

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

**CASE MANAGEMENT ORDER**

After consideration of the proposals of the parties, as well as the interests of justice, the Court hereby enters this Case Management Order.

**I. GENERAL**

**A. Application**

This Case Management Order shall apply only to the presently pending action.

**B. Service of Case Management Order on New Parties**

Upon the addition of any party to the Action, the party adding the new party to the Action shall serve a copy of this Case Management Order at the same time that it serves a copy of the pleading joining such new party.

**C. Applicable Court Rules**

Unless otherwise provided by the Initial Case Management Order, the Superior Court Civil Rules shall apply.

**D. Discovery Master:**

Upon application of any party, the Court may issue an Order of Reference to a Special Master or Commissioner, who shall thereafter handle all matters referred to in that Order of Reference.

## **II. LEXIS/NEXIS E-FILING PROCEDURES**

The filing and service of documents shall be in accordance with Rule 79.1 of the Superior Court Civil Rules and the Administrative Directive of the President Judge of the Superior Court of the State of Delaware, No. 2003-8, E-File Administrative Procedures, dated December 13, 2007, published by the Prothonotary, except that documents initiating discovery requests (interrogatories, requests for production of documents, and requests for admission) and responses to such discovery requests (excluding the actual production of documents) shall be served electronically through LEXIS/NEXIS.

## **III. DISCOVERY SCHEDULE**

### **A. Document Production**

1. Requests for production of documents shall be served on or before \_\_\_\_\_ with all documents to be produced on or before \_\_\_\_\_.
2. Privilege logs shall be produced in accordance with the Superior Court Civil Rules and Rule 502 of the Delaware Uniform Rules of Evidence so as to be completed on or before \_\_\_\_\_.
3. **Inadvertent Production of Documents.** In the event a party discovers that it has inadvertently produced a document that it considers privileged or confidential, or receives a document that it believes was inadvertently produced on the ground that it is privileged or confidential, the parties shall undertake to

resolve the inadvertent disclosure issue through the Protective Order entered in this case or, in the absence of such an Order, in the Protocol for the Inadvertent Production of Documents attached as Exhibit A.1 hereto. The Court will determine any issues not resolved by the parties.

**B. Fact Depositions**

1. Each party will be limited to taking \_\_\_\_ fact depositions, unless the Court for good cause extends that limit. Each deposition shall be limited to seven hours unless extended by agreement or Court order.

2. Depositions shall proceed as follows: (a) depositions of document records custodians may be noticed for deposition on and after \_\_\_\_\_ so as to be completed by \_\_\_\_\_ and (b) all other non-expert depositions may be noticed for deposition on or before \_\_\_\_\_ so as to be completed by \_\_\_\_\_.

**C. Fact Discovery Cut-off**

The parties shall conduct fact discovery so that it is completed on or before \_\_\_\_\_.

**D. Expert Discovery**

Expert Discovery shall commence on \_\_\_\_\_ and shall be completed no later than \_\_\_\_\_. Exhibit A.2 hereto shall govern expert discovery.

**IV. DISPOSITIVE MOTIONS**

Dispositive motions may be filed on or before \_\_\_\_\_.

## **V. PRETRIAL STIPULATION AND ORDER; TRIAL**

### **A. Trial Date and Jury Selection**

The trial of this Action shall begin on \_\_\_\_\_ at \_\_\_\_\_ a.m., and continue for \_\_\_\_\_, if necessary. Jury selection will be conducted on \_\_\_\_\_ at \_\_\_\_\_ a.m.

### **B. Jury Questionnaire**

To expedite the selection of jurors who will be able to serve for as long as \_\_\_\_\_ weeks, the parties will exchange proposed jury questionnaires on or before \_\_\_\_\_ . The parties shall confer immediately upon the exchange of the questionnaires and submit a joint agreed upon questionnaire or a joint questionnaire that reflects areas of disagreement to the Court no later than \_\_\_\_\_ .

### **C. Pre-Trial Stipulation and Order, Jury Instructions, Special Interrogatories, and Pre-Trial Conference**

1. On or before \_\_\_\_\_, the parties collectively shall:
  - a. exchange drafts of a Pre-Trial Stipulation and Order that shall address the items set forth in Superior Court Civil Rule 16(c) to the extent not previously resolved; and
  - b. exchange proposed jury instructions and special interrogatories.

2. Immediately following the exchange of the proposed Pre-Trial Stipulation and Order, the parties shall meet and confer in an attempt to reach an agreement on a final Pre-Trial Stipulation and Order, jury instructions and any special interrogatories. On or before \_\_\_\_\_, the parties shall submit to the Court a proposed Pre-Trial Stipulation and Order. In the event the parties cannot reach agreement on all the terms of the Pre-Trial Stipulation and Order, jury instructions and special interrogatories, a single proposed order shall be filed and any areas of disagreement shall be appropriately noted in the one proposed order submitted and plaintiff shall submit a set of jury instructions and special interrogatories that contain any party's proposal.

3. The Pre-Trial Conference with the Court shall take place on \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_.m. Delaware counsel and trial counsel must appear unless expressly excused by the Court.

#### **D. Motions In Limine**

All motions in limine shall be filed no later than \_\_\_\_\_ and all responses to those motions shall be filed no later than\_\_\_\_\_.

### **VI. MOTIONS**

**A.** All dispositive motions shall be heard at the Court's convenience.

**B.** All dispositive motions shall be accompanied with an opening brief supporting the motion. Subject to the requirements of this Order, any defendant may

file a separate joinder or brief adopting or supporting a motion or opposition of another defendant provided it is served within three (3) business days after service of the motion or opposition and does not exceed three (3) pages, exclusive of appendices.

**C.** Subject to the requirements of this Order, any party may file an answering brief to a dispositive motion. Unless an alternative schedule has been agreed to by the parties or ordered by the Court, such answering brief shall be filed and served the later of \_\_\_\_\_( ) days after any service of the motion, or \_\_\_\_\_( ) days after any defendant files a separate joinder or brief adopting or supporting a motion or opposition of another defendant.

**D.** Reply briefs may be filed ten (10) days after responses are received, but no later than three (3) days before any hearing on the motion.

**E.** All briefs on dispositive motions shall conform to the requirements of Superior Court Civil Rule 107.

**F.** In the case of discovery motions, such motions shall be “speaking motions” limited to 10 pages and shall be noticed for presentation on one of the Court’s routine motions calendars (Mondays at 9:00 a.m.) unless the Court orders a different hearing date. Absent leave of the Court, all discovery motions shall be filed at least fourteen (14) days prior to the noticed hearing date; responses shall be filed at least seven (7) days prior to the noticed hearing date; and no reply submission shall

be filed. If the case is referred to a special discovery master, then a modified protocol for discovery motion practice may be entered. This Case Management Order may be amended by the Court or supplemented by additional Case Management Orders as deemed appropriate by the Court. Nothing herein shall prevent any party from seeking relief from any provision for good cause shown.

**IT IS SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

---

\_\_\_\_\_  
Judge Joseph R. Slights, III