [Dkt. 41].

Defendant Eldridge: Doe lacks standing to proceed against Eldridge, as Doe cannot meet the causation or redressability requirements for Article III standing. And even if Doe had standing, his claims against Eldridge would be moot.

- B. This lawsuit challenges Indiana Code Section 34-28-2-2.5(a)(5), which prohibits non-citizens from obtaining a change of legal name. Plaintiff John Doe, whose legal name is Jane Doe, is a 31-year-old Latino who resides in Indiana. In August 2015, the United States granted Mr. Doe asylum from Mexico. Mr. Doe is transgender. Mr. Doe is being denied his need for a change of name from Jane Doe to John Doe. Mr. Doe is harmed by Indiana Code Section 34-28-2-2.5(a)(5) in that it prevents him from changing his name to match his gender identity. Plaintiff seeks a declaratory judgment that the provisions and enforcement by Defendants of Indiana Code Section 34-28-2-2.5(a)(5) violate his rights under the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution and the Free Speech Clause of the First Amendment to

the United States Constitution. Plaintiffs also seeks an injunction permanently barring enforcement of Indiana Code Section 34-28-2-2.5(a)(5).

- C. Defendants (Governor Pence, Attorney General Zoeller, Director Judson): First, and foremost, Plaintiff cannot meet any of the Article III standing requirements necessary for this matter to proceed: an injury in fact, causation, and redressability. (See Defendants' (Governor Pence, Attorney General Zoeller, Director Judson) Brief in Support of their Motion to Dismiss. [Dkt. 41]). The statute in question does not violate due process under the Fourteenth Amendment in that it meets a rational basis test that only requires that a statute not be random and irrational. *Frey Corp. v. City of Peoria, Ill.*, 735 F.3d 505, 508 (7<sup>th</sup> Cir. 2013). Further, a statute survives rational basis review "even if it is unwise, improvident, or out of harmony with a particular school of thought, [as long as it] merely bear[s] a rational relationship to some legitimate end." *Goodpaster v. City of Indianapolis*, 736 F.3d 1060, 1071 (7<sup>th</sup> Cir. 2013) (citing *Romer v. Evans*, 517 U.S. 620, 631 (1996)). Further, Plaintiff cannot establish that he has a life, liberty, or property interest in having his name changed from Jane Doe to John Doe. There is no evidence that the statute was meant to discriminate against those who are not citizens of the United States. Plaintiff's allegation that his birth name is a "deeply private" matter and that his privacy is violated anytime he shows his identification is without basis in law and in reason. While Plaintiff's First Amendment claim is very difficult to understand, Plaintiff cannot establish that disclosing his birth name, or failing to do so, is protected speech. Defendants reserve all available defenses not explicitly identified above.

Defendant Eldridge: As noted in Section II.A., Eldridge maintains that the Court lacks subject-matter jurisdiction over Doe's claims against her. Eldridge is not responsible for enforcing or defending the challenged state statute and defers to the State Defendants to defend their statute. But regardless of the Court's decision in this case, the Clerk's Office will continue to accept name-change petitions from citizens and non-citizens alike, to process them, and to forward them to the Circuit Court for resolution as required by law. Eldridge reserves all available defenses that may become evident as discovery and the parties' legal research proceeds.

- D. Within 14 days after the non-expert discovery deadline, and consistent with the certification provisions of Fed. R. Civ. Proc. 11(b) the party with the burden of proof shall file a statement of the claims or defenses it intends to prove at trial, stating specifically the legal theories upon which the claims or defenses are based.

### **III. Pretrial Pleadings and Disclosures**

- A. The parties shall serve their Fed. R. Civ. P. 26 initial disclosures on or before January 13, 2017.

- B. Plaintiff shall file preliminary witness and exhibit lists on or before February 13, 2017 [no later than 5 months from Anchor Date].
- C. Defendants shall file preliminary witness and exhibit lists on or before March 13, 2017 [no later than 6 months from Anchor Date].
- D. All motions for leave to amend the pleadings and/or to join additional parties shall be filed on or before February 13, 2017 [no later than 5 months from Anchor Date].
- E. Plaintiff shall serve Defendants (but not file with the Court) a statement of special damages, if any, and make a settlement demand, on or before February 13, 2017 [no later than 5 months from the Anchor Date]. Defendants shall serve on the Plaintiff (but not file with the Court) a response thereto within 30 days after receipt of the demand.
- F. Plaintiff shall disclose the name, address, and vita of any expert witness, and shall serve the report required by Fed. R. Civ. P. 26(a)(2) on or before May 15, 2017 [no later than 13 months from Anchor Date]. Defendants shall disclose the name, address, and vita of any expert witness, and shall serve the report required by Fed. R. Civ. P. 26(a)(2) on or before June 13, 2017 [30 days after Plaintiff serves its expert witness disclosure]; or if Plaintiff has disclosed no experts, Defendants shall make its expert disclosure on or before June 13, 2017 [no later than 14 months from Anchor Date].
- G. If a party intends to use expert testimony in connection with a motion for summary judgment to be filed by that party, such expert disclosures must be served on opposing counsel no later than 90 days prior to the dispositive motion deadline. If such expert disclosures are served the parties shall confer within 7 days to stipulate to a date for responsive disclosures (if any) and completion of expert discovery necessary for efficient resolution of the anticipated motion for summary judgment. The parties shall make good faith efforts to avoid requesting enlargements of the dispositive motions deadline and related briefing deadlines. Any proposed modifications of the CMP deadlines or briefing schedule must be approved by the court.
- H. Any party who wishes to limit or preclude expert testimony at trial shall file any such objections no later than October 13, 2017 [60 days before trial]. Any party who wishes to preclude expert witness testimony at the summary judgment stage shall file any such objections with their responsive brief within the briefing schedule established by Local Rule 56-1.
- I. All parties shall file and serve their final witness and exhibit lists on or before October 13, 2017 [no later than 14 months from Anchor Date]. This list should reflect the specific potential witnesses the party may call at trial. It is not sufficient for a party to simply incorporate by reference “any witness listed in

Sec. III. E. is amended to include: The parties shall submit (not file) courtesy copies of their respective demand and response at the time of service via email to [judgelynychchambers@insd.uscourts.gov](mailto:judgelynychchambers@insd.uscourts.gov). There is no need to follow the email with a hard copy.

discovery” or such general statements. The list of final witnesses shall include a brief synopsis of the expected testimony.

- J. Any party who believes that bifurcation of discovery and/or trial is appropriate with respect to any issue or claim shall notify the Court as soon as practicable.
- K. Discovery of electronically stored information (“ESI”).

The parties anticipate that the material sought in discovery will include, but not necessarily be limited to, the enactment and enforcement of Indiana Code Section 34-28-2-2.5(a)(5). The parties anticipate that they will seek discovery of ESI. The parties have discussed the production of ESI and agree it should be handled as follows:

The parties have agreed that the scope of electronically stored discovery information shall be limited to relevant and discoverable emails and other electronic documents that are reasonably accessible, that such emails and all email attachments shall be produced in paper format, and that certain other electronic documents which are not attached to emails may be produced on either a compact disc or thumb drive in either TIFF or PDF format, if requested in such form. The parties further have agreed that disclosure of metadata associated with emails produced in discovery will not be necessary and that disclosure of metadata associated with other electronic documents that are produced in either TIFF or PDF format will be negotiated on a case-by-case basis. Cost allocation will be negotiated at a future date should such allocation become necessary in the discretion of any party.

In the event that a document protected by the attorney-client privilege, the attorney work product doctrine or other applicable privilege or protection is unintentionally produced by any party to this proceeding, the producing party may request that the document be returned. In the event that such a request is made, all parties to the litigation and their counsel shall promptly return all copies of the document in their possession, custody, or control to the producing party and shall not retain or make any copies of the document or any documents derived from such document. The producing party shall promptly identify the returned document on a privilege log. The unintentional disclosure of a privileged or otherwise protected document shall not constitute a waiver of the privilege or protection with respect to that document or any other documents involving the same or similar subject matter.

