

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO

2019 APR -2 PM 03:03E UNITED STATES DISTRICT COURT

JEFFREY P. COLWELL FOR THE DISTRICT OF COLORADO
CLERK

BY _____ DEP. CLK

Civil Action No. 18-cv-03112-RBJ-STV

SEAN SLATTON

Plaintiff, v.

TODD HOPKINS (Defendant #1)

BRANDON BARNES (Defendant #2)

JOHN HUTTO (#3), and

FORT COLLINS POLICE DEPARTMENT (#4),

Defendant(s).

SCHEDULING ORDER

1. DATE OF CONFERENCE

AND APPEARANCES OF COUNSEL AND PRO SE PARTIES

[Provide the date of the conference and the names, addresses, and telephone numbers of counsel for each party and each pro se party. Identify by name the party represented by each counsel.]

Pursuant to Fed. R. Civ. P. 16(b) and Local Civil Rule 16.1, the Court shall hold a scheduling conference on:

April 3, 2019 at 10:00 AM

PLAINTIFF UNAVAILABLE APRIL 18-23, MAY 13, JUNE 17-19.

Plaintiff (pro se) contact info:

Sean Slatton

Phone: 720-926-2890

Email: shslatton@gmail.com

Address: ~~REDACTED~~

2. STATEMENT OF JURISDICTION

Statute 28 U.S.C. § 1654 defines a persons' right to appear pro se in a civil case in federal court.

3. STATEMENT OF CLAIMS AND DEFENSES

a. Plaintiff(s):

CLAIM ONE: False Arrest: Civil Rights Act of 1871. (42 U.S.C. § 1983.) A section 1983 claim alleges that the defendant, “under color of law,” violated the plaintiff’s constitutional rights. The use of excessive force constitutes a valid claim under section 1983 because it violates the Fourth Amendment prohibition against “unreasonable seizures.”

CLAIM TWO: Excessive Force

CLAIM THREE: False Imprisonment

Supporting facts:

On December 3rd, 2016, the Plaintiff was attending his spouses’ sorority event.

The Defendants instructed the Plaintiff to leave the event due to false information.

The Plaintiff calmly and immediately complied with the Defendants. The Plaintiff exited the building and began ordering a car service to drive the Plaintiff back to the hotel where he was staying.

Completely unprovoked, the Defendants attacked the Plaintiff as he waited next to the parking lot of the building the event was in.

Video footage from the Defendants' body cameras, along with security camera footage from the event building showed the unwarranted actions occurred within a single minute of the Plaintiff being told to exit the building.

The Plaintiff was hospitalized after being hit with a baton and pepper sprayed.

The Plaintiff was taken from the hospital to the Larimer County Jail.

On the night of December 3rd, 2016, the Plaintiff was arrested by the Defendants and charged with:

18-04-0504 *3rd Degree Criminal Trespassing*

18-08-0104 *Obstructing a Peace Officer/Fireman*

18-08-0103 *Resisting Arrest*

The Plaintiff was released from jail in the early morning hours of December 4th, 2016.

The District Attorney filed a motion to drop all of the charges against the Plaintiff and dismiss the case.

The motion/proposed order was granted by the county Court Judge on September 14, 2017.

All charges against the Plaintiff were dismissed. The actions of the Defendants on the night of December 3rd, 2016 were extremely excessive, unwarranted, and violated the constitutional rights of the Plaintiff.

The Defendant who caused the most offense is no longer a member of the Police Department.

Since the incident which occurred on December 3rd 2016, the main offending Defendant was involved in an incident where questionable amounts of force was used which gained massive amounts of public attention from news and social media. In the aforementioned incident, the Defendant struck a short, overweight woman with his baton for several minutes as an attempt to control her.

“After an internal affairs investigation, ([Defendants] Police Services Chief) said Thursday the recommendation by ([officer] Defendant) chain of command was for him to be fired.”

-9News.com

This incident brings forth serious concerns regarding the incident that occurred on December 3rd, 2016 with the Plaintiff.

The Plaintiff is a larger than average male with a very large cyst in the back of his brain. The incident on the night of December 3rd, 2016 was completely unnecessary. The Plaintiff endured extreme damages due to the actions of the Defendants. Due to the Plaintiff having an invisible disability, both the Plaintiff and the Defendants are lucky the incident on December 3rd did not result in a death.

The Plaintiff ran away from defendants #1 & #2 after being pepper sprayed and hit with a baton by Defendant #1. The Plaintiff was arrested nearly a mile away from where the incident with Defendants #1 & #2 occurred.

Excessive force was used against the Plaintiff. The plaintiff appropriately and legally defended himself against the excessive force without causing harm to any officers.

Had the Plaintiff chosen to take different actions, the outcome would have likely been far worse. Based on the history of force used by Defendant #1 against an obese female, there is little reason to assume Defendant #1 would have stopped physically assaulting the Plaintiff while attempting to unlawfully arrest the Plaintiff.

The Plaintiff suffered hospital expenses, a night in jail, and extreme social/career damage due to unethical and unlawful actions by Defendants #1 & #2.

After being arrested, the Plaintiff lost the support of his friends and family. Before the charges were dropped by the prosecuting District Attorney, the plaintiff was unable to get an apartment or stable employment due to having the arrest on his record. The Plaintiff had completed three years of college, but losing the support of his parents meant being unable to finish his fourth year to earn his degree in MCDB (Molecular, Cellular, and Developmental Biology).

The prosecuting District Attorney dropped all of the charges against the Plaintiff due to irrefutable evidence provided by the footage captured by the body cameras of Defendants #1 & #2. The footage clearly proved that Defendants #1 & #2 lied about the events which occurred with the Plaintiff in their incident reports. If the incident reports filed about the plaintiff were the truth, the Plaintiff would currently be in jail.

The following quoted passage was written by the Plaintiff's former attorney (Hill) for his defense trial. The quoted passage is absolutely applicable to the lawsuit, and the Plaintiff could not possibly rewrite to sound better.

[“ARGUMENT FOR SUBPOENAS

10. There is a reasonable likelihood that the subpoenaed materials exist, as set forth by the specific factual bases noted below.

a. Regarding Officer Hopkins, Mr. Slatton has subpoenaed any and all material and information in FCPD possession concerning the officer—including, but not limited to that contained in personnel, Internal Affairs and Performance Standards Unit files—related to (1) use of force and other acts of aggression or violence; (2) noncompliance with FCPD rules, regulations and policies or the law and (3); untruthfulness or other acts indicative of dishonesty.

- 1) Use of Force and Other Acts of Aggression or Violence: The Fort Collins Police Services Policy Manual effective as of July 2014 (*hereinafter* FCPD Manual) and available at <http://www.fcgov.com/police/pdf/policy-manual-7-14.pdf>, provides that both the use of a police baton and the use of OC spray are “Type 1” uses of force. FCPD Manual § 301.2.2. The manual also requires that whenever Type 1 force is used, the involved employees are to complete an Early Intervention System (*hereinafter* EIS) incident report. FCPD Manual §1021.5.1. Officer Hopkins used both a police baton and OC spray against Mr. Slatton during the events preceding the charging of Mr. Slatton in the matter at bar. In addition, Officer Hopkins was recently investigated for *and cleared of* accusations of sexual assault by FCPD Internal Affairs. See <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwjO-ubu0s3SAhUK-mMKHb4yBLYQFggkMAI&url=http%3A%2F%2Fcitydocs.fcgov.com%2F%3Fcmd%3Dconvert%26vid%3D218%26docid%3D2697059%26dt%3DREAD%2BBEFORE%2BPACKET&usg=AFQjCNEN-qSRZDbuRwJ2Y9YPB47ny5H1g&sig2=M2Mo6pHabPXJeauucv1orw&bvm=bv.149397726,d.cGc>. See also

Walker at 122 (there is no distinction between sustained and unsustained complaints). As such, there is much more than a reasonable likelihood that material and information related to the use of force and other acts of aggression or violence by or otherwise involving Officer Hopkins exist.

