

**IN THE SUPERIOR COURT
OF THE STATE OF DELAWARE**

,)	
)	
Plaintiff,)	
)	
v.)	C.A. No.
)	
,)	
)	
Defendant.)	

TRIAL SCHEDULING ORDER

IT IS ORDERED that the following schedule will control all future events in this case until trial. Any amendments or modifications to the event deadlines established in this Order will require a Court Order. Failure to meet these deadlines, absent good cause shown, may result in the Court refusing to allow extensions regardless of the consequences. The event deadlines are as follows and are more fully addressed below:

Trial

<i>Plaintiff's Expert Reports</i>	33 weeks prior
<i>Defendant's Expert Reports</i>	25 weeks prior
<i>Mandatory ADR Deadline</i>	17 weeks prior
<i>Discovery Deadline</i>	9 weeks prior
<i>Dispositive Motion Deadline</i>	8 weeks prior
<i>Responses to Dispositive Motions</i>	14 days after filing date
<i>Motions in Limine</i>	6 weeks prior
<i>Responses to Motions in Limine</i>	7 days after filing date

*Pretrial Stipulation and
Special Instructions Due*

4 weeks prior

Pretrial Conference

3 weeks prior

Trial depositions shall not be taken after pretrial conference

Final Trial Status Report

Wednesday before trial

(a) **Requests for Relief During Pendency of Litigation** – Whenever possible, the Court will rule upon requests for relief without a hearing. Accordingly, motions or stipulations should be electronically filed with a proposed form of order so that the Court may issue an electronic ruling.

(b) **Amendments to the Trial Scheduling Order** - The parties may stipulate to modification of this Trial Scheduling Order, but any requests to shorten the amount of time provided for the Court's consideration of dispositive motions and motions *in Limine* may not be changed by stipulation and must be presented by motion. The Court generally requires at least 8 weeks before trial to consider dispositive motions and at least 4 weeks to consider motions in limine, and the Court prefers at least 12 weeks before trial to consider dispositive motions and at least 8 weeks to consider motions *in Limine*.

(c) **Experts** – The following deadlines are hereby established for the designation of experts and the providing of their reports by the respective parties:

1. Reports of the Plaintiff's experts are to be provided by *****.

2. Reports of the Defendant's experts are to be provided by *****.

Counsel for the Plaintiff shall have 30 days from the date Defendant's reports are provided to designate a rebuttal expert and

must provide a copy of that expert's report no later than 5 days before the mandatory ADR proceeding.

Failure to identify experts within the deadlines set forth above will be a sufficient basis to exclude that expert from testifying at the trial unless counsel can set forth good cause why the designation did not take place and the report was not provided.

- (d) **Mandatory ADR**- In accordance with Rule 16, the parties are to complete, unless otherwise approved by the Court, the ADR procedure by *****. The parties are to advise the Court prior to the ADR procedure of the date on which it is scheduled, the type of ADR being conducted, and the name of the ADR practitioner who will be conducting the procedure. 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.
- (e) **Discovery** - All discovery in this matter is to be completed by *****. The Court will not consider an extension of this deadline without prior approval of the Court.
- (f) **Routine Motions** - Judge Rocanelli's routine motion calendars are on Tuesdays at 9:00 a.m. Motions must be filed ten (10) days prior to the noticed date for presentation. Responses are due the Wednesday prior to the presentation date.
- (g) **Dispositive Motions** - All dispositive motions in this matter are to be filed by *****. If the motion is not filed by this deadline it will be considered waived.

All case dispositive motions may be filed at the convenience of the Court. Linda Rizzo, Judge Rocanelli's Administrative Specialist, will contact counsel via email with available dates and times for the motion to be heard.

The original motion and the response thereto are filed with the Prothonotary's Office and a copy delivered to Judge Rocanelli in chambers. The motion and the response shall not exceed six (6) pages in length and shall have a notice page indicating the date and time of the hearing. The response is due by *****. No reply by the moving party is permitted.

(h) **Pretrial conference** – On ***** the Court will hold a Rule 16(b) pretrial conference in the Courtroom with a court reporter present. Counsel is also required to provide to the Court a copy of the stipulation by *****. At least 15 days before the Stipulation is due, 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. Failure to comply with the deadlines established in this order may result in the Court considering objections waived by the non-complying party and/or the imposition of appropriate sanctions.

(i) **Motions in Limine** - All motions *in limine*, (including *Daubert* motions, or any motion to exclude all or part of a witness' testimony) are to be filed with the Court by *****. The Court will not consider such motions

filed after that date absent exceptional circumstances. Motions *in limine* will presumptively be decided on the paper record.

- (j) **Jury instructions** - Counsel shall consult among themselves and attempt to agree upon appropriate jury instructions. Counsel shall file with the Court an agreed upon set of instructions while filing the Pre-Trial Stipulation. Counsel is required to also file these instructions via email to Linda Rizzo at linda.rizzo@state.de.us 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.
- (k) **Special voir dire** - Counsel shall submit to the Court any special voir dire questions proposed for the jury panel with the Pre-Trial Stipulation.
- (l) **Final Trial Status Report** – Counsel shall submit a final status report to the Court the Wednesday before trial advising the Court the following:
1. That all exhibits have been exchanged or reviewed by the parties or counsel, and there are no objections to any exhibits; and
 2. That the parties and counsel agree there is no remaining evidentiary and/or legal issues for the Court to resolve prior to jury selection and opening statements.
- (m) **Trial** - 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 the matter.

Please refer also to the Court's Judicial Preferences page at http://courts.delaware.gov/Superior/judges_pref_jrocanelli.stm and to

the New Castle County Civil Case Management Plan for further guidance.

DATED: *****

/s/ Andrea L. Rocanelli
Judge Andrea L. Rocanelli