

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

,
Plaintiff,
v.
,
Defendant.

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) C.A. No. N C- - PAW
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TRIAL SCHEDULING ORDER

The Court hereby enters the following Order in the above-captioned case:

1. **Motions to Add or Amend.** Such motions are to be filed no later than

_____.

2. **Discovery.**

a. Plaintiff's Expert Report (or Rule 26(b)(4) Disclosure(s))

Deadline: _____.

b. Defendant's Expert Report (or Rule 26(b)(4) Disclosure(s))

Deadline: _____.

c. Plaintiff's Rebuttal Expert Report (or Rule 26(b)(4)

Disclosure(s)) Deadline: _____.

d. Discovery Cut-Off: All discovery is to be initiated such that it
will be completed by _____.

3. **Mandatory ADR.**

a. ADR is to be conducted on or before _____.

b. 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 Court upon written application. 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.

4. An **Interim Status Report** will be due no more than 14 days after ADR has been conducted. The interim status report will be submitted pursuant to the Additional Instructions and Procedures attached to this Order.

5. **Dispositive Motions Deadline.** Dispositive motions are to be filed no later than _____. Responses are due 14 business days after the motion is filed. A reply brief may be filed within 5 business days after the response. Dispositive motions shall be noticed to be heard at the convenience of the Court.

6. **Daubert Motions.** Daubert motions are to be filed no later than _____. Daubert motions must include all supporting authority with the motion. Responses (with all supporting authority) are due 7 business days after the motion is filed. Daubert motions shall be noticed to be heard at the convenience of the Court unless otherwise approved.

7. **Motions *in Limine*.**

a. Motions *in Limine* are to be filed no later than _____. Motions *in Limine* must include all supporting authority with the motion. **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 filing of the motion *in limine*. Failure to file a timely Response may result in the Court deeming the motion as unopposed.**

b. Motions *in Limine* shall be noticed for presentation at the Pretrial Conference and will be resolved (if appropriate) 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.

8. **Joint Pretrial Stipulation and Pretrial Conference.**

a. The Pretrial conference shall be held on _____ at _____**.m.**, the Court will hold a Rule 16(b) pretrial conference. **Trial Counsel must attend the pretrial conference.**

b. The completed Joint Pretrial Stipulation must be filed with the Court on or before _____. **Failure to comply with this deadline may result in sanctions being imposed upon the responsible party or parties.** At least 15 days before the Joint Pretrial Stipulation submission deadline, Plaintiff's Counsel shall forward to Defendant's Counsel a draft of the Joint 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 the Plaintiff's draft and the information the Defendant proposes to include in the Stipulation. The proposed Stipulation shall, at a minimum, cover the matters set forth in Form 46 (pretrial stipulations) contained in the appendix of Superior Court Civil Rules.

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

10. **Jury Instructions.** Jury instructions must be submitted to the Court with the Pretrial Stipulation. 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 via digital media). 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. This order shall not prevent the parties from submitting additional proposed instructions that may be justified by the evidence presented at trial.

11. A **Final Trial Status Report** will be due on or before _____ (the Wednesday before the trial date). The final trial status report will be submitted pursuant to the Additional Instructions and Procedures attached to this Order.

12. **Trial.** A _____ jury trial in this matter is hereby scheduled to commence on _____, beginning at 9:00 a.m.

13. Additional instructions are attached to this Order. Please refer also to the Court's Judicial Preferences page and to the New Castle County Civil Case Management Plan for further guidance.

14. 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: _____

/s/ *DRAFT*
Judge Patricia A. Winston

ADDITIONAL INFORMATION AND PROCEDURES

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 Sydney Revell at Sydney.Revell@delaware.gov and Tykey Grimes at Tykey.Grimes@delaware.gov.

Interim Status Report. The Interim Status Report is to be filed by Plaintiff'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 Defendant counsel's consent to file or additional input to be included in the Report in sufficient advance of the submission deadline to ensure compliance with the deadline.

Final Trial Status Report. 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 there are no objections to any exhibit; (2) that proposed jury instructions have been exchanged, discussed, exceptions noted, with a copy submitted with status report in the form required by Paragraph (i) above; and (3) that the 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.

Case Dispositive Motions. Case dispositive motions will be scheduled *after all briefing is complete* by obtaining a date and time from Judge Winston's Chambers which can be reached at 255-2549. The original motion, the response, and any reply thereto shall be filed with the Prothonotary's Office. Courtesy copies of all motions and briefs must be sent to Chambers via **email** to Judge Winston's Administrative Specialist and Law Clerk, with a copy to all Delaware counsel of record. Courtesy copies should not be emailed until the filing is accepted by the Prothonotary. The cover page of the courtesy copies should have the File & Serve Transaction ID Number printed on it. Further briefing on the motion will be as ordered by the Court. *Motions for Default Judgment may be heard on the routine calendar.*

Civil Routine Motions. Judge Winston's civil routine motions are heard on Wednesdays at 9:00 a.m. Contrary to Paragraph IV of the NCC Superior Court Civil Case Management Plan, in Judge Winston's cases: (1) routine Motions must be filed no less than 15 calendar days prior to the noticed date and (2) responses are due no later than 7 calendar days after the filing of the motion. If no response is timely filed, the Court may deem the motion as 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. All 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_jwinston.aspx and to the New Castle County Civil Case Management Plan for further guidance.