- 2) Noncompliance with FCPD Rules, Regulations and Policies or the Law: FCPD Manual § 308.2 authorizes officers to use control devices such as police batons and OC spray “to control subjects who are violent or who demonstrate the intent to be violent.” Section 308.7 explicitly states that OC Spray “should not [] be used against individuals . . . who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.” FCPD Manual § 388.2 provides that off-duty officers may take reasonable action to minimize “an imminent threat of serious bodily injury or death or significant property damage.” See *also* FCPD Manual § 420.2.1. Section 388.5 provides that, when reasonably possible, an officer “shall notify and receive approval of an [a]gency supervisor” before taking any off-duty enforcement action. See *also* FCPD Manual § 420.2.1. C.R.S. §§ 18-1-707 and 18-8-804 provide for the use of reasonable force by peace officers according to adopted departmental policies. C.R.S. § 18-8-804 and FCPD Manual § 106.1 require all FCPD employees to comply with the departmental policies in the manual. The force used against Mr. Slatton in this matter violated all of the foregoing provisions of the FCPD Policy Manual and Colorado law (not to mention his rights under the U.S. and Colorado constitutions). Further, FCPD Manual § 106.2.1 provides that violations of the manual form the basis for

administrative action and § 1020.8 shows that administrative action records are kept on file by the FCPD. Accordingly, it is reasonably likely that there exists material and information related to Officer Hopkins' noncompliance with FCPD rules, regulations and policies or the law.

3) Untruthfulness or Other Acts Indicative of Dishonesty: Officer Hopkins makes several statements in his report that are both material in nature and clearly contradicted by the footage from his own and Officer Barnes' point of view (body worn) cameras. *Compare Bates 7-1 with Discovery Videos FC280-1 and FC165-1. See also Bates 25-1 (Officer Barnes' report).* Further, while determined to be *unsustained*, at least one of the allegations made against Officer Hopkins that led to his recent Internal Affairs investigation is that he lied in order to manipulate citizens into doing his bidding. See <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwjO-ubu0s3SAhUK-mMKHb4yBLYQFggkMAI&url=http%3A%2F%2Fcitydocs.fcgov.com%2F%3Fcmd%3Dconvert%26vid%3D218%26docid%3D2697059%26dt%3DREAD%2BBEFORE%2BPACKET&usg=AFQjCNEN-qSRZDbuRwJ2Y9YPB47n-y5H1g&sig2=M2Mo6pHabPXJeaucv1orw&bvm=bv.149397726,d.cGc>. See also *Walker* at 122 (there is no distinction between sustained and unsustained complaints). As such, there is a high likelihood that material and information exists related to untruthfulness or other acts indicative of dishonesty by or otherwise involving Officer Hopkins exist.

b. Regarding Officer Barnes, Mr. Slatton has subpoenaed any and all material and information in FCPD possession concerning the officer—including, but not limited to that contained in personnel, Internal Affairs and Performance Standards Unit files—related to

use of force and other acts of aggression or violence. Mr. Slatton incorporates by reference the FCPD Manual provisions detailed in ¶ 10.a.1), *supra*. Officer Hopkins used both a police baton and OC spray against Mr. Slatton during the events preceding the charging of Mr. Slatton in this matter; Officer Barnes was present and working together with Officer Hopkins at that time and was witness to Officer Hopkins' use of force against Mr. Slatton. Bates 7-1, 25-1; Discovery Videos FC280-1 and FC165- 1. Officer Barnes was therefore an employee involved in Type I use of force required to complete an EIS incident report per FCPD Manual § 1021.5.1. Officer Barnes was also involved with the shooting of a suspect by the FCPD in January of this year. See <http://kdvr.com/2017/01/21/police-shoot-burglary-suspect-in-ft-collins/>. Thus, there is a reasonable likelihood that material and information related to the use of force and other acts of aggression or violence by or otherwise involving Officer Barnes exist.

11. The materials are evidentiary and relevant (*i.e.*, relevant and admissible);¹

- It is clear that the requested materials go to the issues of officer propensity for violence, officer propensity for misconduct and officer credibility. See *Walker* at 121-122; *Blackmon* at 1220. Given Mr. Slatton's assertions in this matter of excessive force, self-defense and untruthfulness, these issues are critical to Mr. Slatton's defense of his case and his need for the subpoenaed materials is compelling. This need is made even more compelling by the fact that Officers Hopkins and Barnes are the only witnesses to some of the events that form the basis for charges filed against Mr. Slatton. See *Walker* at 122 (citing *Denver Policemen's Protective Ass'n v. Lichtenstein*, 660 F.2d 432, 436 (10th Cir. 1981)).

