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

ROXIAN L. BRUNNER,

Plaintiff,

v.

PATRICK McKILLIP, and
VILLAGE OF ELEVA,

Defendants.

AMENDED
SCHEDULING ORDER

06-C-362-C

This court held a telephonic status and scheduling conference on May 25, 2007. Because plaintiff Roxian L. Brunner has not found a new attorney to represent her, she appeared pro se. Defendant McKillip appeared by Gregg T. Heidenreich. In consultation with the parties, the court amended the remaining schedule and discussed generally with Brunner what will be expected of her as her lawsuit progressed toward trial.

Read this whole order NOW

This federal civil lawsuit is a serious matter. As a party to a federal civil lawsuit, it is your duty to understand what you are supposed to do and when you are supposed to do it. To help you, this order explains what your duties are and what your remaining deadlines are. This court has a number of rules that you must follow. It will not be easy to do everything that you are supposed to do, and you will not have a lot of time. Therefore, it is important for you to read this order now so that you can do things the right way.

Review the Federal Rules of Civil Procedure

The Federal Rules of Civil Procedure are the rules that control much of what happens in this lawsuit. Not all of those rules will be important in your case, but some of them will be very important, particularly the rule about summary judgment and the rules about discovery. It is your duty to know the rules of procedure that apply to you in this case. This court cannot provide you with a copy of the rules of procedure. You will have to find your own copy of the rules to review.

The Federal Rules of Evidence also are important because they govern how evidence may be admitted at trial. It is your duty know the rules of evidence that apply to you in this case. This court cannot provide you with a copy of the rules of evidence. You will have to find your own copy of the rules to review.

Service of documents on your opponent is REQUIRED:

Every letter, motion, brief, exhibit, or other document that you file with the court in this lawsuit must be served on your opponent's attorney at the same time. This means that whenever you mail a document to the court, you also must mail a copy of that document to your opponent at the same time. To prove that you did this, you must **certify service** by including with each submission to the court a sentence at the end of your document, or on a separate piece of paper, in which you swear or certify that you sent a copy through the mail with proper postage to your opponent's lawyer.

There is no acceptable excuse for not serving your documents on your opponent. If you do not serve your documents on your opponent and if you do not certify service, then this court will not look at your documents. There are no exceptions to this policy.

THE AMENDED SCHEDULE

(1) Discovery Cutoff: July 27, 2007

"Discovery" is the word used in federal courts to describe how plaintiffs and defendants can learn information and get documents that are useful to deciding this lawsuit. Rules 26 through 37 and Rule 45 of the Federal Rules of Civil Procedure explain how you may get information and documents from the defendants and how the defendants may get information and documents from you. You should read Rules 26 through 37 **and Rule 45 now** so that you understand how this works, and so that you can obtain whatever remaining information you need to be ready for trial.

The court expects both sides to follow Rules 26 through 37 and Rule 45. You have no right to get information or documents to use in this case except in the way these rules say. For example Rule 26(b) says that you may discover evidence that is relevant to the claims or defenses in this lawsuit. You may not discover evidence that is not relevant. Rule 26(c) protects all parties from discovery requests that are annoying, oppressive, or too expensive or too much time to be worth it in this case. Defendants often object that discovery demands violate Rules 26(b) or 26(c), so it is important to make careful discovery requests that are aimed at getting the

information and documents you really need for this lawsuit, and not aimed at getting other information and documents that you don't really need.

Another reason that it is important to make careful discovery requests is because Rule 33(a) says that a party only may serve 25 interrogatories on her opponents. An interrogatory is a written question that you want the defendants to answer under oath. Even if you have lots of questions that you want the defendants to answer so that you can learn information about your claims, you cannot ask more than 25 questions unless the court gives you permission first. This court usually does not give either side permission to ask more than 25 interrogatories. That means you must use your 25 interrogatories to ask the most important questions.

Rule 34 allows you to ask the defendants to show you documents that are relevant to this lawsuit, but it does not require the defendants to make free photocopies of these documents for you. The court expects the defendants and their attorney to be reasonable when responding to document production requests. The best way for a plaintiff to obtain quick and complete disclosures from defendants is for the plaintiff to limit her document requests to the documents that she really needs to prepare her claims for summary judgment and for trial.

If the parties disagree about discovery requests, then this court would like them to try to work it out if they can do so quickly, but the court does not require this if it would be a waste of time. If either side thinks that the other side is not doing what it is supposed to do for discovery and they cannot work it out, then either the plaintiff or the defendant quickly should file a motion with the court. If the parties do not bring discovery problems to the court's

attention quickly, then they cannot complain that they ran out of time to get information that they needed for summary judgment or for trial.

If a party files a motion to compel discovery, or to protect from discovery, or for some other discovery problem, that party also must submit at the same time her other documents that show why the court should grant the motion. If your opponent files a discovery motion, you only have five calendar days to file and to serve your written response. The court will not allow a reply brief on a discovery motion unless the court asks for one.

The court does not want the parties to file their discovery material with the court, except to support some other matter in this lawsuit, such as a summary judgment motion. Once a document or a copy of a document is in the court's file, no one has to file another copy, as long as the parties make it clear to the court where the court can find the document in the file.

The one kind of discovery material that the parties must file with the court are deposition transcripts, which are due promptly after they are prepared. Deposition transcripts must be in compressed format.

(2) Disclosure of Materials Pursuant to Rule 26(a)(3)

Not later than 28 days before trial each party shall serve on all other parties all of the materials listed in Federal Rule of Civil Procedure 26(a)(3)(A), (B) and (C). Also, the parties must follow this court's written Procedures for Calling Witnesses to Trial, a copy of which is attached to this order. If you intend to call any other party (that is, a named plaintiff or a named defendant) as a trial witness, then you must list that party as a trial witness and arrange

for a subpoena or a writ, just like any other witness. If you do not do all of these things by the deadline, then the court might not allow you to present witnesses at trial.

(3) Final Pretrial Conference: August 27, 2007 at 8:30 a.m.

Not later than seven calendar days before the final pretrial conference both sides shall submit to the court and serve all of these documents:

a) Exhibit lists

b) Motions *in limine* (and any necessary briefs or documents in support)

c) Proposed voir dire questions

d) Proposed jury instructions

e) Proposed verdict forms

f) Any objections to an opponent's designations under Rule 26(a)(3).

The way to prepare and to submit proposed voir dire questions, jury instructions and verdict forms is set forth in the written Order Governing Final Pretrial Conference, which is attached.

As noted earlier in this order, the parties must file deposition transcripts promptly with the Clerk of Court. Any deposition that has not been filed with the Clerk of Court seven calendar days before trial shall not be used by any party for any purpose at trial.

(4) Jury Selection and Trial: August 27, 2007 at 9:00 a.m.

The parties estimate that this case will take from one to three days to try.

Trial shall be to a jury of seven and shall be bifurcated. This means that the parties will offer evidence and arguments only on the issue of liability, that is, whether plaintiff has proved her claims. If the jury find that the plaintiff has met her burden, then the parties will offer evidence and arguments on the issue of damages.

This case will be tried in an electronically equipped courtroom and the parties may present their evidence using this equipment. It is up to the parties and lawyers to check whether their personal electronic equipment works with the court's electronic equipment.

The parties must have all witnesses and other evidence ready and available to present at trial in order to prevent delay. If you are not ready with your witnesses or other evidence ready when it is your turn, then the court could end your presentation of evidence.

Entered this 31st day of May, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge