IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:13-cv-00143-MSK-NYW

ANIMAL CARE SYSTEMS, INC.,

Plaintiff,

v.

HYDROPAC/LAB PRODUCTS, INC.,

Defendant/Third-Party Plaintiff

v.

MICHAEL O'CONNOR,

Third-Party Defendant.

---
and

Civil Action No. 1:13-cv-00415-MSK-NYW

HYDROPAC/LAB PRODUCTS, INC.,

Plaintiff,

v.

ANIMAL CARE SYSTEMS, INC.,

Defendant.

~~[PROPOSED]~~ ~~AMENDED~~ SUPPLEMENTAL SCHEDULING ORDER

Plaintiff Hydropac/Lab Products, Inc. ("LPI") and Defendant Animal Care Systems, Inc. ("Animal Care") (collectively, "the parties") hereby submit this Proposed ~~Amended~~ Supplemental Scheduling Order.

As indicated below, the parties have been able to agree on all of the dates as contemplated in the entered Scheduling Order (D.I. 40). However, the parties disagree as to whether the Scheduling Order should be further amended to permit additional depositions beyond the 10 depositions currently allowed under the Scheduling Order. *See id.* at 7. The legend "AGREED" has been added to each section on which the parties have reached agreement. Where the parties have not reached agreement, the legend "DISPUTED" has been added to the section heading. LPI's position is marked with the legend "LPI," and Animal Care's position is marked with the legend "Animal Care."

I. DATES (AGREED)

Per the Scheduling Conference dated April 23, 2015, the Court sets the following dates in this matter:

EVENT	DATES (AGREED)
~~Beginning of Fact Discovery~~	~~April 28, 2015~~
Deadline to Serve Interrogatories	~~August 17~~July 16, 2015
Deadline to Serve Requests for Production of Documents and/or Admissions	July 16, 2015
~~Identification of Persons to be Deposed~~	~~May 28, 2015~~
Deadline to Make Opinion(s) of Counsel Available for Inspection and Copying	July 15, 2015
Deadline to File Final Infringement Contentions	May 29, 2015
Deadline to File Final Invalidity Contentions	June 29, 2015
Fact Discovery Deadline	August 17, 2015
~~Identification of Anticipated Fields of Expert Testimony, If Any~~	~~July 16, 2015~~
~~Identification of All Affirmative Experts~~	~~July 16, 2015~~
~~Identification of All Rebuttal Experts~~	~~July 30, 2015~~
~~Beginning of Expert Discovery~~	~~August 28, 2015~~
Opening Expert Reports	September 15, 2015
Rebuttal Expert Reports	October 16, 2015

EVENT	DATES (AGREED)
Expert Discovery Deadline	November 16, 2015
~~*Daubert* Motion Deadline~~	~~December 16, 2015~~
Dispositive Motions Deadline	January 13, 2016
Status Conferences	
Final Pretrial Conference (A Final Pretrial Order shall be prepared by the parties and submitted to the court no later than five (5) days before the final pretrial conference.)	
Deadline for Motions in *Limine*	
Trial	

II. IDENTIFICATION OF PERSONS TO BE DEPOSED (DISPUTED)

a. LPI

LPI wishes to amend the Scheduling Order to reflect the potential witnesses whom LPI intends to depose. LPI sees no reason to delay resolution of this dispute, and requests that the Court amend the Scheduling Order as follows:

LPI will not be able to completely identify the names of witnesses to be deposed until it receives discovery from Animal Care, but anticipates taking the depositions of the following:

	Potential Witness	Estimated Duration
1.	Michael O'Connor	7 hrs
2.	Various corporate representatives of ACS, potentially including: Steve Tierney (President & CEO); Rich Van Dewater (Director of Sales); Stieg Corell (Lead Engineer); Dave Heldt (Engineering Technician)	Unknown duration
3.	Robert Kelly – President of General Packaging Company	7 hrs
4.	James Reid, Methodist Hospital, 6565 Fannin Street, Houston, TX 77030	5 hrs

5.	Patricia Montgomery, Texas A&M, 972 Agronomy Road, College Station, TX 77843	5 hrs
6.	Laura Gigliello, VA Palo Alto Health Care System, 3801 Miranda Ave. Building 54, Palo Alto, CA 94304	5 hrs
7.	Zbysek "Bill" Masin, University of British Columbia, 4145 Wesbrook Hall, Vancouver, BC V6T 1W5	5 hrs
8.	Person(s) at Oklahoma Medical Research Foundation, 825 E.E. 13th Street, Oklahoma City, OK 73104	5 hrs
9.	Person(s) at ACS in charge of designing and/or engineering the OptiQUENCE product line and related products and accessories	7 hrs
10.	Person(s) at ACS in charge of marketing for the OptiQUENCH product line and related products and accessories	7 hrs
11.	Person(s) at ACS in charge of distribution and sales of the OptiQUENCH product line and related products and accessories	7 hrs
12.	Person(s) at ACS with knowledge of competitor research	5 hrs
13.	Person(s) at ACS with knowledge of costs, profits, and all revenues relating to the OptiQUENCH product line and related products and accessories	5 hrs
14.	ACS' sales contacts	5 hrs
15.	Other fact and expert witnesses to be determined	Unknown duration

b. ANIMAL CARE

Animal Care opposes further amending the Scheduling Order to allow the Parties to depose additional witnesses in excess of the 10 depositions allowed under the current Scheduling Order. *See* D.I. 40 at 7 ("Each side may take no more than ten depositions"). LPI has not shown good cause for taking the deposition of at least eighteen witnesses (and potentially more), without establishing any limit on the potential number of depositions. This case does not require excessive discovery and Animal Care respectfully requests that the Court maintain the previously agreed-upon limit of 10 depositions per side.

Animal Care further submits that depositions lists were not requested by the Court in its Order of March 24, 2015. *See* D.I. 130. The Parties have already exchanged initial disclosures, and have agreed in this Joint Proposed Amended Scheduling Order to exchange their lists of deposition witnesses on or before May 28, 2015. Animal Care therefore intends to provide its deposition witness list to LPI on or before May 28, 2015, as specified in the Parties' proposed schedule, above. Animal Care reserves its right to identify the maximum number of deposition witnesses as provided-for under the current Scheduling Order or any amended scheduling order.

Each Party may take up to ten (10) depositions, exclusive of testifying experts.

DATED this 24th day of April, 2015.

BY THE COURT:

s/ Nina Y. Wang

United States Magistrate Judge

APPROVED:

Dated: April 16, 2015

Respectfully submitted,

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