See also Neal at *2. In addition, at least some of the subpoenaed material actually concerns Mr. Slatton's case itself (e.g., EIS reports filed regarding this incident by both Officers Hopkins and Barnes). Accordingly, the requested material has the tendency to make the existence of facts of consequence in this matter more or less probable than without the material and it is therefore relevant. See C.R.E. 401.

- Regarding the admissibility of the subpoenaed materials, because Officers Hopkins and Barnes will be the People's chief witnesses at trial, the subpoenaed materials would be admissible for impeachment purposes, if nothing else, both at an evidentiary motions hearing and at trial. *See Neal* at *2. In addition, given Mr. Slatton's assertions of excessive force, self-defense and untruthfulness, the materials would be helpful to him in preparing his case in chief, both at an evidentiary motions hearing and at trial. *See Spykstra* at 669. The admissibility requirement does not mean that there must be an absolute determination of admissibility at the subpoena stage. *Spykstra* at 669. Rather, "pretrial production and inspection expedites criminal proceedings by allowing 'the parties in advance of trial to obtain and evaluate certain documentary evidence with a view toward determining its possible utility at trial.'" *Spykstra* at 669.

12. The materials are not otherwise procurable reasonably in advance of trial by the exercise of due diligence as the materials requested are confidential. C.R.S. § 24-72-204(3)(a)(II)(A); FCPD Policy Manual §§ 1020.8; 1026.3; 1026.4; 1021.1; 1021.7. The

materials are not available to Mr. Slatton via any other action on his part. This point appears to have been conceded by the City Attorney in its Objection as the City Attorney did not address this requirement of *Spykstra* therein. See generally Objection.

13. Mr. Slatton cannot properly prepare for trial without such production and inspection in advance of trial and the failure to obtain such inspection may tend unreasonably to delay the trial.

- Mr. Slatton incorporates by reference ¶¶ 11., *supra*, and 14., *infra*. The subpoenaed materials are critical to the preparation of Mr. Slatton's defense. At a minimum, absent these materials, counsel for Mr. Slatton cannot competently or effectively prepare for cross-examination of the officers, or to prepare Mr. Slatton's case in chief, at either an evidentiary motions hearing or at trial.
- If the material is not produced until either the motions hearing or trial, counsel for Mr. Slatton would likely need time to review and incorporate it into Mr. Slatton's defense, thereby delaying this matter when a delay is not desirable and could easily have been avoided. It should be noted that such a situation would likely also put Mr. Slatton in a position where he would have to choose between his constitutional rights to effective assistance of counsel and to a speedy trial. See *Spykstra* at 669; *Neal* at *2; U.S. Const. amends. VI, XIV; Colo. Const. Art. II, § 16. See also *People v. Bergerud*, 223 P.3d 686, 691 (Colo. 2010) (a criminal defendant's rights are violated when he is forced to choose between them).

14. The application is made in good faith and is not intended as a general fishing expedition.

- Mr. Slatton reminds the court that police involvement with him on December 3, 2016 went from zero to asking Mr. Slatton to leave the Lincoln Center to detaining him for trespass to using a police baton against him to spraying him with OC all in *just over one minute*, and that Mr. Slatton was not acting violently in any way, presenting a risk to anyone's safety or presenting a risk to property. See Discovery Video FC165-1. Rather, Mr. Slatton was *walking away from* Officers Hopkins and Barnes when Officer Hopkins struck Mr. Slatton with the baton, and Mr. Slatton was *approximately eight feet from and walking backwards and sideways away from* Officers Hopkins and Barnes when Officer Hopkins used OC spray against Mr. Slatton. Bates 7-1; Discovery Video FC165-1. See ¶ 2., *supra*. Mr. Slatton further reminds the court that he is asserting that excessive force was used against him, that he appropriately and legally defended himself against that excessive force and that Officer Hopkins' report of the events preceding the charges filed in this matter is untruthful.
- Mr. Slatton has limited his subpoena to material that goes to the issues of officer propensity for violence, officer propensity for misconduct and officer credibility. Given his assertions of excessive force, self-defense and untruthfulness, these issues are central to Mr. Slatton's defense. He has laid out in the paragraphs above why he believes the subpoenaed materials exist, how they would assist his defense and that he has no other way to secure them. See ¶¶ 10.-13., *supra*. He is

