

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

	,
	<b>Plaintiff,</b>
<b>v.</b>	
	,
	<b>Defendant.</b>

**C.A. No. \_\_\_\_\_ PAW CCLD**

**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 this 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 this Case Management Order or any amendment thereto, the Superior Court Civil Rules, CCLD Standing Orders, and Judge Winston's web-published judicial preferences shall apply.

#### **D. ADDITION OF PARTIES; AMENDMENTS OR SUPPLEMENTS OF PLEADINGS**

Motions seeking to join other parties and motions to amend or supplement the pleadings must be filed and served on or before \_\_\_\_\_. In the event a new party is added or an amendment or supplement to the Complaint is made, the parties shall meet and confer in good faith to discuss any appropriate extensions to the deadlines for written discovery, the production of documents, the exchange of privilege logs, the deadline for factual discovery, and any other deadlines, as they relate to the newly added party, amendment or supplement.

### **II. LEXIS/NEXIS E-FILEING 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 August 12, 2003, 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. **Third-Party Subpoenas.** The parties are permitted to serve third-party subpoenas until \_\_\_\_\_. Any party that receives documents in response to its issuance of a subpoena shall produce such documents to all other parties within three business days of the party's receipt of such documents, except where such documents require privilege review.

3. **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 \_\_\_\_\_.

4. **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 Stipulation and Order Governing the Production and Exchange of Confidential Information entered in this case. The Court will determine any issues not resolved by the parties.

**B. FACT DEPOSITIONS**

1. Each party will be limited to taking no more than \_\_\_\_\_ fact depositions, unless extended by agreement or Court order. Each deposition shall be limited to seven hours unless extended by agreement or Court order. Depositions of a corporate designee(s) pursuant to Superior Court Civil Rule 30(b)(6) shall be permitted, and every seven hours of corporate designee testimony shall count as one deposition.

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 after \_\_\_\_\_, 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.

**E. DISCOVERY MAGISTRATE**

Upon application of any party or upon the Court's *sua sponte* determination for need, the Court may issue an Order of Reference to a Special Magistrate or Commissioner, who shall thereafter handle all matters referred to in that Order of Reference.

**IV. MEDIATION**

Mediation is mandatory in this case and is to be conducted no later than \_\_\_\_\_. The parties should notify the Court in writing of the date of the scheduled mediation. The parties may be excused from this deadline only by order of the Court. **All** parties necessary for decision making/case resolution must attend and participate in the mediation in good faith, unless expressly excused by the mediator. Representatives of all affected insurers with authority up to policy limits must also be present. Neither the fact nor the result of the mediation shall be admissible at trial. The mediation proceedings shall not be transcribed unless specifically authorized by the Court for good cause shown.

**V. DISPOSITIVE MOTIONS DUE**

Dispositive motions may be filed on or before \_\_\_\_\_. Any response to a dispositive motion is due no later than thirty days after the filing of the dispositive motion and briefing and further proceedings on dispositive motions are to proceed in accord with Section VII-A of this Order.

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

### **A. TRIAL DATE**

The trial of this Action shall begin on \_\_\_\_\_, at \_\_\_\_\_ a.m., and continue for \_\_\_\_\_ days, if necessary.

### **B. PRETRIAL STIPULATION AND ORDER AND PRETRIAL CONFERENCE**

1. On or before \_\_\_\_\_, the parties collectively shall 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.

2. Immediately following the exchange of the proposed Pretrial Stipulation and Order, the parties shall meet and confer in an attempt to reach an agreement on a final Pretrial Stipulation and Order. On or before \_\_\_\_\_, the parties shall submit to the Court a proposed Pretrial Stipulation and Order. In the event the parties cannot reach agreement on all the terms of the Pretrial Stipulation and Order a single proposed order shall be filed and any areas of disagreement shall be appropriately noted in the one proposed order submitted.

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

## **VII. MOTIONS PRACTICE**

### **A. DISPOSITIVE MOTIONS**

1. **Time of Hearing.** All dispositive motions shall be heard at the Court's convenience. After all papers have been submitted, Counsel must obtain possible dates and times for hearing of such motions from Judge Winston's Administrative Specialist. The parties shall agree upon a proposed date and time and notice the motion accordingly.

2. **Opening Brief on a Dispositive Motion.** Each dispositive motion shall be accompanied by 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 business days after service of the motion or opposition and does not exceed 750 words that comply with the typeface requirement of Superior Court Civil Rule 107(b), exclusive of appendices.

3. **Answering Brief on a Dispositive Motion.** 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 the later of thirty days after any service of the motion, or thirty days after any defendant files a separate joinder or brief adopting or supporting a motion or opposition of another defendant.

4. **Reply Brief on a Dispositive Motion.** A reply brief on a dispositive motion shall be filed fourteen days after responses are filed.

5. **Formatting of Dispositive Motion Briefs.** All briefs on dispositive motions shall conform to the requirements of Superior Court Civil Rule 107.

**B. DISCOVERY AND OTHER MOTIONS.**

As for a discovery motion or any motion other than a dispositive motion or motion in limine, such motion shall be a “speaking motion” limited to 2,500 words that comply with the typeface requirement of Rule 107(b) and shall be noticed for presentation on one of the Court’s routine motions calendars (Wednesdays at 9:00 a.m.) unless the Court orders a different hearing date. Absent leave of the Court, all discovery and other motions shall be filed no less than fifteen calendar days prior to the noticed hearing date; responses shall be filed no later than seven

calendar days after the filing of the motion and in no case later than the Wednesday prior to the motion’s hearing—such responses shall also be limited to 2,500 words; and no reply submission shall be filed. If the case is referred to a special discovery magistrate, then a modified protocol for discovery motion practice may be entered.

**C. 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 \_\_\_\_\_. Each motion in limine shall be a “speaking motion” limited to 2,500 words that comply with the typeface requirement of Rule 107(b) and shall be noticed for presentation at the Pretrial Conference. The response to a motion in limine is also limited to 2,500 words.

**D. LETTERS**

A letter to the Court shall not exceed 1,000 words. Parties should use letters only to provide updates to the Court or to address logistical, scheduling, and other ministerial issues. Letters shall not be used to request substantive relief.

**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 \_\_\_\_\_, 20\_\_.

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**Patricia A. Winston, Judge**