

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

GEICO GENERAL INSURANCE )  
COMPANY, )  
 )  
and )  
 )  
GOVERNMENT EMPLOYEES )  
INSURANCE COMPANY, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MARTIN BRAUNER, )  
 )  
Defendants. )  
 )  
AND )  
 )  
MARTIN BRAUNER )  
 )  
Counter-plaintiff, )  
 )  
v. )  
 )  
GEICO GENERAL INSURANCE )  
COMPANY, )  
 )  
and )  
 )  
GOVERNMENT EMPLOYEES )  
INSURANCE COMPANY, )  
 )  
Counter-defendants, )

Case No. 4:22-cv-00082-CV-W-FJG

**SCHEDULING ORDER**

Before the Court is the parties' Joint Proposed Discovery Plan and Scheduling Order (Doc. No. 111). The Court has reviewed the parties' proposal and enters the following

Scheduling Order. The parties should note, however, that the Court has not adopted many of their proposed deadlines.

Despite the parties' assertions that bifurcation is unnecessary, the Court finds that discovery in this action should be bifurcated. The first phase of discovery in this action shall conclude **August 15, 2022**. Phase I discovery will include discovery of all issues relating to the parties' anticipated dispositive motions directed to the threshold coverage issue. Phase II discovery will involve discovery relating to bad faith or extra-contractual claims, as well as any other merits issues. To the extent that issues overlap, the Court directs the parties to undertake discovery within Phase I.

**1. TIMELINESS OF SUBMISSIONS.** The parties and counsel are advised that any filing or submission made after 5:00 p.m. will not be reviewed by the Court until the next business day.

## **2. PROTECTIVE ORDERS**

Counsel are advised that protective orders shall be issued upon motion of counsel only. This motion shall be filed with the proposed protective order provided as an attachment to the document. The proposed protective order shall also be emailed to the courtroom deputy in Word format at [christy\\_anderson@mow.uscourts.gov](mailto:christy_anderson@mow.uscourts.gov) . In the event that the parties are unsuccessful in reaching an agreement on a proposed protective order, the Court refers the parties to the Manual for Complex Litigation, Fourth § 40.27 for a sample protective order.

## **3. INDICES**

Counsel should note that the scheduling and trial order indices are provided for their convenience only. **All parties are directed to review the entire text of this order. The**

**schedules fixed herein will not be extended except for good cause shown and upon further written order of the Court.**

**I. SCHEDULING<sup>1</sup>**

INDEX

- 1. Close of Phase I discovery **August 15, 2022**
- 2. Motion to join additional parties **July 29, 2022**
- 3. Motion to amend pleadings **July 29, 2022**
- 4. Motions for Summary Judgment  
On Coverage Issue **August 31, 2022**  
Response **September 21, 2022**  
Reply **October 5, 2022**
- 6. Status reports **July 15, 2022**

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Pursuant to Rules 16(b) and 26(f), Fed. R. Civ. P., and upon consideration of the parties' proposals in the matter, the following time schedule is established.

1. **DISCOVERY**

Phase I discovery shall close as of **August 15, 2022**. **Close of discovery means that all discovery, including the taking of depositions, shall be completed not simply submitted on the date specified by this paragraph. Any last minute discovery submitted too late for the opposing side to timely discover may be stricken. Counsel should also note that the Court expects discovery to proceed in a timely manner. The**

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<sup>1</sup> The Court has not set deadlines for expert reports at this time, given that no party indicated in its proposed scheduling order a need for expert witnesses in support of their motions for summary judgment on the coverage issue. See Doc. No. 111, pp. 5-6 (wherein defendants suggest summary judgment motions on the threshold issue be filed by June 1, 2022 and plaintiffs suggest such motions be filed by August 31, 2022, while also indicating that plaintiffs' expert reports be disclosed by August 26, 2022, defendants' reports by October 21, 2022, and rebuttal reports by November 18, 2022). If the parties believe expert reports to be necessary to dispose of the coverage issue, they should so inform the Court via a request to amend this Scheduling Order.

**filing of a dispositive motion does not preclude the parties from conducting discovery.**

a. The Court reserves the right to exercise control over the taking of depositions in any case. The Court may either limit the total number of depositions or place a time limitation on the taking of depositions in general. **Any proposed deposition lasting longer than seven hours requires prior approval by the Court. Proposing counsel shall file a motion explaining the justification for such deposition(s).**

b. **Any discovery motion must be filed before the close of discovery, and in sufficient time for the Court to rule the motion.** The Court will not entertain any discovery motion absent full compliance with Local Rule 37.1. Any discovery motion filed without complying with Local Rule 37.1 will be denied.

c. In the event that a teleconference is needed, please email your request to my chambers at [christy\\_anderson@mow.uscourts.gov](mailto:christy_anderson@mow.uscourts.gov) . The request should include a typed description of the discovery dispute, using a 12 pitch font and not exceeding two pages in length. These teleconferences are intended to resolve one or two issues that do not require authoritative briefing. Where multiple and complex issues are involved, motion practice is appropriate. If you have questions regarding the appropriateness of your dispute for a teleconference, please ask my courtroom deputy.

## **2. MOTION TO JOIN ADDITIONAL PARTIES**

Any motion to join additional parties will be filed no later than **July 29, 2022**. Where a motion to join additional parties is granted, plaintiffs will contact the courtroom deputy at [christy\\_anderson@mow.uscourts.gov](mailto:christy_anderson@mow.uscourts.gov) to discuss a deadline for filing any proposed amendments to the scheduling and trial order.

## **3. MOTION TO AMEND PLEADINGS**

Any motion to amend pleadings shall be filed no later than **July 29, 2022**.

4. **MOTIONS FOR SUMMARY JUDGMENT ON COVERAGE ISSUE**

All motions for summary judgment on the coverage issue shall be filed no later than **August 31, 2022**. Suggestions in opposition are due **September 21, 2022**. Reply suggestions are due **October 5, 2022**. Further, no motion for summary judgment will be entertained absent strict compliance with the following provisions:

a. Any motion for summary judgment shall fully comply with the provisions set forth in Local Rule 7.0; and

b. No deviations from Local Rule 7.0 will be allowed absent leave of Court obtained PRIOR to filing non-conforming documents. Unless prior Court approval is granted, motions for leave to deviate from Local Rule 7.0 that are filed contemporaneously with a non-conforming filing shall be denied.

5. **STATUS REPORTS**

The parties shall file a status report with the Court on or before **July 15, 2022**, outlining the progress of this case and advising the Court of any potential problems related to discovery or any other matters.

6. **PHASE II SCHEDULING ORDER**

Within 30 days from the date of ruling on the parties' motions regarding the coverage issue, if any matters remain pending for the Court's decision, the parties shall submit to the Court a proposed scheduling order for discovery and scheduling of all remaining issues.

**IT IS SO ORDERED.**

Date: May 12, 2022  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
United States District Judge