not asking for unfettered access to the FCPD's files in the mere hope he might find something he could use for his defense. See *Neal* at *3 (“[w]ithout having seen the personnel files, the Court cannot imagine how Defendant could be more specific”). Further, compliance with his subpoena would not unnecessarily impose on the FCPD or Officers Hopkins or Barnes or affect the ability of either the FCPD or the officers to perform their functions and duties, or otherwise be unreasonable or oppressive. See *Spykstra* at 664, 667; Crim. P. 17(c).

15. Balancing under the *Martinelli* standards requires production of the documents for *in camera* review.

- Legitimate expectation of privacy:

Mr. Slatton concedes that there exists a legitimate expectation of privacy in the subpoenaed materials. See ¶ 12., *supra*.

- Compelling State Interest:

The compelling state interests involved here are ascertainment of the truth and Mr. Slatton's right to a fair trial via compulsory process of information that would assist in his defense. See *Lichtenstein* at 436; *Neal* at *4; *Walker* at 121- 122; *Martinelli* at 1083. This is particularly true in a case like Mr. Slatton's, where police officers are the only witnesses to allegations supporting charges filed. See *Lichtenstein* at 436; *Neal* at *4. As Mr. Slatton has noted previously, his subpoena is limited to material that goes to the issues of officer propensity for violence, officer propensity for misconduct and officer credibility. Given his assertions of excessive force, self-

defense and untruthfulness, these issues are central to Mr. Slatton's defense. The state has paramount compelling interests in both (1) the truth about these issues that would be found in the subpoenaed materials and (2), ensuring that the materials regarding these issues are made available to Mr. Slatton through compulsory process so that he may have a fair trial. The state's interests override any expectation of privacy in the materials.

- Least intrusive manner of disclosure:

An *in camera* review of information by Mr. Slatton would allow this court to strike an appropriate balance between Mr. Slatton's interest in the disclosure of the subpoenaed materials and the named officers' interests in confidentiality. See *Martinelli* at 1088-1089. An *in camera* inspection of the documents is minimally intrusive and materials would only be revealed to the defense upon the determination of the court after taking all matters into consideration. See *Blackmon* at 1220. Mr. Slatton is therefore requesting that the subpoenaed materials be reviewed *in camera* for ultimate disclosure to him as appropriate under the law.

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16. It is clear from the foregoing that Mr. Slatton's SDT meets the requirements of both *Spykstra* and *Martinelli*, and production of the materials to the court for *in camera* review is required.

17. If, after *in camera* review of the materials, the court determines that all or part of the reviewed records should not be disclosed, Mr. Slatton requests that the undisclosed records be made part of the court record. See *People in Interest of A.D.T.*, 232 P.3d 313, 318-20 (Colo. App. 2010); see also *People v. Jowell*, 199 P.3d 38, 45 (Colo. App. 2008).

18. Mr. Slatton further requests that the court extend as appropriate its April 3 deadline for any “bad act” or *res gestae* motions that might be based on the subpoenaed records.

19. Mr. Slatton submits this motion pursuant to the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, Article II, Sections 6, 16 and 25 of the Colorado Constitution and the authority cited herein.

SUBPOENAS CONCLUSION

Mr. Slatton moves this court to order that the records subpoenaed by his counsel be produced to the court as required by the SDT for *in camera* review and disclosure to the defense as appropriate under the law.”]

—(Hill 2017).

