

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JOETTA and MICHAEL LEDGERWOOD,

Plaintiffs,

FINAL PRETRIAL  
CONFERENCE ORDER

v.

04-C-200-C

DIAL INDUSTRIAL SALES, INC.,  
HARTFORD PROPERTY & CASUALTY,  
and ST. PAUL SURPLUS LINES,

Defendants.

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On September 2, 2005, this court held the final pretrial conference. The Ledgerwoods and Dial Industries were represented by counsel.

First we discussed the court's voir dire questions. Plaintiff had no proposed changes or objections. Defendant requested inclusion of three more of its questions. I agreed to add the acrophobia question; following the hearing, Judge Crabb agreed to add defendant #13 but declined to add defendant #12. A copy of the final version of the voir dire questions is attached to this order.

Next we looked at the jury instruction packet. The parties confirmed that the breach of warranty claim has been withdrawn. I advised the parties that the universe of instructions is intentionally over-inclusive, so that we have all potentially necessary instructions available at the final jury instruction conference following the close of the evidence at trial. There, the

parties will be given the opportunity to ask the court to strike instructions that are not needed or supported by the evidence. That said, the court excluded the “Presumption of Due Care” instruction but will add it if the evidence were to support it. The parties flagged the issue of how to characterize the defendant to the jury in the instructions: although the parties agree that Dial is not the “manufacturer,” and that it is the “seller,” they dispute whether it is the “designer” of the ladder. The court will resolve this dispute at the final jury instruction conference. The parties predict that they will acquiesce to eliding liability special verdict questions ##3-4 into ##1-2, and to eliding ##7-8 into ##5-6. This can be resolved at the final jury instruction conference.

I reported to the parties Judge Crabb’s rulings on their in limine motions. The judge will commemorate her rulings in a written order to follow. I gave the parties until close of business September 6, 2005 within which to file letter requests for reconsideration. Obviously, the judge will wait to issue her order until she has reviewed these letters.

The parties had no other substantive matters to bring to the court’s attention.

The parties are set to pick their jury on September 19, 2005 at 9:00 a.m. Both sides are confident they can try this entire case – liability and damages – within five days. The parties agreed that eight jurors will be necessary. The parties are aware they must present their evidence using the court’s ELMO. The parties are aware that they will receive long trial

days with the jury and that they must have their witnesses and evidence ready to go. Any avoidable lengthy delay by a party could result in the court closing that party's case.

Entered this 6<sup>th</sup> day of September, 2005.

BY THE COURT:  
/s/  
STEPHEN L. CROCKER  
Magistrate Judge