

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON

NICHOLAS CHARLES BREINER,

Plaintiff,

V.

**BOARD OF EDUCATION OF
MONTGOMERY COUNTY,**

Defendant.

CIVIL ACTION NO. 5:18-351-KKC

PRETRIAL ORDER

***** ****

The Court hereby ORDERS as follows:

1. No later than **twenty-one (21) days before the Pretrial Conference**,
counsel shall file the following:

a. a list of witnesses and exhibits in accordance with the Fed.R.Civ.P. 26(a)(3)
and the following:

- (i) the witness lists shall specify those witnesses who will testify at the trial of this action versus those who may testify, in accord with Fed. R. Civ. P. 26(a)(3)(A) and shall identify all witnesses who will testify by deposition, specifying the portions of such deposition testimony that will be used at trial, in accord with Fed.R. Civ. P. 26(a)(3)(B);
- (ii) the witness lists shall also set forth the subject matter of each witness's testimony and the purpose for which such testimony is offered; and

(iii) the exhibit lists shall contain a description of each exhibit in sufficient detail to permit adequate identification thereof, and shall include a list of any demonstrative and/or summary exhibits to be used at trial (including any to be used during opening statements);

b. any appropriate motions in limine;

c. the transcript of all evidentiary depositions to be used at trial along with any motions for ruling by the court upon any objection made in any evidentiary deposition to be used at trial on which ruling by the court is necessary prior to trial. **Any objection within any deposition which is not so raised specifically (by citation to page number and question number) for ruling by the court shall be deemed to be summarily overruled;**

d. a pretrial memorandum brief containing a succinct statement of the facts of the case, the issues of fact and the issues of law;

e. proposed agreed jury instructions. Counsel shall exchange drafts of instructions in advance and endeavor to agree; in the absence of agreement, separate instructions shall be filed, by the same deadline, including citation to supporting authorities; and

f. proposed voir dire questions for the Court's use.

2. **No later than fourteen (14) days before the Pretrial Conference**, the parties shall file:

a. written objections, pursuant to Fed. R. Civ. P. 26(a)(3), to the lists of witnesses and exhibits previously filed by any other party. Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, **shall be deemed waived unless excused by the court for good cause shown;**

- b. responses to any other party's motion in limine; and
 - c. responses to any other party's motion for a ruling on any objection made in an evidentiary deposition.
3. At the Pretrial Conference, counsel for the parties shall be prepared to:
- a. discuss and make possible stipulations of admissibility, or threshold foundation requirements for admissibility of exhibits, including authenticity; discuss and make stipulations of fact or law which would expedite the trial of this action;
 - b. disclose any demonstrative or summary exhibits intended for use at trial;
 - c. display to the court all exhibits intended to be used at trial, which shall already be pre-marked in accordance with Local Rule. Counsel shall provide the court with a copy of all documentary exhibits. Failure to disclose exhibits to the Court and to opposing counsel at the Pretrial Conference shall be subject to sanctions unless good cause is shown;
 - d. discuss the possibility of settlement; and
 - e. advise the Court of anticipated technological issues that may arise at trial.
4. The Pretrial Conference shall be attended by all attorneys who will be trying the case.

Dated January 12, 2021



Karen K. Caldwell
KAREN K. CALDWELL
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF KENTUCKY