**Case Discovery Receipt**

District Attorney's Office
8th Judicial District

Case Number: C0352016M 003395
Defendant: Sean Harrison Slatton
Division: 5D

Discovery Date: 12/21/2016
Requested By: R. Hill (Mail)
Defense Counsel: R Hill
Discovery Cost: \$0.00

Discovery Documents for Case Number C0352016M 003395

Bates	Pages	File Name	File Fingerprint	Doc Number	File Size
New Discoverable					
1	1	0000001.PDF	B988C7468C4D31F82C648AD9FAFB96DD	5543135	new 52.8 kb
2	1	0000002.PDF	AD21A0357C021EFAF3692159D58FB152	5543136	new 34.22 kb
3	1	0000003.PDF	A7413B1D3278F4029725DA69B7C74F24	5543137	new 533.97 kb
4	1	0000004.PDF	840B60195A3A6C1D85010AA0915F1C3F	5543194	new 300.4 kb
5-8	4	0000005.PDF	CCBD64D03E2010DC1A0563A39D9E40A5	5565714	new 239.11 kb
9-10	2	0000006.PDF	05B22A8EE57BBA798CC2F1F0E70D690	5565715	new 156.32 kb
11-12	2	0000007.PDF	C928C7762959BAB3BEBDA11CF2D71783	5565716	new 156.28 kb
13-15	3	0000008.PDF	BD97FB63F3D94EA13D412032BF519D4E	5565717	new 227.68 kb
16-17	2	0000009.PDF	AD32CAD3490513B4A6635A2CBE38CFAB	5565718	new 153.89 kb
18-19	2	0000010.PDF	6B81146AFC96C84093894BC3B3D14FAB	5565719	new 154.63 kb
20-21	2	0000011.PDF	14D0B9E3A13F51A75BBB4A657D95B432	5565720	new 155.39 kb
22-26	5	0000012.PDF	0D90D6E65A6921C37DA482FF0DA1F851	5565722	new 237.2 kb
27-28	2	0000013.PDF	C5ACCBAB658FBESAO65717BE8E23438C	5565723	new 150.46 kb
29-31	3	0000014.PDF	07C63E1ECD16707C2ABFF8FD20C56B54	5565724	new 167.56 kb
32-33	2	0000015.PDF	B206BC13D053FFF026CB23626E5D9AAA	5565725	new 150.85 kb
34-37	4	0000016.PDF	C4DDFD0A9C10B1462BCAF274A18EDC79	5565726	new 233.61 kb
38-39	2	0000017.PDF	460C25F8CEABC002C4714876D04391E9	5565727	new 157.85 kb
40-46	7	0000018.PDF	1039BB5B4868ED641110B58F03CBF21D	5544228	new 80.03 kb
47-49	3	0000019.PDF	6E723BCF7D3ACD4FA17301191B52BB41	5544227	new 119 kb
50-51	2	0000020.PDF	C6FB87010BB4BE6AD43C87EE6F29CA4B	5543134	new 113.82 kb
52	1	0000021.PDF	70B92715BC106E7C57683CDECEA90278	5543133	new 57.7 kb

FBI and CBI policy on criminal history secondary dissemination:

The discovery you receive may contain criminal history record information obtained through the Colorado Bureau of Investigation. State and Federal laws govern the use of criminal history information. Pursuant to FBI and CBI policies, a signature is required from anyone legally entitled to receive such information. Additionally, FBI and CBI policies state that criminal history information received is to be used for the purposes of this case only and that the document (or CD or other storage medium that contains a criminal history) should be shredded prior to disposal.

Please report any discrepancies to the prosecuting attorney or paralegal on this case.

-Plaintiff requests the subpoenas be replicated, albeit with any new applicable information as well.

4. UNDISPUTED FACTS

The following facts are undisputed:

N/A

5. COMPUTATION OF DAMAGES

PLAINTIFF HAS REQUESTED \$2,000,000. IF THE DEFENDANTS WOULD LIKE TO SETTLE BEFORE TRIAL, DISCUSSION MAY ENSUE. The Plaintiff understands that Defendant #1 is no longer a police officer. The police chief of (#3) has since changed as well. Despite these changes, there are numerous currently active police officers of (#3) who were involved with the incident involving the Plaintiff on December 3, 2016. The Plaintiff wants to ensure what happened to him, does not happen to other innocent people.

6. REPORT OF PRECONFERENCE DISCOVERY AND MEETING UNDER FED. R. CIV. P. 26(f)

REQUESTED DISCOVERY: Plaintiff is requesting the same items which were going to be used to defend himself against the charges. These discoverable items were received before the District Attorney dropped all of the charges.

In addition to those items, the plaintiff is requesting the same subpoenas as quoted in this document by Attorney Hill.

- a. Date of Rule 26(f) meeting.

N/A

- b. Names of each participant and party he/she represented.

