

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	
)	
RACHEL TUDOR,)	
)	
Plaintiff-Intervenor)	
v.)	CASE NO. 5:15-CV-00324-C
)	
SOUTHEASTERN OKLAHOMA)	
STATE UNIVERSITY, and)	
)	
THE REGIONAL UNIVERSITY)	
SYSTEM OF OKLAHOMA,)	
)	
Defendants.)	

JOINT MOTION TO MODIFY THE SCHEDULING ORDER

Pursuant to Local Rule 7.1, Plaintiff United States of America (“United States”), Plaintiff-Intervenor Dr. Rachel Tudor (“Plaintiff-Intervenor” and, collectively with the United States, “Plaintiffs”) and Defendants Southeastern Oklahoma State University and the Regional University System of Oklahoma (“Defendants”) respectfully request that the Court modify the scheduling order entered in this case on July 28, 2015. ECF No. 39.

The reasons for this Motion are set forth below.

I. Background

On July 28, 2015, following the Parties’ July 2015 scheduling conference with the Court, the Court approved the scheduling order that appears at ECF No. 39.¹ The Court’s

¹ Upon a joint motion from the parties, the Court modified the expert deadline set forth

initial proposed scheduling order contained two (2) different deadlines for the filing of expert witness lists and expert reports: one for Plaintiffs and a second one for Defendants. Based on an agreement of the Parties prior to and during the scheduling conference (ECF No. 35 at 8), the scheduling order that the Court entered gave the Parties the same deadline for designating experts and producing expert reports and permitted designation of rebuttal experts and production of rebuttal reports six weeks later. ECF No. 39 at 1. Discovery was set to close August 1, 2016, and the case was to be placed on the trial calendar for October 2016.

In the intervening months, the Parties have exchanged document requests and interrogatories as well as requests for admission. Both Parties have produced extensive documentary materials in response to discovery requests. Defendants have taken Dr. Tudor's deposition over the course of two consecutive days and Plaintiffs have taken the depositions of three witnesses. However, following those four depositions and on the first day of a week in which three more scheduled depositions were to take place, one of the United States' counsel, Shayna Bloom, experienced a medical emergency that prompted the United States to postpone the scheduled depositions.

Since that time, the Parties have rescheduled the canceled depositions, but because of scheduling issues on both sides, they could not be rescheduled until early May. Also since that time, due to these unforeseen medical issues, Ms. Bloom has been on intermittent medical leave and that will continue for a significant period of time during

in the scheduling order and, as such, the current deadline for all Parties' expert disclosures and reports is May 2, 2016. ECF No. 50.

which she is also unable to travel for the case. As a result, although the United States has added another attorney to the team, it is taking more time than planned to complete various discovery tasks in the case.

At the same time, Defendants have requested a modification to the structure of expert discovery because they are unable to determine the necessity of types of experts until they are aware of Plaintiffs’ experts and the scope of those experts’ testimony. The requested extension would allow Defendants to determine what experts, if any, will be needed by Defendants, and possibly alleviate some of the significant expense related to expert witnesses in the event such witnesses are not necessary. Defendants assert that any such determination is primarily dependent upon the experts identified by Plaintiffs. Plaintiffs have agreed to this change in the structure of expert discovery but it will require a longer period of expert discovery to effectuate this change.

In order to allow Plaintiff United States additional time for discovery and to provide Defendants with their desired change in the order of expert disclosures, the Parties request an additional five (5) weeks of discovery. This change will only require trial to be moved by one month. The Parties do not anticipate any further need for modification to the schedule. The attached proposed order sets forth in detail which deadlines would be moved, and to which dates, if the Court grants this Motion. The existing deadlines and proposed new deadlines are as follows:

Events	Existing Deadlines	Proposed New Deadlines
Plaintiffs and Defendants to designate experts and produce expert reports	May 2, 2016	June 6, 2016 – Plaintiffs’ deadline to designate experts and produce expert reports

		July 6, 2016 – Defendants’ deadline to designate experts and produce expert reports
Plaintiffs and Defendants to designate rebuttal experts and produce rebuttal reports	June 13, 2016	August 5, 2016 – Plaintiffs’ deadline to designate rebuttal experts and produce rebuttal reports (Defendants will not designate rebuttal experts)
Plaintiffs’ final list of witnesses and exhibits	July 15, 2016	August 19, 2016
Defendants’ final list of exhibits	July 25, 2016	August 29, 2016
Defendants’ final list of witnesses	July 29, 2016	September 2, 2016
Deadline to complete discovery and file dispositive and <i>Daubert</i> motions	August 1, 2016	September 8, 2016
Defendants’ objections to Plaintiffs’ final list of exhibits	August 15, 2016	September 19, 2016
Plaintiffs’ objections to Defendants’ final list of exhibits	August 25, 2016	September 29, 2016
Final pretrial report to be filed together with a proposed order approving the report	October 1, 2016	November 1, 2016
Motions in limine, requested voir dire, trial briefs, and requested jury instructions	7 days prior to the pretrial report	7 days prior to the pretrial report
Any objections or responses to motions in limine, requested voir dire, trial briefs, and requested jury instructions	14 days after the initial filing to which the party is responding or to which the party objects	14 days after the initial filing to which the party is responding or to which the party objects
Designations of deposition testimony to be used at trial	October 1, 2016	November 1, 2016
Objections and counter-designations of deposition testimony to be used at trial	October 6, 2016	November 7, 2016
Trial docket	October 2016	November 2016

II. Conclusion

For the foregoing reasons, the Parties respectfully request that the Court enter the order filed with this Motion.

Respectfully submitted,

Date: April 26, 2016

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CERTIFICATE OF SERVICE

I certify that I served this document on all counsel of record through the Court's electronic filing system on the date below.

Date: April 26, 2016

/s/ Allan K. Townsend

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FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)

Plaintiff)

RACHEL TUDOR,)

Plaintiff-Intervenor)

v.) CASE NO. 5:15-CV-00324-C

SOUTHEASTERN OKLAHOMA)

STATE UNIVERSITY, and)

THE REGIONAL UNIVERSITY)

SYSTEM OF OKLAHOMA,)

Defendants.)

[PROPOSED] SCHEDULING ORDER

Upon consideration of the Parties’ Joint Motion to Modify the Scheduling Order in this matter, the Court hereby grants the Motion and orders that the schedule in the case be modified as follows:

June 6, 2016: Plaintiffs’ deadline to designate expert witnesses and produce expert reports

July 6, 2016: Defendants’ deadline to designate expert witnesses and produce expert reports

August 5, 2016: Plaintiffs’ deadline to designate rebuttal experts and produce rebuttal reports

August 19, 2016: Deadline for Plaintiffs’ final list of witnesses and exhibits

August 29, 2016: Deadline for Defendants’ final list of exhibits

September 2, 2016: Deadline for Defendants’ final list of witnesses

September 8, 2016: Deadline to complete discovery and file dispositive and *Daubert* motions

September 19, 2016: Deadline for Defendants' objections to Plaintiffs' final list of exhibits

September 29, 2016: Deadline for Plaintiffs' objections to Defendants' final list of exhibits

November 1, 2016: Designations of deposition testimony to be used at trial must be filed

November 1, 2016: Final pretrial report to be filed together with a proposed order approving the report

November 7, 2016: Objections and counter-designations of deposition testimony to be used at trial must be filed

Motions in limine, requested voir dire, trial briefs, and requested jury instructions to be filed 7 days prior to the pretrial report. Any objections or responses to motions in limine, requested voir dire, trial briefs, and requested jury instructions to be filed within 14 days after the initial filing to which the party is responding or to which the party objects.

The case will be placed on the trial calendar for November 2016.

ROBIN J. CAUTHRON
United States District Judge