The parties agree that privilege logs presumptively are timely if served within thirty days after the corresponding production. Should discovery burdens make preparation of a privilege log within thirty days difficult, the parties agree to meet and confer in good faith to establish alternate deadlines. The parties further agree that no party must log privileged

communications between any party and his or her counsel that relate to this case and were created after the date the lawsuit was filed. The burden of logging such communications far outweighs any possible benefit.

#### **IV. Discovery<sup>1</sup> and Dispositive Motions**

Due to the time and expense involved in conducting expert witness depositions and other discovery, as well as preparing and resolving dispositive motions, the Court requires counsel to use the CMP as an opportunity to seriously explore whether this case is appropriate for such motions (including specifically motions for summary judgment), whether expert witnesses will be needed, and how long discovery should continue. To this end, counsel must select the track set forth below that they believe best suits this case. If the parties are unable to agree on a track, the parties must: (1) state this fact in the CMP where indicated below; (2) indicate which track each counsel believes is most appropriate; and (3) provide a brief statement supporting the reasons for the track each counsel believes is most appropriate. If the parties are unable to agree on a track, the Court will pick the track it finds most appropriate, based upon the contents of the CMP or, if necessary, after receiving additional input at an initial pretrial conference.

- A. Does any party believe that this case may be appropriate for summary judgment or other dispositive motion? If yes, the party(ies) that expect to file such a motion must provide a brief statement of the factual and/or legal basis for such a motion. [Note: A statement such as, "Defendant will seek summary judgment because no material facts are in dispute," is insufficient. Such a statement does not indicate to the Court that the parties used the CMP as an opportunity to seriously explore whether this case is appropriate for summary judgment or other dispositive motion. However, the failure to set forth a basis for a dispositive motion in the CMP will not bar a party from raising this argument at the motions stage.]

Plaintiff: Plaintiff believes that his claims are appropriate for summary judgement because they involve primarily conclusions of law and are not substantially affected by issues of fact.

Defendants (Governor Pence, Attorney General Zoeller, Director Judson): Plaintiff cannot meet any of the Article III standing requirements necessary for this matter to proceed: an injury in fact, causation, and redressability. The statute in question does not violate due process under the Fourteenth Amendment in that it meets a rational basis test that only requires that a statute not be random and

---

<sup>1</sup>The term "completed," as used in Section IV.B, means that counsel must serve their discovery requests in sufficient time to receive responses before this deadline. Counsel may not serve discovery requests within the 30-day period before this deadline unless they seek leave of Court to serve a belated request and show good cause for the same. In such event, the proposed belated discovery request shall be filed with the motion, and the opposing party will receive it with service of the motion but need not respond to the same until such time as the Court grants the motion.

irrational. *Frey Corp. v. City of Peoria, Ill.*, 735 F.3d 505, 508 (7<sup>th</sup> Cir. 2013). Further, a statute survives rational basis review “even if it is unwise, improvident, or out of harmony with a particular school of thought, [as long as it] merely bear[s] a rational relationship to some legitimate end.” *Goodpaster v. City of Indianapolis*, 736 F.3d 1060, 1071 (7<sup>th</sup> Cir. 2013) (citing *Romer v. Evans*, 517 U.S. 620, 631 (1996)). Further, Plaintiff cannot establish that he has a life, liberty, or property interest in having his name changed from Jane Doe to John Doe. There is no evidence that the statute was meant to discriminate against those who are not citizens of the United States. Plaintiff’s allegation that his birth name is a “deeply private” matter and that his privacy is violated anytime he shows his identification is without basis in law and in reason. Plaintiff cannot establish that disclosing his birth name, or failing to do so, is protected speech. Defendants may assert additional theories in support of their Motion for Summary Judgment.

Defendant Eldridge: Defendant Eldridge defers to the State of Indiana to defend its statute. Regardless of the Court’s decision in this case, the Clerk’s Office will continue to accept name-change petitions from citizens and non-citizens alike, to process them, and to forward them to the Circuit Court for resolution as required by law. Should the Court determine that it has subject-matter jurisdiction over Doe’s claims against Eldridge, she reserves the right to seek summary judgment under grounds substantially similar to those the State Defendants note above.

B. Select the track that best suits this case:

\_\_\_\_\_ Track 1: No dispositive motions are anticipated. All discovery shall be completed by \_\_\_\_\_ [no later than 16 months from Anchor Date]. [Note: Given that no dispositive motions are anticipated, the parties should consider accelerating discovery and other pretrial deadlines to the extent practicable and suggest a trial date (Section VI) substantially earlier than the presumptive trial date of 18 months from the Anchor Date. The Court encourages a track faster than the standard track in all cases in which dispositive motions are not anticipated].

  X   Track 2: Dispositive motions are expected and shall be filed by August 13, 2017 [no later than 12 months from Anchor Date]; non-expert witness discovery and discovery relating to liability issues shall be completed by May 15, 2017 [no later than 7-10 months from Anchor Date]; expert witness discovery and discovery relating to damages shall be completed by July 13, 2017 [no later than 12-16 months from Anchor Date]. [Note: The Court expects this will be the typical track when dispositive motions are anticipated.]

\_\_\_\_\_ Track 3: Dispositive motions are expected and shall be filed no later than \_\_\_\_\_ [no later than 12 months from Anchor Date]; discovery relating to liability issues and expert witness discovery that may be necessary at the dispositive motions stage shall be completed by \_\_\_\_\_ [no later than 30 days prior to the dispositive motion deadline date]; all remaining discovery shall

be completed by [no later than 12-16 months from Anchor Date]. [Note: The Court expects that this will not be the typical track when dispositive motions are anticipated.]

\_\_\_\_\_ Track 4: Dispositive motions shall be filed by \_\_\_\_\_ [not later than 13 months from the Anchor Date]; non-expert discovery shall be completed by \_\_\_\_\_; expert witness discovery shall be completed by \_\_\_\_\_. [Note: The Court provides Track 4 as an open option because it recognizes that there may be unusual cases for which special circumstances necessitate additional flexibility. However, the Court has found that Tracks 1-3 are appropriate in the large majority of cases, and therefore the parties must briefly state below the special circumstances justifying a departure from Tracks 1-3.]

Absent leave of court, and for good cause shown, all issues raised on summary judgment under Fed. R. Civ. P. 56 must be raised by a party in a single motion.

**V. Pre-Trial/Settlement Conferences**

At any time, any party may call the Judge's Staff to request a conference, or the Court may sua sponte schedule a conference at any time. The presumptive time for a settlement conference is no later than 30 days before the close of non-expert discovery. **The parties are encouraged to request an earlier date if they believe the assistance of the Magistrate Judge would be helpful in achieving settlement.**<sup>2</sup>

**VI. Trial Date**

The presumptive trial date is 20 months from the Anchor Date. The case should be ready from trial in April 2018. The trial is by Court and is anticipated to take four (4) days. Counsel should indicate here the reasons that a shorter or longer track is appropriate. While all dates herein must be initially scheduled to match the presumptive trial date, if the Court agrees that a different track is appropriate, the case management order approving the CMP plan will indicate the number of months by which all or certain deadlines will be extended to match the track approved by the Court.

**VII. Referral to Magistrate Judge**

At this time, all parties do not consent to refer this matter to the currently assigned Magistrate Judge pursuant to 28 U.S.C. 636(c) and Federal Rules of Civil Procedure 73 for all further proceedings including trial.

**VIII. Required Pre-Trial Preparation**

---

<sup>2</sup> The parties do not believe that a settlement conference is appropriate for this case, as the Plaintiff seeks only declaratory and injunctive relief.

Sec. VI. Trial readiness date has been modified to April 2018.

