

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

NAME,)	
)	
Plaintiff(s),)	C.A. NO. N00C-00-000 DJB
)	
v.)	
)	
NAME,)	TRIAL BY JURY OF
)	TWELVE DEMANDED
Defendant(s).)	

TRIAL SCHEDULING ORDER

The Court hereby enters the following Order governing both the [#] - day **JURY TRIAL** that is to commence on _____ at 9:00 a.m., and the above-captioned matter's related pretrial proceedings:

- (a) **Filing of Motions to Add or Amend.** Such motions are to be filed no later than _____.
- (b) **Discovery.**
 - (1) Discovery Cut-Off: All discovery is to be initiated such that it will be completed by _____.
 - (2) Plaintiff's Expert Report (or Rule 26(b)(4) Disclosure) Deadline is _____.
 - (3) Defendant's Expert Report (or Rule 26(b)(4) Disclosure) Deadline is _____.
 - (4) Plaintiff's Rebuttal Expert Report (or Rule 26(b)(4) Disclosure) Deadline is _____.
- (c) (1) **Filing of Dispositive and Daubert Motions.** Such motions are

to be filed no later than _____. Responses are due 21 business days after the motion is filed. A reply brief may be filed within 5 days after the response.

(2) **Filing of Motions *in limine*.** Motions *in limine* are to be filed no later than _____. Motions *in limine* must include all supporting authority with the motion. Motions *in limine* shall be noticed for presentation at the Pretrial Conference and will be resolved, wherever possible, at that time. If not resolved at the Pretrial Conference, a date and time will be set at the Pretrial Conference for presentation of motions *in limine* in advance of trial.

Unless a specific order entered in this case provides otherwise, a Response (with all supporting authority) is due no later than 7 business days after the motion *in limine* is filed. Failure to file a timely Response may result in the Court deeming the motion as unopposed. The motion and response shall not exceed 4,000 words unless permission previously has been granted to exceed the word limit.

(d) **Mandatory ADR** is 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.

(e) An **Interim Status Report** will be due no more than 10 days after ADR has been conducted. Among other issues, the parties shall advise the Court of the outcome of mandatory ADR.

(f) **Pretrial Stipulation and Pretrial Conference.** On _____ at ____ a.m., the Court will hold a Rule 16(b) pretrial conference in chambers. **Trial Counsel *must* attend the pretrial conference. Plaintiff must pay the trial fee on or before the pretrial conference.** At least 15 days before that conference, Plaintiff's Counsel shall forward to Defendant's Counsel a draft of the Pretrial Stipulation with the information Plaintiff proposes to include in that Stipulation. Within 5 days from the date of receiving that draft, Defendant's Counsel shall provide Plaintiff's Counsel with comments on Plaintiff's draft and the information Defendant proposes to include in the Stipulation. The Stipulation shall, at a minimum, cover the matters set forth in Form 46 (pretrial stipulations) contained in the appendix of Superior Court Civil Rules. **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.

(g) **Jury Instructions.** Counsel shall consult among themselves and attempt to agree upon appropriate jury instructions. Plaintiff's counsel shall provide to the Court an agreed-upon set of instructions (both hard copy and in WORD format). If there are areas of disagreement, the submission shall include Defense Counsel's notation of disagreement on each particular instruction upon which there is disagreement and Defense Counsel shall present his or her respective proposed instructions and supporting authority. **Jury instructions must be submitted to the Court on or before _____.** Counsel is required to also file these instructions via email to Alicia Maxwell at Alicia.Maxwell@delaware.gov in WORD format. This order shall not prevent the parties from submitting additional proposed instructions that may be justified by the evidence presented at trial.

(h) **Special *voir dire*.** All proposed special *voir dire* questions shall be included with the Pretrial Stipulation.

(i) A **Final Trial Status Report** will be due on or before _____, the Wednesday before the trial date. The final trial status report shall advise the Court of the following:

(1) that all exhibits have been exchanged or reviewed by the parties or counsel, and whether there are objections to any exhibit;

(2) that proposed jury instructions have been exchanged, discussed, and exceptions noted, with a copy submitted with the status report in the form required by paragraph (g) above; and

(3) whether there are any remaining evidentiary and/or legal issues for the Court to resolve prior to jury selection and opening statements.

(j) Additional instructions are attached to this Order.

(k) 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.

Dated: _____

Judge Danielle J. Brennan

ADDITIONAL INFORMATION AND PROCEDURES

Substitution of counsel. Please notify the Court if a Notice of Substitution of Counsel is filed.

Settlement Negotiations. The parties are required actively to engage in settlement discussions and determine whether the matter may be resolved in accordance with Civil Rule 16. **In the event the case settles, Plaintiff's Counsel shall notify chambers immediately by e-mail to Alicia Maxwell at Alicia.Maxwell@delaware.gov and civil case manager Shane DeLoatch at Shane.Deloatch@delaware.gov.**

Interim Status Report. The Interim Status Report is to be filed by Plaintiff(s)'s Counsel with a copy to the assigned Judge. 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 mandatory 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 will be scheduled by obtaining a date and time from Judge Brennan's Chambers which can be reached at **255-2306**. The original motion, the response and any reply thereto shall be filed with the Prothonotary's Office with **two courtesy copies (with exhibits) delivered to Judge Brennan in chambers**. Responses are due 21 business days after the motion is filed. A reply brief may be filed within 5 days after the response. The motion and response shall not exceed 8,000 words, and shall have a notice page indicating the date and time of the motion hearing. The reply shall not exceed 5,500 words, unless permission previously has been granted to exceed that word limit. Further briefing on the motion will be as ordered by the Court.

Routine Civil Motions. Judge Brennan's routine civil motions are on Tuesday at 10:00 a.m. Motions must be filed **no less than ten (10) days** before the noticed presentation date with **two courtesy copies (with exhibits) delivered to Judge Brennan in chambers**. Responses are due **no later than** the Wednesday before the motion's hearing, with **two courtesy copies of a response (with exhibits) delivered to Judge Brennan in chambers**. If no response is timely filed, the Court may deem the motion unopposed, grant the motion before the hearing, and so notify the parties. A **Motion to Continue a Trial Date** is filed as a routine motion. The Court **strongly** discourages requests for relief submitted in the form of letters or emails. Such requests should be made by motion.

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

Please refer to the Court's Judicial Preferences page at http://courts.delaware.gov/superior/judgespref/judges_pref_jbrennan.aspx and to the New Castle County Civil Case Management Plan for further guidance.