N/A

- c. Statement as to when Rule 26(a)(1) disclosures were made or will be made.

N/A

[If a party's disclosures were not made within the time provided in Fed. R. Civ. P.

26(a)(1)(C) or by the date set by court order, the parties must provide an explanation showing good cause for the omission.]

- d. Proposed changes, if any, in timing or requirement of disclosures under Fed. R. Civ. P. 26(a)(1).

N/A

- e. Statement concerning any agreements to conduct informal discovery:

N/A

[State what processes the parties have agreed upon to conduct informal discovery, such as joint interviews with potential witnesses or joint meetings with clients to discuss settlement, or exchanging documents outside of formal discovery. If there is agreement to conduct joint interviews with potential witnesses, list the names of such witnesses and a date and time for the interview which has been agreed to by the witness, all counsel, and all pro se parties.]

- f. Statement concerning any other agreements or procedures to reduce discovery and other litigation costs, including the use of a unified exhibit numbering system.

N/A

- g. Statement as to whether the parties anticipate that their claims or defenses will involve extensive electronically stored information, or that a substantial amount of disclosure or discovery will involve information or records maintained in electronic form.

N/A

- h. Statement summarizing the parties' discussions regarding the possibilities for promptly settling or resolving the case.

N/A

7. CONSENT

[Pursuant to D.C.COLO.LCivR 72.2, all full-time magistrate judges in the District of Colorado are specially designated under 28 U.S.C. § 636(c)(1) to conduct any or all proceedings in any jury or nonjury civil matter and to order the entry of judgment. Parties consenting to the exercise of jurisdiction by a magistrate judge must complete and file the court-approved Consent to the Exercise of Jurisdiction by a United States Magistrate Judge form.]

[Indicate below the parties' consent choice. Upon consent of the parties and an order of reference from the district judge, the magistrate judge assigned the case under 28 U.S.C. § 636(a) and (b) will conduct all proceedings related to the case.]

All parties [have] [have not] consented to the exercise of jurisdiction of a magistrate judge.

8. DISCOVERY LIMITATIONS

[In the majority of cases, the parties should anticipate that the court will adopt the presumptive limitations on depositions established in Fed. R. Civ. P. 30(a)(2)(A)(I) and 33(a)(I). The parties are expected to engage in pretrial discovery in a responsible manner consistent with the spirit and purposes of Fed. R. Civ. P. 1 and 26 through 37. The parties are expected to propose discovery limits that are proportional to the needs of the case, the amount in controversy, and the importance of the issues at stake in the action. See Fed. R. Civ. P. 26(g)(1)(B)(iii). The court must limit discovery otherwise permitted by the Federal Rules of Civil Procedure if it determines that “the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties’

resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the action.” See Fed. R. Civ. P. 26(b)(2)(C).]

- a. Modifications which any party proposes to the presumptive numbers of depositions or interrogatories contained in the Federal Rules.

NONE PROPOSED

[If a party proposes to exceed the numerical limits set forth in Fed. R. Civ. P. 30(a)(2)(A)(i), at the scheduling conference they should be prepared to support that request by reference to the factors identified in Fed. R. Civ. P. 26(b)(2)(C)]

- b. Limitations which any party proposes on the length of depositions.

NONE PROPOSED

- c. Limitations which any party proposes on the number of requests for production and/or requests for admission.

NONE PROPOSED

[If the parties propose more than twenty-five (25) requests for production and/or requests

for admission, at the scheduling conference they should be prepared to support that proposal by reference to the factors identified in Fed. R. Civ. P. 26(b)(2)(C).]

d. Other Planning or Discovery Orders

[Set forth any other proposed orders concerning scheduling or discovery. For example, the parties may wish to establish specific deadlines for submitting protective orders or for filing motions to compel.]