**A. TWO WEEKS BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**

1. File a list of trial witnesses, by name, who are actually expected to be called to testify at trial. This list may not include any witnesses not on a party's final witness list filed pursuant to section III.I.
2. Number in sequential order all exhibits, including graphs, charts and the like, that will be used during the trial. Provide the Court with a list of these exhibits, including a description of each exhibit and the identifying designation. Make the original exhibits available for inspection by opposing counsel. Stipulations as to the authenticity and admissibility of exhibits are encouraged to the greatest extent possible.
3. Submit all stipulations of facts in writing to the Court. Stipulations are always encouraged so that at trial, counsel can concentrate on relevant contested facts.
4. A party who intends to offer any depositions into evidence during the party's case in chief shall prepare and file with the Court and copy to all opposing parties either:
  - a. brief written summaries of the relevant facts in the depositions that will be offered. (Because such a summary will be used in lieu of the actual deposition testimony to eliminate time reading depositions in a question and answer format, this is strongly encouraged.); or
  - b. if a summary is inappropriate, a document which lists the portions of the deposition(s), including the specific page and line numbers, that will be read, or, in the event of a video-taped deposition, the portions of the deposition that will be played, designated specifically by counter-numbers.
5. Provide all other parties and the Court with any trial briefs and motions in limine, along with all proposed jury instructions, voir dire questions, and areas of inquiry for voir dire (or, if the trial is to the Court, with proposed findings of fact and conclusions of law).
6. Notify the Court and opposing counsel of the anticipated use of any evidence presentation equipment.

**B. ONE WEEK BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**

1. Notify opposing counsel in writing of any objections to the proposed exhibits. If the parties desire a ruling on the objection prior to trial, a motion should be filed noting the objection and a description and designation of the exhibit, the basis of the objection, and the legal authorities supporting the objection.
2. If a party has an objection to the deposition summary or to a designated portion of a deposition that will be offered at trial, or if a party intends to offer additional portions at trial in response to the opponent's designation, and the parties desire a ruling on the objection prior to trial, the party shall submit the objections and counter summaries or designations to the Court in writing. Any objections shall be made in the same manner as for proposed exhibits. However, in the case of objections to video-taped depositions, the objections shall be brought to the Court's immediate attention to allow adequate time for editing of the deposition prior to trial.
3. File objections to any motions in limine, proposed instructions, and voir dire questions submitted by the opposing parties.
4. Notify the Court and opposing counsel of requests for separation of witnesses at trial.

**IX. Other Matters**

There is a pending Motion to Dismiss, filed by the State Defendants. The Plaintiff's response is currently due on December 6, 2016. The County Defendant's deadline to answer or otherwise respond to Plaintiff's amended complaint is December 13, 2016.

/s/ Barbara J. Baird  
Barbara J. Baird  
LAW OFFICE OF BARBARA J. BAIRD  
445 North Pennsylvania Street, Suite 401  
Indianapolis, Indiana 46204-0000  
Telephone: (317) 637-2345  
bjbaird@bjbairdlaw.com  
*Local Counsel for Plaintiff*

/s/ Matthew J. Barragan  
Thomas A. Saenz (admitted *pro hac vice*)  
Matthew J. Barragan (admitted *pro hac vice*)  
MEXICAN AMERICAN LEGAL  
DEFENSE AND EDUCATIONAL FUND  
634 South Spring Street, 11<sup>th</sup> Floor  
Los Angeles, California 90014  
Telephone: (213) 629-2512  
tsaenz@maldef.org  
mbarragan@maldef.org  
*Counsel for Plaintiff*

/s/ Shawn Thomas Meerkamper  
Ilona Turner (admitted *pro hac vice*)  
Shawn Thomas Meerkamper (admitted *pro hac vice*)  
TRANSGENDER LAW CENTER

P.O. Box 70976  
Oakland, California 94612  
Telephone: (510) 587-9696  
ilona@transgenderlawcenter.org  
shawn@transgenderlawcenter.org  
*Counsel for Plaintiff*

/s Matthew Keith Phillips

Betsy M. Isenberg  
Matthew Keith Phillips

OFFICE OF THE INDIANA  
ATTORNEY GENERAL  
Indiana Government Center South, 5th Floor  
302 W. Washington St.  
Indianapolis, IN 46204-2770  
Phone: (317) 234-2415  
Fax: (317) 232-7979  
Matthew.Phillips@atg.in.gov  
Betsy.Isenberg@atg.in.gov  
Matthew.Phillips@atg.in.gov  
*Counsel for State Defendants*

/s Donald E. Morgan

Donald E. Morgan  
Thomas J. O. Moore  
OFFICE OF CORPORATION COUNSEL  
200 East Washington Street, Room 1601  
Indianapolis, Indiana 46204  
Telephone: (317) 327-4055  
Fax: (317) 327-3968  
donald.morgan@indy.gov  
Thomas.moore@indy.gov  
*Counsel for County Defendant*

X     PARTIES APPEARED BY COUNSEL ON ,DECEMBER 14, 2016, FOR AN INITIAL PRETRIAL CONFERENCE.

           APPROVED AS SUBMITTED.

    X     APPROVED AS AMENDED.

           APPROVED AS AMENDED PER SEPARATE ORDER.

           APPROVED, BUT ALL OF THE FOREGOING DEADLINES ARE SHORTENED/LENGTHENED BY \_\_\_\_\_ MONTHS.

           APPROVED, BUT THE DEADLINES SET IN SECTION(S) \_\_\_\_\_ OF THE PLAN IS/ARE SHORTENED/LENGTHENED BY \_\_\_\_\_ MONTHS.

           THIS MATTER IS SET FOR TRIAL BY \_\_\_\_\_ ON \_\_\_\_\_ . FINAL PRETRIAL CONFERENCE IS SCHEDULED FOR \_\_\_\_\_ AT \_\_\_\_\_ .M., ROOM \_\_\_\_\_ .

           A SETTLEMENT/STATUS CONFERENCE IS SET IN THIS CASE FOR \_\_\_\_\_ AT \_\_\_\_\_ .M. COUNSEL SHALL APPEAR:

\_\_\_\_\_ IN PERSON IN ROOM \_\_\_\_\_ ; OR

\_\_\_\_\_ BY TELEPHONE, WITH COUNSEL FOR INITIATING THE CALL TO ALL OTHER PARTIES AND ADDING THE COURT JUDGE AT ( \_\_\_\_ ) \_\_\_\_\_ ; OR

\_\_\_\_\_ BY TELEPHONE, WITH COUNSEL CALLING THE JUDGE'S STAFF AT ( \_\_\_\_ ) \_\_\_\_\_ .

    X     DISPOSITIVE MOTIONS SHALL BE FILED BY AUGUST 13, 2017.

    X     NON-EXPERT WITNESS AND LIABILITY DISCOVERY SHALL BE COMPLETED BY MAY 15, 2017.

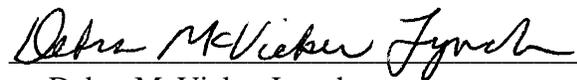
If the required conference under LR 37-1 does not resolve discovery issues that may arise, **and if the dispute does not involve a claim of privilege**, the parties are ordered *jointly* to request a phone status conference before filing any motion to compel or for protective order. **If the dispute has arisen because a party has failed to timely respond to discovery, the party that served the discovery may proceed with a motion to compel without seeking a conference. Any contacts with the court to request a discovery conference must be made jointly by counsel, absent compelling circumstances.**

When filing a non-dispositive motion, the movant shall contact counsel for the opposing party and solicit opposing counsel's agreement to the motion. The movant shall indicate opposing counsel's consent or objection in the motion.

Upon approval, this Plan constitutes an Order of the Court. Failure to comply with an Order of the Court may result in sanctions for contempt, or as provided under Rule 16(f), to and including dismissal or default.

**Approved and So Ordered.**

Date: 12/20/16



Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email generated by the court's ECF system