

DISTRICT COURT, EL PASO COUNTY, COLORADO Court Address: 270 S. Tejon, Colorado Springs, CO, 80901	
Plaintiff(s) STATE OF COLORADO et al. v. Defendant(s) WESTERN BARN COMPANY LLC et al.	DATE FILED: May 27, 2017 10:27 AM CASE NUMBER: 2017CV30182 <p style="text-align: center;">⚠ COURT USE ONLY ⚠</p> Case Number: 2017CV30182 Division: 2 Courtroom:
STIPULATED CASE MANAGEMENT ORDER	

The motion/proposed order attached hereto: APPROVED.

Issue Date: 5/27/2017



DAVID SCOTT PRINCE
 District Court Judge

<p>DISTRICT COURT, COUNTY OF EL PASO, STATE OF COLORADO 270 South Tejon Colorado Springs, Colorado 80903</p> <hr/> <p>STATE OF COLORADO, ex rel. CYNTHIA H. COFFMAN, ATTORNEY GENERAL</p> <p>Plaintiff, v.</p> <p>WESTERN BARN COMPANY, LLC; QUALITY BARN BUILDERS, LLC; DARYL BRUCE JURGENS, an individual; RYAN JURGENS, an individual; BIRGIT JURGENS, an individual; CYNTHIA JURGENS, an individual.</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	<p>Case No. 2017CV30182 Div.:2</p>
<p>(PROPOSED) STIPULATED CASE MANAGEMENT ORDER</p>	

The case management conference is set for June 7, 2017 at 8:30 a.m.

1. At Issue Date: The at issue date for this case is **April 14, 2017**.
2. Responsible Attorney:

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Counsel for Plaintiff

3. Meet and Confer: The lead counsel for each party conferred by telephone regarding the required topics listed in Rule 16(b)(3)(A) through (E) on May 1, 2016.

The conference call included attorneys Jeffrey M. Leake (Plaintiff, State of Colorado), Debra Lynn Eiland (Defendants Daryl Bruce Jurgens and Birgit Jurgens), and Mark H. Kane (Defendants Quality Barn Builders, LLC, Ryan Jurgens and Cynthia Jurgens),

Note: Defendant Western Barn Company, LLC has not responded to the Complaint, and based on discussion with Debra Eiland, counsel for Defendants Daryl Bruce Jurgens and Birgit Jurgens, it appears that Western Barn Company, LLC is not expected to respond to the Complaint.

4. Description of the Case: The case is a civil enforcement action filed by the State of Colorado, Colorado Attorney General's Office, pursuant to the Colorado Consumer Protection Act. The lawsuit alleges that the Defendants and their companies engaged in deceptive trade practices related to the sale and installation of pole barn storage structures. The Attorney General seeks restitution on behalf of consumers, appropriate civil penalties and a permanent injunction against the Defendants.

5. Pending Motions: There are no pending motions.

6. Evaluation of Proportionality Factors: The parties do not believe that there are any proportionality concerns with this case in regards to discovery, and that discovery will remain both proportional to the needs of the case as referred to in C.R.C.P. 26(b)(1), and that discovery will remain within the limits set forth in C.R.C.P. 26(b)(2).

7. Initial Exploration of Prompt Settlement and Prospects for Settlement: The parties have discussed resolution and settlement and do not believe that a settlement can take place prior to the resolution of several related criminal cases involving Defendants Bruce Jurgens and Ryan Jurgens. See #17, Other Appropriate Matters, for specific case numbers.

The State is seeking restitution on behalf of consumers, civil penalties and a permanent injunction against the Defendants. The Defendants do not currently have any funds to pay restitution or settle the case. Because the Defendants cannot make consumers whole, for the State, it is important to see whether the Defendants are punished for their actions through the criminal proceedings, prior to being able to make appropriate recommendations for civil penalties.

The Defendants have concerns about their clients' 5th Amendment rights, particularly regarding their testimony in depositions.

During the Case Management Conference on June 7, 2017, the parties will discuss the need to delay or stay certain portions of the discovery timeline until the related criminal proceedings are resolved.

8. Proposed Deadlines for Amendments: The parties agree that the general deadline of not more than 105 days from the at issue date, as set forth in C.R.C.P. 16(b)(7), shall apply to the following potential amendments:

- a. Amending or supplementing pleadings: **July 28, 2017**
- b. Joinder of additional parties: **July 28, 2017**
- c. Identifying non-parties at fault: **N/A**

9. Dates of Initial Disclosures:

Plaintiff, the State of Colorado, served its Initial Disclosures on May 12, 2017. Defendants Daryl Jurgens and Birgit Jurgens served disclosures on May 15, 2017. Defendants Cynthia Jurgens, Ryan Jurgens, and Quality Barn Builders LLC have requested an extension of time to serve Initial Disclosures and no party objects.

Defendant Western Barn LLC has not served any Initial Disclosures

10. Full Disclosure, Computation and Discovery Relating to Damages: No party anticipates any issue with the full disclosure of damages under C.R.C.P. 26(a)(1)(C).

11. Discovery Limits and Schedule: The parties do not believe that discovery in this matter will exceed the limitations set forth in C.R.C.P. 26(b)(2).

12. Subjects for Expert Testimony: The parties do not intend to use expert testimony in this case.

13. Proposed Deadlines for Expert Disclosures: The parties do not intend to use expert testimony in this case.

14. Oral Discovery Motions: The Court has not stated whether it requires discovery motions to be presented orally, without written motions or briefs. The Court has stated that it encourages the parties to schedule case management conferences as necessary.

15. Electronically Stored Information. The parties do not anticipate needing to discover a significant amount of electronically stored information.

16. Completion of Discovery, Trial Date and Estimated Length of Trial:

Discovery in this matter could be completed in a relatively short period of time. As stated in #7, however, the parties wish to conduct discovery after the conclusion of related criminal proceedings.

The parties anticipate that the trial could be completed in three (3) days. The parties could set the trial during the Case Management Conference on June 7, 2017, or if the Court prefers, the parties could set a Case Management Conference for early September of 2017, after the conclusion of Defendant Bruce Jurgens' criminal trial.

17. Other Appropriate Matters: Defendants Bruce Jurgens and Ryan Jurgens have the following related criminal cases.

Daryl Bruce Jurgens:

2016CR3239 El Paso County- Jury trial scheduled for August 21, 2017.
2017CR995 Arapahoe County –Trial date not set.

Ryan Jurgens:

2017CR2565-El Paso County-Trial date not set.
2017CR994-Arapahoe County-Trial date not set.

DATED this 26th day of May, 2017.

Jeffrey M. Leake

Jeffrey M. Leake, Assistant Attorney
General
Attorney for Plaintiff, State of Colorado

Debra Lynn Eiland

Debra Lynn Eiland, Esq.
Attorney for Defendants Daryl Bruce
Jurgens and Birgit Jurgens

Mark H. Kane

Mark H. Kane, Esq.
Attorney for Defendants Quality
Barn Builders, LLC, Ryan Jurgens
and Cynthia Jurgens

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 _____, 20__.

BY THE COURT:

District Court Judge