


EXHIBIT B



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Torrey, et al. v. Infectious Diseases Society of Am., et al.,
Case No. 5:17-cv-00190-RWS,
United States District Court, Eastern District of Texas,
pending before the Honorable Judge Schroeder

**Defendants' Motion to Compel Depositions and
Damages Computations [Dkt. 146]**

Defendants' Presentation

March 11, 2019

- History:
 - Defendants inquired about a preliminary set of Plaintiff depositions on October 23 and November 2
 - No response
 - Defendants noticed 11 Plaintiffs for depositions in December 2018 and January 2019
 - Plaintiffs would not present witnesses without unreasonable conditions

- Present Status:
 - Plaintiffs will not agree to present Plaintiffs for depositions without Defendants agreeing that “4 year limitation” applies to both sides or neither

Damages Disclosures: Plaintiffs' Complaint Examples

Complaint Filed

Disclosure Deadline

Plaintiffs' Response

Expert Deadline

Today

11/10/2017

07/13/2018

12/26/2018

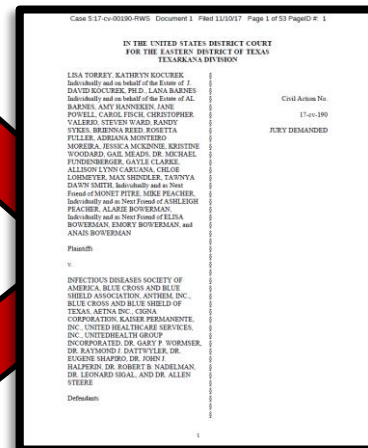
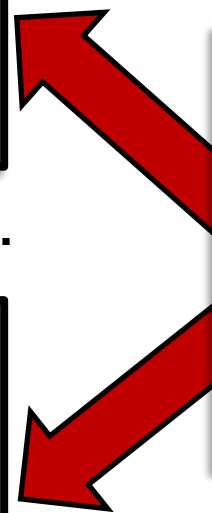
01/29/2019

Since her diagnosis with Lyme disease, [Lisa Torrey] was forced to spend hundreds of thousands of dollars of her own money to treat her Lyme disease because her insurers would not cover the necessary treatment. She still suffers every day.

Complaint (Dkt. No. 1) at ¶ 133.

As a result of the IDSA and the Insurance Defendants, Amy Hanneken lost her career, her family (her husband divorced her), and her home to foreclosure. Amy Hanneken once had a successful career, a family, and a house. Now she is sleeping on a friend's couch and trying to save money to pay for the treatment her insurer should be paying.

Complaint (Dkt. No. 1) at ¶ 135.



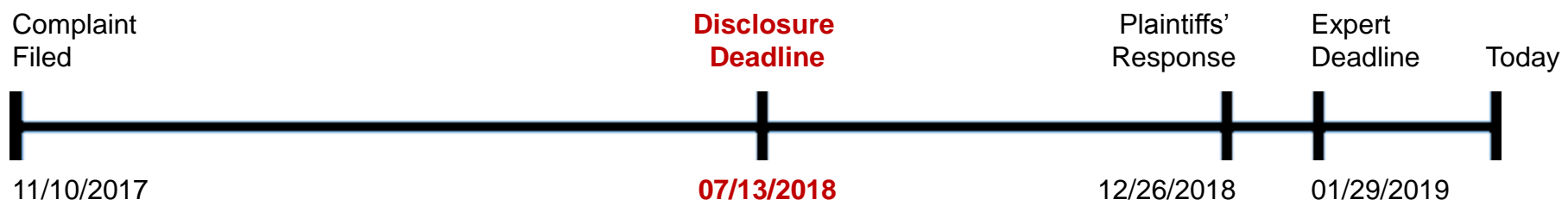
Within eighty-five (85) days[*] after the Scheduling Conference, [each party] shall provide to every other party the following as an initial production, with the understanding that the parties may (and are obligated to) supplement such production/disclosure as appropriate per Paragraph 8 below:

a complete computation of any category of damages claimed by any party to the action, making available for inspection and copying as under Rule 34, the documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered;

Discovery Order (Dkt. No. 81), ¶3(b) (emphasis added).

