

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

REGGIE TOWNSEND,

Plaintiff,

v.

JERRY ALLEN,

Defendant.

ORDER

05-cv-204-bbc

A final pretrial conference was held in this case on September 11, 2008, before United States District Judge Barbara B. Crabb. Plaintiff Reggie Townsend appeared by David Harth and Melody Glazer. Defendant Jerry Allen appeared by John Sweeney and Amanda Tollefson.

Counsel predicted that the case would take 2 days to try. They understand that trial days will begin at 9:00 and will run until 5:30, with at least an hour for lunch, a short break in the morning and another in the afternoon.

Counsel agreed that with the exception of experts, all witnesses would be sequestered. Counsel are either familiar with the court's visual presentation system or will make arrangements with the clerk for some instruction on the system.

No later than noon on the Friday before trial, plaintiff's counsel will advise defendant's counsel of the witnesses plaintiff will be calling on Monday and the order in which they will be called. Counsel should give similar advice at the end of each trial day; defendant's counsel shall have the same responsibility in advance of defendant's case. Also, no later than noon on the Friday before trial, counsel shall meet to agree on any exhibits that either side wishes to use in opening statements. Any disputes over the use of exhibits are to be raised with the court before the start of opening statements.

Counsel should use the microphones at all times and address the bench with all objections. If counsel need to consult with one another, they should ask for permission to do so. Only the lawyer questioning a particular witness may raise objections to questions put to the witness by the opposing party and argue the objection at any bench conference.

Counsel are to provide the court with copies of documentary evidence before the start of the first day of trial.

Counsel agreed to the voir dire questions in the form distributed to them at the conference. The jury will consist of seven jurors to be selected from a qualified panel of fourteen. Each side will exercise three peremptory challenges against the panel. Before counsel give their opening statements, the court will give the jury the introductory instructions on the way in which the trial will proceed and their responsibilities during the trial.

Counsel discussed the form of the verdict and the instructions on liability. Final decisions on the instructions and form of verdict will be made at the instruction conference once all the evidence on liability is in.

The following rulings were made on defendant's motions in limine.

1. The motion to exclude testimony by Dr. Linda Farley is DENIED.
2. The motion to exclude evidence of emotional distress is GRANTED unless plaintiff can prove that he suffered a physical injury.
3. The motion to preclude plaintiff from testifying that his mattress caused a physical illness is GRANTED, but plaintiff can testify about symptoms he experienced.
4. The motion to preclude evidence of any other conditions to which plaintiff was exposed is GRANTED.

Entered this 15th day of September, 2008.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge