

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Glen Underwood
Plaintiff(s)

vs.

Connecticut Valley Arms, et al.
Defendant(s)

:
: Case No. 2:10-CV-00104
: District Judge: Marbley
: Magistrate Judge: King
:
: RULE 26(f) REPORT OF PARTIES
: (to be filed no fewer than seven (7)
: days prior to the Rule 16 Conference)
:

1. Pursuant to F.R. Civ.P. 26(f), a meeting was held on April 5, 2010 and was attended by:

Daniel Abraham, counsel for plaintiff(s) Glen Underwood

James Singer and David Herd, counsel for ~~plaintiff(s)~~ ^{defendants} BPI, Dikar and Cabela's

Audrey Bentz, counsel for defendant(s) Hodgdon Powder Company

Jeffrey Malsch, counsel for defendant(s) Accura Bullets, LLC

2. **Consent to Magistrate Judge.** The parties:

unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. 636 (c).

do not unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. 636 (c).

3. **Initial Disclosures.** The parties:

have exchanged the initial disclosures required by Rule 26(a)(1);

will exchange such disclosures by April 30, 2010

are exempt from such disclosures under Rule 26(a)(1)(E).

have agreed not to make initial disclosures.

4. **Jurisdiction and Venue**

a. Describe any contested issues relating to: (1) subject matter jurisdiction, (2) personal jurisdiction and/or (3) venue:

It is anticipated that Dikar, a Spanish cooperative, will assert a personal jurisdiction defense.

b. Describe the discovery, if any, that will be necessary to the resolution of issues relating to jurisdiction and venue:

c. Recommended date for filing motions addressing jurisdiction and/or venue:

5. Amendments to Pleading and/or Joinder of Parties

a. Recommended date for filing motion/stipulation to amend the pleadings or to add additional parties: July 9, 2010

b. If class action, recommended date for filing motion to certify the class: _____

6. Recommended Discovery Plan

a. Describe the **subjects** on which discovery is to be sought and the nature and extent of discovery that each party will need:

Liability- exchange of written discovery, depositions of parties and non-parties, inspection and testing of products at issue, and depositions of experts.

Damages- deposition of plaintiff, acquisition of plaintiff's medical, employment and collateral source records, possible independent medical consultation, and depositions of experts.

b. What **changes** should be made, if any, in the limitations on discovery imposed by the Federal Rules of Civil Procedure or the local rules of this Court?

c. The case presents the following issues relating to disclosure or discovery of **electronically stored information**, including the form or forms in which it should be produced:

d. The case presents the following issues relating to claims of **privilege or of protection as trial preparation materials**:

Defendants expect to claim protection of trade secrets or commercially sensitive information,
including product design, testing and marketing documentation. The parties will confer on
a mutually agreeable Protective Order and present it to the court within 30 days.

i. Have the parties agreed on a procedure to assert such claims **AFTER** production?

No

Yes

Yes, and the parties ask that the Court include their agreement in an Order.

e. Identify the discovery, if any, that can be **deferred** pending settlement discussion and/or resolution of potentially dispositive motions:

Most damages discovery can be deferred, other than the exchange of records and
authorizations. This would include damages experts' disclosures and depositions.

f. The parties recommend that discovery should proceed in **phases**, as follows:

1) fact discovery- written discovery, depositions, records collection

2) liability expert discovery- Rule 26(a)(2) disclosures and depositions

3) damages expert discovery- Rule 26(a)(2) disclosures and depositions

g. Describe the areas in which **expert testimony** is excepted and indicate whether each expert will be specially retained within the meaning of F.R.Civ.P.26(a)(2):

Multiple liability and damages experts are anticipated to be retained by all parties.

Damages experts may be shared by defendants.

All experts will be retained within the meaning of F.R.C.P. 26(a)(2)

i. Recommended date for making **primary expert designations**:

Plaintiff's Rule 26(a)(2) disclosures: liability- Sept. 10, 2010; damages- Jan. 7, 2011

ii. Recommended date for making **rebuttal expert designations**:

Defs' Rule 26(a)(2) disclosures: liability- October 22, 2010; damages- Feb. 11, 2011

h. Recommended discovery **completion date**: April 1, 2011

7. Dispositive Motion(s)

a. Recommended date for filing dispositive motions: May 6, 2011

8. Settlement Discussions

a. Has a settlement demand been made? YES A response? NO

b. Date by which a settlement demand can be made: Completed

c. Date by which a response can be made: June 9, 2010

9. Settlement Week Referral

The earliest Settlement Week referral reasonably likely to be productive is the

March 20 Settlement Week

June 20 Settlement Week

September 20, 10 Settlement Week

December 20 Settlement Week

10. Other matters for the attention of the Court:

Plaintiff's counsel and counsel for Defendant BPI are negotiating a dismissal without prejudice
of the named defendant "Connecticut Valley Arms, Inc." They expect to file a Proposed Order
of Dismissal shortly.

Signatures:

Attorney(s) for Plaintiff(s):

s/ Daniel Abraham
Ohio Bar# 0023457
Trial attorney for Glen Underwood

Ohio Bar#
Trial attorney for

Ohio Bar#
Trial attorney for

Ohio Bar#
Trial attorney for

Attorney(s) for Defendant(s):

s/ Hugh Bode
Ohio Bar# 0000487
Trial attorney for Def Accura Bullets, LLC

s/ Audrey K. Bentz
Ohio Bar# 0081361
Trial attorney for Def Hodgdon Powder Co.

s/ David Herd
Ohio Bar# 0059448
Trial attorney for Def Dikar, BPI, Cabela's

Ohio Bar#
Trial attorney for