

ATTACHMENT A

**STATE OF NEW MEXICO
BEFORE THE OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION**

**NEW MEXICO ENVIRONMENT
DEPARTMENT, OCCUPATIONAL
HEALTH AND SAFETY BUREAU,**

Complainant,

v.

Case No. OSHA 22-11

RUST MOVIE PRODUCTIONS, LLC,

Respondent.

FIRST AMENDED SCHEDULING ORDER

HAVING COME before the Occupational Health and Safety Review Commission upon stipulation of the parties, the following **Amended Scheduling Order** will apply to the above-captioned proceeding:

1. The parties will exchange a preliminary written disclosure of all lay witnesses it may call at the hearing by November 7, 2022, unless the parties otherwise agree. Current contact information for each witness will be provided with the disclosure, in addition to the information contained in 11.5.5.602(B) NMAC.

2. The parties will exchange a preliminary written disclosure of all expert witnesses it may call at the hearing by November 7, 2022, unless the parties otherwise agree. A resume or curriculum vitae for each expert will be provided simultaneously to the disclosure, in addition to the information contained in 11.5.5.602(B) NMAC.

3. The parties will exchange a preliminary written disclosure of exhibits it may use at the hearing to support its claims and defenses, unless the use would be solely for impeachment, by

ATTACHMENT A

November 7, 2022, unless the parties otherwise agree.

4. Discovery, including the depositions of lay witnesses, shall be completed by January 9, 2023. The parties agreed on January 5, 2023, to make Robert Genoway and Gregory Marquez available for depositions on a mutually agreeable date and time as necessary beyond the January 9, 2023, deadline.

5. On January 5, 2023, the parties agreed to exchange written reports by no later than February 7, 2023, for all experts designated by the parties on November 7, 2022. The parties also agreed on January 5, 2023, that the depositions of such expert witnesses designated by the parties on November 7, 2022, shall be completed by March 9, 2023, unless the parties otherwise agree.

6. The parties agree that discovery requests and responses may be served via electronic mail in lieu of facsimile transmission.

7. The parties will exchange a final list of: a) witnesses that they will call at the hearing; and b) exhibits which will be used at the hearing, by April 3, 2023. The parties will consult to determine which exhibits are stipulated and which exhibits are opposed.

8. All motions, including motions in limine, must be filed by April 3, 2023.

9. The parties will request that the Commission issue any witness subpoenas, pursuant to 11.5.5.608 NMAC, by April 17, 2023.

10. The parties will file a final list of witnesses they will call at the hearing and exhibits to be introduced at the hearing by May 8, 2023. The status of each exhibit (i.e. stipulated/opposed) will be indicated on each party's submission.

11. This matter is set for a three-hour prehearing conference and motions hearing on May 8, 2023.

12. This matter is set for an eight-day hearing beginning June 12, 2023 and will continue

ATTACHMENT A

until June 21, 2023. Each party will have four days to present their case, including cross-examination. The hearing will be conducted on a 9:00 a.m. to 5:00 p.m. schedule each day. The hearing will be hybrid in that the parties and their attorneys are expected to appear in-person but witnesses may appear by telephone or video.

13. With the understanding that this matter is complex and requires significant preparation, the parties waive any claims or defenses related to the timing of the final hearing from applicable laws and regulations.

14. The dates set forth herein may only be changed upon stipulation of the parties or, in the event the parties cannot agree, by the Commission upon motion of a party.

IT IS SO ORDERED.

/s/ Brock Carter
Brock Carter, Chair
New Mexico Occupational Health
and Safety Review Commission

1/19/2023
Date

*Executed electronic signature via email
authorization dated 1/19/2023*

Prepared by:

Concurred by via email:

Isl Andrew P. Knight
Andrew Knight
Jen Olson
Assistant General Counsel
New Mexico Environment Department

Isl Thomas Van Wyngarden
Thomas Van Wyngarden
Counsel for Respondent
Pillsbury Winthrop Shaw Pittman LLP

ATTACHMENT A

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Scheduling Order was emailed to all parties on January __, 2023. The above-mentioned document can be served via first class mail upon request.

Thomas Van Wyngarden
Derek Mayor
Pillsbury Winthrop Shaw Pittman LLP
725 South Figueroa Street, 36th Floor
Los Angeles, CA 90017-5524
Email: tom.vanwyngarden@pillsburylaw.com
derek.mayor@pillsburylaw.com
Counsel for Respondent

Andrew Knight, Esq.
Jen Olson, Esq.
Assistant General Counsel Office of General Counsel
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87502
Andrew.Knight@env.nm.gov
Jen.Olson@env.nm.gov
Counsel for Complainant

Gabriel Gabaldon
Assistant Attorney General
Office of the Attorney General
PO Drawer 1508
Santa Fe, New Mexico 87504-1508
ggabaldon@nmag.gov
Counsel for New Mexico Occupational Health and Safety Review Commission

Pamela Jones

Commission Administrator
(505) 660-4305
pamela.jones@state.nm.us