***85 days after the Scheduling Conference (April 19, 2018) was July 13, 2018.**

Plaintiffs' Disclosures: No Computation



“Plaintiffs seek all damages recoverable by law including actual damages in the past and in the future, **lost wages** in the past and in the future, treble damages, reasonable attorney's fees, and court costs. Plaintiffs’ actual damages include out-of-pocket travel expenses, out-of-pocket expenses related to seeking medical treatment, and out-of-pocket medical expenses. Plaintiffs’ out-of-pocket expenses are set forth in the medical records, medical bills, receipts, and other documents produced....

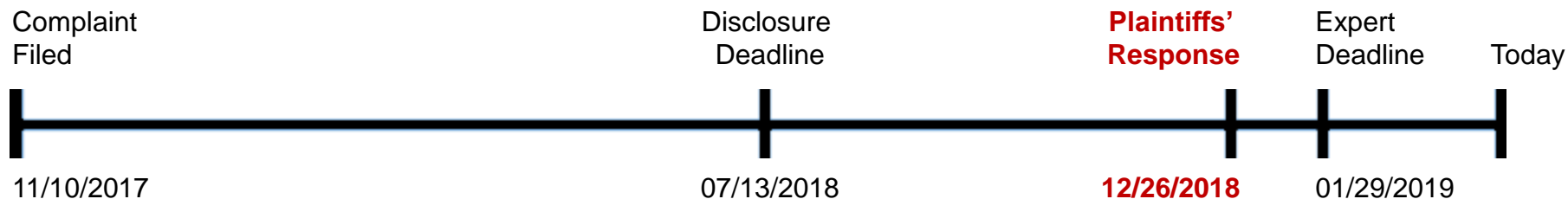
Plaintiffs will supplement as more medical records, medical bills, receipts, and other documents are obtained by Plaintiffs....

A computation of Plaintiffs’ damages will be created by Plaintiffs’ economic experts in compliance with the deadline to designate experts.”

Plaintiffs’ Additional Disclosures and Initial Production, Served July 11, 2018 (emphasis added).

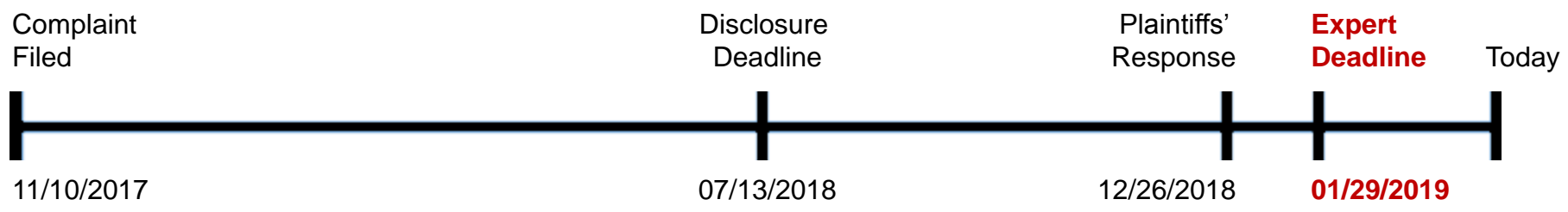
- Plaintiffs' disclosure under ¶ 3(b) of the Discovery Order cites to every single page produced by Plaintiffs in this litigation
- Plaintiffs' production incomplete:

Category	Plaintiffs' Production
Out-of-pocket travel expenses	Only three plaintiffs produced any documents
Out-of-pocket medical expenses	Ten plaintiffs have produced no documents
"Out-of-pocket expenses related to seeking medical treatment"	No plaintiff produced any additional documents
Lost wages, etc.	Defendants could not locate any supporting documents



“More importantly, Plaintiffs’ expert designations and expert reports are not due until January 29, 2019. (See Docket #82). It is in no way prejudicial for Plaintiffs to supplement its [sic] disclosures with a complete damages computation when Plaintiffs designate their experts.”

Plaintiffs’ Opposition to Motion to Compel (Dkt. No. 147) at 7.



January 29, 2019	Parties with burden of proof designate expert witnesses. Expert witness reports due. Refer to Local Rules for required information.
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Docket Control Order (Dkt. No. 82) at 3.

- No disclosure of a damages expert.**
- No expert report (from any expert).**
- No damages computation.**