

<p>DISTRICT COURT, LARIMER COUNTY, STATE OF COLORADO.</p> <p>Court Address: 201 Laporte Ave. Fort Collins, CO 80621 T: (970) 494-3500</p> <hr/> <p>Plaintiffs: STUWARD CROSS AND KATRINA RICHMAN</p> <p>v.</p> <p>Defendant: THE CITY OF FORT COLLINS, STATE OF COLORADO</p> <hr/> <p>Attorneys for Plaintiffs: W. Clayton Harris, No. 46455 The Sawaya Law Firm 1600 Ogden Street Denver, CO 80218 Phone Number: (303) 839-1650 FAX Number: (303) 832-7102 E-mail: wharris@sawayalaw.com</p>	<p>DATE FILED: November 13, 2020 12:53 PM FILING ID: 95741D194F880 CASE NUMBER: 2020CV30363</p> <p>▲ COURT USE ONLY ▲</p> <hr/> <p>Case No: 2020CV30363</p> <p>Div.: 5a Ctrm:</p>
<p>JOINT PROPOSED CASE MANAGEMENT ORDER</p>	

ALL PARTIES ARE REPRESENTED BY COUNSEL AND JOINTLY REQUEST THAT THE CASE MANAGEMENT CONFERENCE BE WAIVED.

Pursuant to C.R.C.P. 16(b), the parties should discuss each item below. If they agree, the agreement should be stated. If they cannot agree, each party should state its position briefly. If an item does not apply, it should be identified as not applicable.

This form shall be submitted to the court in editable format. When approved by the court, it shall constitute the Case Management Order for this case unless modified by the court upon a showing of good cause.

This form must be filed with the court no later than 42 days after the case is at issue and at least 7 days before the date of the case management conference.

1. The “at issue date” is: September 10, 2020.
2. Responsible attorney’s name, address, phone number and email address:

Attorney for Plaintiff
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Attorney for Defendant
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3. The lead counsel for Plaintiff and Defendant conferred via telephone concerning this Proposed Order and each of the issues listed in Rule 16(b)(3)(A) through (E) on September 25, 2020.
4. Brief description of the case and identification of the issues to be tried (not more than one page, double-spaced, for each side):

Plaintiff:

1. This case arises out of a motor vehicle incident wherein Plaintiff Steward Cross who was a restrained operator of his vehicle and Katrina Richman who was a restrained passenger of Plaintiff Cross' vehicle. The incident occurred near or at South Lemay and Poudre River Drive, City of Fort Collins, State of Colorado. Plaintiff Cross was travelling northbound at Poudre River Drive in his taxi cab, a 2010 Ford Sedan. Defendant City of Fort Collins' employee, Antonio Lopez, was driving Defendant City of Fort Collins' dump truck at the time of the accident was traveling westbound on Poudre River Drive from a stop sign. Mr. Lopez had a stop sign on his roadway and in his direction of travel but failed to stop for this sign. Mr. Lopez turned left to go southbound on Lemay causing his dump truck to collide

with Mr. Cross' vehicle on the vehicle's rear passenger side bumper and fled the scene of the accident after the collision. Mr. Lopez was negligent in the operation of his motor vehicle owned by Defendant City of Fort Collins and caused the collision. As a result of Mr. Lopez's action Plaintiffs Cross and Richman suffered injuries, damages, and losses.

Defendant:

Defendant denies that the incident in question was the fault of Antonio Lopez, who was an employee of the City of Fort Collins at the time. Defendant asserts that Plaintiff Cross affirmatively waived Mr. Lopez through the intersection, before accelerating and striking Mr. Lopez's vehicle. Defendant specifically denies that Mr. Lopez fled the scene. Defendant denies that Plaintiffs were injured in the collision and asserts that to the extent Mr. Lopez acted negligently, Plaintiff Cross was comparatively at fault.

The following motions have been filed and are unresolved: None at this time.

5. Brief assessment of each party's position on the application of the proportionality factors, including those listed in C.R.C.P. 26(b)(1):

Counsel discussed the proportionality factors outlined in CRCP 26, and any modification identified in this case management order. The Parties agree that there will be no excessive burden or expense in the discovery outlined herein.

6. The lead counsel for each party, and any party not represented by counsel, met and conferred concerning possible settlement. The prospects for settlement are: The Parties agree to participate in mediation after sufficient discovery has occurred. Counsel for both parties conferred as to potential early ADR and both parties will strive to achieve that goal to reach a potential early resolution to this case.

