

## IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

JERRI TINKER,  Plaintiff,  vs.  PHILIP J. HAEFS,  Defendant.	LAW NO. LACV167801  CALENDAR ENTRY AND ORDER RE: PRETRIAL CONFERENCE AND MOTIONS IN LIMINE
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On the 4<sup>th</sup> day of October, 2016, the above matter came before the Court at the time and place set for a final Pretrial Conference. The parties appeared by counsel telephonically. The proceeding was not stenographically reported. The parties advised the Court that this matter is still ready for trial, and trial has been set to commence at 9:30 a.m. on October 11, 2016. The following issues and/or directives were addressed:

1. **Voir Dire:** The Court provided the parties with a list of questions that may be asked by the Court during voir dire (a copy of which is attached). The parties were directed to be prepared to make a record regarding objections and/or additional questions, if any, at 9:00 a.m. on October 11, 2016.

2. **Voir Dire:** Seventeen panel members will initially be seated. The Court will ask its questions, followed by Plaintiff, followed by Defendant. Upon passing the panel for cause, the parties will alternately exercise four strikes. Of the nine jurors remaining after each party has exercised their 4 strikes, the last juror called will be the alternate juror.

3. **Exhibits:** The parties filed or will file their respective exhibit lists. The Court is advised that there are no objections to such exhibits assuming the medical records relate to the accident and not prior existing conditions.

4. **Witnesses:** Each party provided or will provide the Court with a witness list. No party objected to the persons identified being called to testify by the other. The Court will read the witness lists during voir dire questioning.

5. **Sequestration of Witnesses:** Upon the Court's own Motion, all witnesses will be sequestered throughout the entire course of the trial, other than the parties. To

the extent a witness may be called for rebuttal, as opposed to or in addition to a parties' case in chief, such witness shall remain sequestered until the close of all evidence.

6. **Statement of the Case:** The Court has prepared a Statement of the Case as part of its preliminary instructions. This Statement of the Case will be read as an introduction during voir dire and as part of said Instructions to the Jury. If the parties have objections to the Court's Statement of the Case, said objections shall be made on the record at 9:00 a.m. on October 11, 2016.

7. **Preliminary Instructions:** The Court will e-mail the parties its proposed Preliminary Instructions, which it intends to read to the jury prior to opening statements. The parties shall be prepared to make any objections or proposed additional Preliminary Instructions on the record at 9:00 a.m. October 11, 2016.

8. **Final Jury Instructions:** The Court will prepare proposed Final Instructions, giving consideration to any proposed instructions submitted by the parties, and further record will be made on such instructions at the close of evidence.

9. **Trial Schedule:** Voir Dire will commence at 9:30 a.m. on October 11, 2016. The parties are ordered to be no later than 9:00 a.m. on October 11, 2016. The proceedings will otherwise commence at 9:00 a.m. each morning thereafter. The Court will adjourn from approximately 12:00 p.m. to 1:15 p.m. and at 4:30 p.m. each day, unless otherwise ordered by the Court upon consultation with the parties and the jury as needed. The Court further intends to take two morning and two afternoon recesses of approximately 10 minutes each day.

10. **Reporting:** Pursuant to Iowa Rule of Civil Procedure 1.903(2), all parties waived reporting of: The proceedings impaneling the jury, including any objections and the Court's rulings; Opening Statements, including any objections and the Court's Rulings; the reading of Preliminary and Final Jury Instructions; and Closing Arguments. All other trial proceedings in accordance with Rule 1.903(2) will be reported. The Court advises the parties, however, that sidebars held between the Court and counsel for the parties during the trial will also not initially be reported. If requested, the Court will allow the parties to make a record concerning such sidebars outside the presence of the jury. The parties otherwise may request that a record be made concerning any issues or objections that arise during a nonreported portion of the trial.

### **MOTIONS IN LIMINE**

Each party filed a Motion in Limine in this matter. Upon consideration of arguments made by counsel, the Court now enters the following Ruling.

#### **PLAINTIFF'S MOTION IN LIMINE**

The Plaintiff seeks an order from the Court prohibiting the introduction of evidence regarding the Plaintiff's mental health issues. The Defendant indicated that it did not intend to offer such evidence in general but did intend to offer evidence regarding the Plaintiff's behavior at the time of the accident and shortly thereafter. The Court indicated that it would not allow a general discussion of the Plaintiff's mental health conditions but would not limit the Defendant from discussing the Plaintiff's behaviors at times relevant to the proceeding and Plaintiff's mental health as it may relate to such behaviors.

#### **DEFENDANT'S MOTION IN LIMINE**

The parties did not dispute that there should be no reference of Defendant's liability insurance coverage. Regarding paragraphs 2 through 5, the Plaintiff indicated that it was limiting its request for damages to property damage, incurred medical bills to date and past damages. The Plaintiff indicated that there would not be claims for future damages. The Court indicated that no lay testimony would be allowed regarding the issue of causation, treatment or prognosis of Plaintiff's injuries nor would hearsay statements be allowed regarding statements made by treating physicians other than to the extent the parties agree to the submission of medical records and expenses.

**VOIR DIRE BY THE COURT**

1. Introduce Plaintiff's Attorney and client
  - introduce members of Attorney's firm
2. Introduce Defendant's Attorney and client
  - introduce members of Attorney's firm
3. Do any of you know or have you done business with the Plaintiff's attorney or any of the members of their firm as they have been identified.
4. Do any of you know or have you done business with the Defendant's attorney or any of the members of their firm as they have been identified.
5. Does anyone know the Plaintiff
6. Does anyone know the Defendant
7. Identify Possible Witnesses – know any of these persons
8. Read statement of the Case. Do any of you have any personal knowledge of this case or heard anything about this case.
9. Anyone ever served on jury before, nature of case, outcome
10. Has anyone ever been a party to a lawsuit or a witness in a lawsuit
11. Have you ever made a claim against anyone or had a claim made against you
  - what was the nature of the claim
12. Are you or is any member of your immediate family a doctor, nurse or hospital Employee
13. Are you or any of your immediate family members stockholders in, employees, directors, officers or agents of any insurance company.
14. At the conclusion of the trial, the Court will give you instructions as to the law to be applied in this case. Is there anyone among you who would not be willing to follow the Court's instructions as to the law, even though it may not be in accordance with your own understanding or even though you may not agree with the law as given to you by the court.
15. Are there any jurors that have physical problems that would prevent them from serving such as hearing loss, etc.
16. Do you know of any reason why you should not be permitted to serve as a juror in this case or why you could not be a fair and impartial juror.

17. Have you, a close family member or a close friend ever been a lawyer, paralegal or other type of person educated or employed in legal work
18. Any other reason why you couldn't serve on this case.
19. Know any other on the jury panel.



State of Iowa Courts

**Type:** OTHER ORDER

<b>Case Number</b>	<b>Case Title</b>
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So Ordered

A handwritten signature in black ink that reads "Patrick H. Tott". The signature is written in a cursive style and is positioned above a horizontal line.

Patrick H. Tott, District Court Judge,  
Third Judicial District of Iowa