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*Attorneys for Defendant Kaarma*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

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CELAL DEDE, Individually and as	)	
Personal Representative of the Estate of	)	Cause No.: CV-15-16-M-DWM
Diren Dede, Deceased and on behalf of	)	
GULCIN DEDE, BASAK DEDE, and	)	
ESRA DEDE,	)	<b>JOINT DISCOVERY PLAN</b>
	)	
Plaintiff,	)	
	)	
-vs.-	)	
	)	
MARKUS KAARMA and JANELLE	)	
PFLAGER,	)	
	)	
Defendants.	)	

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Pursuant to Rule 26(f), Fed. R. Civ. P. and Rule 16(b)(2) of the Local Rules of the United States District Court, District of Montana, as well as this Court's Orders dated February 20, 2015 and March 31, 2015, the parties jointly submit this Proposed Discovery Plan.

**A. Initial Disclosures**

The parties do not request any changes regarding the timing, form, or requirement of initial disclosures under Fed. R. Civ. P. 26(a)(1). Plaintiff and Defendant Kaarma served their initial disclosure on or before March 26, 2015, as required by Fed. R. Civ. P. 26(a)(1) and Local Rule 26.1(b) and the Court's Order of February 20, 2015. Defendant Pflager served her initial disclosure on or before March 27, 2015, as required by Fed. R. Civ. P. 26(a)(1) and Local Rule 26.1(b) and the Court's Order of February 20, 2015.

**B. Discovery**

Defendant Kaarma intends to file a motion to stay this civil case while the criminal matter is pending. The civil and criminal cases rest on the same facts, circumstances, and similar claims. There is a possibility the criminal conviction may be overturned on appeal. Accordingly, Defendant Kaarma's Fifth Amendment rights will continue to be implicated until the criminal matter is resolved.

Defendant Pflager will not oppose this motion. Plaintiff will oppose this motion. Pursuant to 28 U.S.C. § 1391(a)(2), venue is proper in the Missoula Division of the District of Montana because the events giving rise to these claims occurred within this Division, however, Defendant Pflager reserves the right to contest whether she can receive a fair trial in the courts located in the city of Missoula.

Notwithstanding the foregoing, and in order to comply with Rule 26(f), Fed. R. Civ. P. and Rule 16(b)(2) of the Local Rules of the United States District Court, District of Montana, as well as this Court's Orders dated February 20, 2015 and March 31, 2015, the parties believe that discovery may be needed on the following subjects:

- a) Plaintiff's allegation of liability and Defendants' Affirmative Defenses;
- b) Plaintiff and Diren Dede's heirs' injuries and damages;
- c) Any other subjects that may arise during discovery;
- d) Plaintiff contends discovery may also be needed on the subject of Defendants' net worth. Defendants will object to this subject of discovery.

The parties agree to conduct simultaneous discovery on all issues.

Accordingly discovery will not be conducted in phases, nor will it be limited to or focused on particular issues. The parties agree that discovery shall be served sufficiently in advance to permit close of discovery on **October 5, 2015**.

### **C. Electronically Stored Information**

The parties agree that any data kept electronically may be produced in its original form, in .pdf format, on paper, or in any format on which the parties mutually agree for the data at issue. The parties shall take reasonably necessary steps to assure that electronic data that now exists is not deleted by the passage of time or is otherwise destroyed or rendered irretrievable.

**D. Claims of Privilege**

Defendant Kaarma states that the pending criminal case involving the same facts and circumstances as those at issue in this civil matter is currently on appeal and there is a possibility the criminal conviction may be overturned. Accordingly, Defendant Kaarma will be invoking his 5<sup>th</sup> Amendment Right to be free from self-incrimination in this case.

Both Defendants Kaarma and Pflager intend to assert their spousal privilege pursuant to Mont. Code Ann. § 26-1-802. To the extent that any testimony, statements, responses and answers to discovery, or any other information from Defendant Pflager relating to communications between her and Defendant Kaarma may implicate Defendant Kaarma's rights in the criminal case against him, Defendant Pflager will assert additional privilege pursuant to Mont. Code Ann. § 46-16-212.

**E. Limitation on Discovery**

The parties do not request any changes in the limitations on discovery imposed under the Federal Rules of Civil Procedure or by the Local Rules of the United States District Court of Montana other than as set forth herein. Any requested changes will be made pursuant to rule 26(b)(2).

**F. Expert Witnesses**

Pursuant to L.R. 16.2(b)(2)(A), the parties believe experts will be necessary on liability and damages.

The schedule for disclosure of expert witnesses shall be as follows:

- a) Plaintiff and Defendants shall disclose liability experts by **August 3, 2015.**
- b) Plaintiff shall disclose damages experts by **August 3, 2015.**
- c) Defendants shall disclose damages experts by **September 3, 2015.**

**G. Joinder of Parties and Amendments of Pleadings**

The parties agree that any amendments to their pleadings and any motions to join additional parties shall be filed on or before **June 10, 2015.**

**H. Other Items**

As stated previously, Defendant Kaarma intends to file a motion to stay this civil case while the criminal matter is pending on appeal.

DATED this 3rd day of April, 2015.

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/s/ Robert J. Phillips  
Robert J. Phillips  
PHILLIPS HAFLEY PC  
*Attorneys for Defendant Kaarma*

DATED this 3rd day of April, 2015.

\_\_\_\_\_  
/s/ Scott Gratton  
Scott Gratton  
BROWN LAW FIRM, P.C.  
*Attorneys for Defendant Pflager*

DATED this 3rd day of April, 2015.

/s/ David Paoli  
David Paoli  
Paoli Kutzman, P.C.  
*Attorneys for Plaintiff*

## CERTIFICATE OF SERVICE

I, the undersigned, a representative of the law firm of Phillips Haffey PC, hereby certify that I served a true and complete copy of the foregoing on the following persons by the following means:

<u>1-3</u>	CM/ECF
_____	Hand Delivery
_____	Mail
_____	Overnight
_____	Fax
_____	E-Mail

1. Clerk, U.S. District Court
2. David Paoli  
Paoli Kutzman, P.C.  
P.O. Box 8131  
Missoula, MT 59807-8131  
**Attorneys for Plaintiff**
3. Scott Gratton  
BROWN LAW FIRM, P.C.  
210 E. Pine, Suite 200  
Missoula, MT 59802  
**Attorneys for Pflager**

DATED this 3<sup>rd</sup> day of April, 2015.

/s/ Robert J. Phillips

Robert J. Phillips

PHILLIPS HAFHEY PC

*Attorneys for Defendant Kaarma*