

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

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)
Plaintiff,)
)
v.) C.A. No. N C- - EMD
)
,)
)
Defendant.)

DRAFT
TRIAL SCHEDULING ORDER

The Court hereby enters the following Order:

- (a) **Trial Date and Length** – a JURY TRIAL in this matter is hereby scheduled to commence on _____ beginning at 9:30 a.m. The Court has set aside days to try this matter.
- (b) **Filing of Motions to Add or Amend** _____.
- (c) **Discovery** –
 - [] Discovery Cut-Off: Discovery to be initiated such that it will be completed by _____.
 - [] Plaintiff's Expert Report Deadline – _____.
 - [] Defendant's Expert Report Deadline – _____.
- (d) **Filing of Dispositive Motions and Daubert Motions** _____.
- (e) **Responses to Dispositive Motions and Daubert Motions** _____.
- (f) **Filing Motions in Limine** _____.
- (g) **Responses to Motions in Limine** _____.
- (h) **Mandatory ADR** – to be conducted by _____. The parties should notify the Court in writing of the date of the scheduled ADR. The parties may be excused from this deadline only by order of the Court. **All** parties must attend and participate in the ADR in good faith, unless expressly

excused by the ADR practitioner. Insurance adjusters with authority up to policy limits must also be present. Neither the fact nor the result of the ADR shall be admissible at trial. The ADR proceedings shall not be transcribed unless specifically authorized by the Court for good cause shown.

- (i) An **Interim Status Report** will be due no more than 14 days after ADR has been conducted. Among other issues, the parties shall advise the Court of the outcome of mandatory ADR.
- (j) **Pretrial Conference** - On _____ at _____ a.m., the Court will hold a Rule 16(b) pretrial conference. ***Trial Counsel must attend the pretrial conference.*** At least **15 days** before that conference, plaintiff's counsel shall forward to defendant's counsel a draft of the pretrial order with the information plaintiff proposes to include in that order. Within **5 days** from the date of receiving that draft, defendant's counsel shall provide plaintiff's counsel with comments on the plaintiff's draft and the information the defendant proposes to include in the order. The proposed order shall, at a minimum, cover the matters set forth in Form 46 (pretrial stipulations) contained in the appendix of Superior Court Civil Rules.
- (k) **Pretrial Stipulation** - The completed pretrial stipulation must be received by the Court on or before _____. **Failure to comply with this deadline may result in sanctions being imposed upon the responsible party or parties.**
- (l) **Special Voir Dire** – All proposed special voir dire questions shall be included with the pretrial stipulation.
- (m) **Exhibits** – Counsel shall exchange exhibits and meet to resolve objections. Exhibits shall be pre-marked.
- (n) **Jury Instructions** – Counsel shall submit a joint-set of jury instructions to the Court on or before _____. **One hard copy AND an electronic copy in Microsoft Word format must be sent to Chambers via my**

assistant, Lisa at Lisa.Iannelli@state.de.us. Counsel shall consult among themselves and attempt to agree upon appropriate jury instructions. If there are areas of disagreement, counsel shall present their respective proposed instructions and supporting authority. This order shall not prevent the parties from submitting additional proposed instructions that may be justified by the evidence presented at trial.

- (o) A **Final Trial Status Report** will be due on or before _____. The final trial status report shall advise the Court of the following:
1. whether all exhibits have been exchanged or reviewed by the parties or counsel, and there are no objections to any exhibit;
 2. whether proposed jury instructions have been exchanged, discussed, exceptions noted, and a copy submitted with the status report in the form required by paragraph (i) above; and
 3. whether parties and counsel agree there are no remaining evidentiary and/or legal issues for the Court to resolve prior to jury selection and opening statements.
- (p) **Counsel are advised that all of the deadlines established by this Trial Scheduling Order are firm deadlines. Failure to meet these deadlines, absent good cause shown, likely will result in the Court refusing to allow extensions regardless of the consequences. Amendments to this Trial Scheduling Order must be by Order of the Court on appropriate motion or stipulation of the parties.**
- (q) Additional instructions are attached to this Order.

Dated: _____

Eric M. Davis, Judge

cc: Counsel
File&Serve

ADDITIONAL INFORMATION AND PROCEDURES

Interim Status Report. The Interim Status Report is to be filed by Plaintiff(s)'s Counsel with a copy to the assigned Judge, together with a check for the \$150.00 trial fee made payable to the "Prothonotary." The interim report will advise the Court on the nature of the matters in issue, the progress of discovery to date, and the results of any attempts made or alternate dispute resolution used to date to resolve this matter. Do not include information on offers or demands. This document should reflect input from both parties. Plaintiff's counsel is responsible for obtaining defense counsel's consent to form or additional input to be included in the Report in sufficient advance of the submission deadline to ensure compliance with the deadline.

Case Dispositive Motions. Case dispositive motions shall be noticed at the convenience of the Court. The motion shall be e-filed with **one (1) courtesy copy with exhibits delivered to Judge Davis in chambers.** Counsel will be notified by the Court as to when a response is due. Responses shall also be e-filed and **one (1) courtesy copy delivered to Judge Davis in chambers.** Unless otherwise ordered by the Court, the motion and the response shall not exceed six (6) pages (14 pt. font) in length. Once the motion is received in Chambers, Judge Davis' assistant, Lisa Iannelli, will reach out to all parties to schedule a date before Judge Davis. If you have any questions about how to file the dispositive motion, Lisa can be reached at **(302) 255-0960** or at Lisa.Iannelli@state.de.us. No reply by the moving party is permitted.

Routine Civil Motions. Judge Davis hears weekly routine civil motions on **Mondays at 9:00 a.m.** Motions must be filed or e-filed, as appropriate, **ten (10) days** (excluding Saturdays, Sundays or holidays) prior to the noticed date for presentation. Unless otherwise notified by the Court, responses are due no later than **four (4) business days** prior to the presentation date. **One (1) courtesy copy of the response with exhibits must be delivered to Judge Davis in chambers.**

Pretrial Conference. Trial Counsel *must* attend the pretrial conference.

For additional information please see Judge Davis' Civil Case Management Preferences

Page at http://courts.delaware.gov/superior/judgespref/judges_pref_jdavis.aspx

(Revised 01/30/2017)