

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**NOTICE OF FILING OF PARTIES' PROPOSED MODIFIED DISCOVERY
SCHEDULE/ORDER AND REQUEST FOR HEARING**

Pursuant to the Court's June 8, 2020 order that the parties submit one modified discovery schedule on or before August 7, 2020, *see* Op. & Order: Mots. Concerning Defs.' Acquisition of New Counsel 2, 5, ECF 525, Plaintiff Janet Jenkins, through undersigned counsel, hereby files the attached proposed modified discovery schedule/order with the consent of all Defendants. Plaintiff respectfully directs the Court's attention to Section 8 of the proposal, which addresses the only matter on which the parties could not reach agreement; the parties have set forth their respective proposals and request a hearing to facilitate final agreement. *See* Op. & Order 5-6, ECF 450.

Respectfully submitted.

August 6, 2020

/s/ Frank H. Langrock

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Counsel for Plaintiff Janet Jenkins

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was served on the following counsel of record through the Court's CM/ECF system:

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* Counsel's motion for *pro hac vice* admission is pending. See ECF 540.

August 6, 2020

/s/ Diego A. Soto

Diego A. Soto

Counsel for Plaintiff Janet Jenkins

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

JANET JENKINS, ET AL., :
 :
 Plaintiffs, :
 :
 v. : Case No. 2:12-cv-184
 :
 KENNETH L. MILLER, ET AL., :
 :
 Defendants. :

PROPOSED MODIFIED DISCOVERY SCHEDULE/ORDER
AND REQUEST FOR HEARING

The discovery schedule/order is hereby amended as follows:

1. **Interrogatories and Requests for Production.** The parties shall serve all interrogatories and requests for production on or before six weeks before the deadline to complete all discovery.

2. **Depositions.** Depositions of all witnesses shall be completed by the deadline to complete all discovery. Plaintiffs¹ are entitled to take the deposition of each Defendant, ten nonparty fact witnesses, and any rebuttal expert witnesses that Defendants may disclose. See Op. & Order, ECF 450. Defendants are entitled to take the deposition of Plaintiffs,² ten nonparty

¹ Defendants deny that Isabella is a proper party to this case.

² The parties reserve all rights to seek appropriate relief in the event that any party or purported party does not appear for deposition.

fact witnesses, and the four expert witnesses Plaintiffs have disclosed.

3. **Deadline to Complete All Discovery.** All discovery shall be completed 180 days after the later of (1) the entry of this order and (2) the date the Court rules on the Motion for Partial Summary Judgment as to All Claims Plaintiff Janet Jenkins Purports to Bring as Next Friend of Isabella Miller, ECF 495 ("Isabella Motion"). See Fed. R. Civ. P. 6(a). Unless the Court orders otherwise, discovery is not stayed, including pending the Court's resolution of the Isabella Motion.

4. **Deadline to Complete All Expert Discovery.** Defendants shall disclose rebuttal experts, if any, 90 days after the later of (1) the entry of this order and (2) the date the Court rules on the Isabella Motion. The deadline to complete all expert discovery shall be the deadline to complete all discovery.

5. **Requests for Admission.** The parties shall serve all requests for admission on or before four weeks after the deadline to complete all discovery.

6. **Motions.** Motions, including summary judgment motions but excluding motions relating to the conduct of trial, shall be filed on or before six weeks after the deadline to complete all discovery ("Motion Deadline").

7. **Trial.** This case shall be ready for trial by the first Monday 90 days after the deadline to complete all discovery, but

if any summary judgment motions are timely filed and pending as of the Motion Deadline, then this case instead shall be ready for trial by the first Monday 60 days after the Court rules on all such summary judgment motions. See Fed. R. Civ. P. 6(a).

8. COVID-19. The parties are not able to agree on the terms of this Section 8. Pursuant to the Court's Order, ECF 450, pp. 5-6, the parties request that the Court hold a hearing to facilitate final agreement.

Defendants' Proposal: Parties, third-party witnesses, and counsel ("Deposition Attendees") have the right to attend depositions in person. See Fed. R. Civ. P. 28 and 30. Notwithstanding anything herein to the contrary, if any governmental restriction imposed in light of COVID-19 (such as a travel restriction, quarantine requirement, or social-distancing mandate) prevents or substantially impedes a Deposition Attendee from attending a deposition in person, and if such Deposition Attendee wants to attend in person, the applicable discovery deadline shall, upon all parties' stipulation, automatically be extended until in-person attendance is reasonably feasible. The parties shall cooperate in good faith to agree on the new discovery deadline as applicable, and the parties shall timely notify the Court of any stipulated-to extended deadline. If the parties cannot agree on the propriety of extending a deadline, the date of an extended deadline, or any other COVID-19-related

matters, the parties shall promptly present the issue to the Court for resolution.

Plaintiff Janet Jenkins's Proposal: To ensure the health of all parties, third-party witnesses, and counsel ("Deposition Attendees"), of Deposition Attendees' households, and of the general public during the COVID-19 pandemic, and to prevent further delay in this case, all depositions, including the administration of the oath to the deponent by the officer, shall be taken solely by telephone, videotelephony, or other remote means, unless the Court on motion orders otherwise. See Fed. R. Civ. P. 28, 29, 30. The officer need not be authorized to administer oaths by federal law or by the law in the place of examination. See *id.* Deposition Attendees have the right to attend depositions remotely and shall be provided means to participate in all depositions remotely. See Fed. R. Civ. P. 28 and 30. Deposition Attendees shall confer in good faith regarding arrangements for any deposition, including of a deponent confined in prison, see Fed. R. Civ. P. 30(a)(2)(B) (requiring leave of court if deponent is confined in prison), taking into account all applicable, pandemic-related governmental requirements, restrictions, and recommendations, such as those related to traveling, quarantining, mask-wearing, and social distancing.

DATED at Burlington, in the District of Vermont, this _____
day of _____, _____.

/s/

William K. Sessions III
District Court Judge