7. Deadlines for:

- a. Amending or supplementing pleadings: 12/24/20
- b. Joinder of additional parties: 12/24/20

c. Dates of initial disclosures:

8. Plaintiff served her Initial Disclosures on 10/14/20
Defendant served his Initial Disclosures on 10/8/20

Objections, if any, about their adequacy: 10/21/20

9. If full disclosure of information under C.R.C.P. 26(a)(1)(C) was not made because of a party's inability to provide it, provide a brief statement of reasons for that party's inability and the expected timing of full disclosures, and completion of discovery on damages:
- Completion of discovery on damages: (49 days before trial)
10. Proposed limitations on and modifications to the scope and types of discovery, consistent with the proportionality factors in C.R.C.P. 26(b)(1): None. Counsel agrees that presumptive discovery is sufficient at this time.
- Number of depositions per party (C.R.C.P. 26(b)(2)(A): Presumptive limit 1 of adverse party plus 2 non-parties. If additional witnesses are discovered, counsel will informally discuss adding additional depositions.
 - Experts per C.R.C.P. 26(b)(4)(A): Presumptive limits to apply.
 - Number of interrogatories per party (C.R.C.P. 26(b)(2)(B) limit of 30): 30 Interrogatories – Presumptive limits to apply.
 - Number of requests for production of documents per party (C.R.C.P. 26(b)(2)(D) limit of 20): 20 RFP – Presumptive limits to apply.
 - Number of requests for admission per party (C.R.C.P. 26(b)(2)(E) limit of 20): 20 RFA – Presumptive limits to apply.
 - Any physical or mental examination per C.R.C.P. 35: Limit of 1 per medical specialty.
 - Any limitations on awardable costs: Pursuant to statute and Colorado case law.
 - State the justifications for any modifications in the foregoing C.R.C.P. 26(b)(2) limitations: None.
11. Number of experts, subjects for anticipated expert testimony, and whether experts will be under C.R.C.P. 26(a)(2)(B)(I) or (B)(II):

- If more than one expert in any subject per side is anticipated, state the reasons why such expert is appropriate consistent with proportionality factors in C.R.C.P. 26(b)(1) and any differences among the positions of multiple parties on the same side:
- Plaintiff anticipates disclosure of: treating physicians (which may be hybrid experts), possibly a physiatrist, radiologist, accident reconstructions and potentially billing experts: Plaintiff reserves the right to supplement experts based on necessity and Defendant's disclosures.
- Defendant anticipates retaining three medical experts in discreet specialties or sub-specialties of medicine.

12. Proposed deadlines for expert witness disclosure if other than those in C.R.C.P. 26(a)(2):

a. production of expert reports:

- Plaintiff: 5/28/21
- Defendant: 6/25/21

b. production of rebuttal expert reports: 7/16/21

c. production of expert witness files: No later than 14 days after a written request is received for an expert's file, but no earlier than the date that the expert and the expert's opinion is disclosed. Any document that any party has disclosed, produced, filed, or any deposition transcripts do not have to be produced as part of an expert's file unless the expert has highlighted, written notes on, or otherwise made notations or marks on the document.

Defendant's Position – Production should be 7 days after disclosure. All documents in the witness's file should be produced.

- State the reasons for any different dates from those in C.R.C.P. 26(a)(2)(C): None.

13. Oral Discovery Motions. The court may require discovery motions to be presented orally, without written motions or briefs. Counsel for both parties will confer in order to resolve any disputes before contacting the court.

14. Electronically Stored Information. The following is a brief report concerning their agreements or positions on search terms to be used, if any, and relating to the production, continued preservation, and restoration of electronically stored information, including the form in which it is to be produced and an estimate of the attendant costs.

The Parties do not anticipate significant discovery of electronically stored information.

15. Parties' best estimate as to when discovery can be completed: (49 days before trial)

16. A setting for a Telephonic Case Management Conference is set on November 4, 2020 at 1:15 pm.
17. No trial dates have been set.
18. Other appropriate matters for consideration: None at this time.

DATED this 13th day of November, 2020.

THE SAWAYA LAW FIRM

By: /s/ W. Clayton Harris
W. Clayton Harris, Esq.
*Attorney for Plaintiffs Steward Cross
And Katrina Richman*

WICK & TRAUTWEIN, LLC

By: /s/ Andrew W. Callahan
Andrew W. Callahan, Esq.
Attorney for Defendant City of Fort Collins

CASE MANAGEMENT ORDER

IT IS HEREBY ORDERED that the foregoing, including any modifications made by the court, is and shall be the Case Management Order in this case.

Dated this ___ day of _____, 2020.

DISTRICT COURT JUDGE