NON PROPOSED

9. CASE PLAN AND SCHEDULE

a. Deadline for Joinder of Parties and Amendment of Pleadings:

PROPOSED DATE: MAY 17TH

b. Discovery Cut-off:

PROPOSED DATE: MAY 17TH

- c. Dispositive Motion Deadline:

PROPOSED DATE: MAY 17TH

- d. Expert Witness Disclosure

1. The parties shall identify anticipated fields of expert testimony, if any.

NONE REQUESTED

2. Limitations which the parties propose on the use or number of expert witnesses.

NONE REQUESTED

3. The parties shall designate all experts and provide opposing counsel and any pro se parties with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 20_____.
[This includes disclosure of information applicable to “Witnesses Who Must Provide A Written Report” under Rule 26(a)(2)(B) and information applicable to “Witnesses Who Do Not Provide a Written Report” under Rule 26(a)(2)(C).]

NONE REQUESTED

4. The parties shall designate all rebuttal experts and provide opposing counsel and any pro se party with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 20_____. *[This includes disclosure of information applicable to “Witnesses Who Must Provide A Written Report” under Rule 26(a)(2)(B) and information applicable to “Witnesses Who Do Not Provide a Written Report” under Rule 26(a)(2)(C).]*

NONE REQUESTED

e. Identification of Persons to Be Deposed:

[List the names of persons to be deposed and provide a good faith estimate of the time needed for each deposition. All depositions must be completed on or before the discovery cut- off date and the parties must comply with the notice and scheduling requirements set for in D.C.COLO.LCivR 30.1.]

N/A

f. Deadline for Interrogatories:

[The parties are expected to serve interrogatories on opposing counsel or a pro se party on a schedule that allows timely responses on or before the discovery cut-off date.]

PROPOSED DATE: MAY 17TH

g. Deadline for Requests for Production of Documents and/or Admissions

PROPOSED DATE: APRIL 17TH

10. DATES FOR FURTHER CONFERENCES

[The magistrate judge will complete this section at the scheduling conference if he or she has not already set deadlines by an order filed before the conference.]

- a. Status conferences will be held in this case at the following dates and times:

PLAINTIFF UNAVAILABLE APRIL 18-23, MAY 13, JUNE 17-19.

-
- b. A final pretrial conference will be held in this case on _____ at o'clock ____m. A Final Pretrial Order shall be prepared by the parties and submitted to the court no later than seven (7) days before the final pretrial conference.

11. OTHER SCHEDULING MATTERS

- a. Identify those discovery or scheduling issues, if any, on which counsel after a good faith effort, were unable to reach an agreement.
- Plaintiff was unable to establish communications with neither the defendants nor their representatives.*

- b. Anticipated length of trial and whether trial is to the court or jury.

N/A

- c. Identify pretrial proceedings, if any, that the parties believe may be more efficiently or economically conducted in the District Court's facilities at 212 N. Wahsatch Street, Colorado Springs, Colorado 80903-3476; Wayne Aspinall U.S. Courthouse/Federal Building, 402 Rood Avenue, Grand Junction, Colorado 81501-2520; or the U.S. Courthouse/Federal Building, 103 Sheppard Drive, Durango, Colorado 81303-3439.

N/A

[Determination of any such request will be made by the magistrate judge based on the individual needs of the case and the availability of space and security resources.]

12. NOTICE TO COUNSEL AND PRO SE PARTIES

[The following paragraphs shall be included in the scheduling order.]

The parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 6.1(c) by submitting proof that a copy of the motion has been served upon the moving attorney's client, all attorneys of record, and all *pro se* parties.

Counsel will be expected to be familiar and to comply with the Pretrial and Trial Procedures or Practice Standards established by the judicial officer presiding over the trial of this case.

With respect to discovery disputes, parties must comply with D.C.COLO.LCivR 7.1(a).

Counsel and unrepresented parties are reminded that any change of contact information must be reported and filed with the Court pursuant to the applicable local rule.

13. AMENDMENTS TO SCHEDULING ORDER

[Include a statement that the scheduling order may be altered or amended only upon a showing of good cause.]

DATED at Denver, Colorado, this ____ day of _____, 20__.

BY THE COURT:

United States Magistrate Judge

Sean Slattery

APPROVED:



(Name)

(Name)

(Address) 3201 Brighton Blvd. #761
Denver, CO 80216

(Address)

(Telephone Number)
720-926-2890

(Telephone Number)

Attorney for Plaintiff (or Plaintiff, Pro Se)

Attorney for Defendant (or Defendant, Pro Se)

[Please affix counsels' and any pro se party's signatures before submission of the final scheduling order to the court.]