

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

,	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
	)	
	)	
Defendant.	)	C.A. NO.: N C- - EMD CCLD
	)	
	)	JURY TRIAL OF TWELVE
	)	DEMANDED
	)	

**CASE MANAGEMENT ORDER**

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

**I. GENERAL**

**A. Application**

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

**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, 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.

**E. ADR:**

ADR will be conducted by \_\_\_\_\_. The parties will notify the Court in writing of the date of the scheduled ADR, and will file an interim status report with the Court within 14 days after ADR has been conducted to advise the Court of the ADR's outcome.

**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 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. Document production shall be rolling. The parties shall begin rolling production of responsive documents by \_\_\_\_\_, 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, and shall be completed by \_\_\_\_\_ following the completion of document production.

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.

4. **E-Discovery Plan** - Within 45 days of the submission of this order, the parties shall meet and confer concerning the discovery of electronically stored information that is reasonably likely to be sought in the proceeding as set forth in the court's E-Discovery Plan guidelines.

## **B. Fact Depositions**

1. Each party will be limited to taking 14 fact depositions, unless the Court for good cause extends that limit. Each deposition shall be limited to seven (7) hours unless extended by agreement or Court order.

2. Fact depositions may be noticed for deposition on or after \_\_\_\_\_ so as to be completed by \_\_\_\_\_.

## **C. Fact Discovery Cut-off**

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

## **D. Expert Discovery**

1. Opening expert reports shall be due on or before \_\_\_\_\_.

2. Rebuttal expert reports shall be due on or before \_\_\_\_\_.

3. Expert discovery shall end on \_\_\_\_\_.

4. The parties agree that the provisions of Exhibit A.2 (CCLD Expert Discovery Protocol) shall govern, except where Exhibit A.2 is in conflict with the Superior Court Civil Rules or this Case Management Order. Where there is a conflict, the Rules and this Case Management Order shall govern.

## **IV. MOTIONS**

### **A. Dispositive Motions**

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

2. 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.

3. Other dispositive motions (e.g., summary judgment) with opening briefs may be filed on or before \_\_\_\_\_. Opposition briefs may be filed within **30 days** after the filing of the dispositive motion. Reply briefs may be filed within **15 days** after the filing of the opposition brief.

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

### **C. Expert Motions**

1. Motions concerning expert testimony, if any, shall be filed by \_\_\_\_\_, and all responses to those motions shall be filed no later than \_\_\_\_\_.

#### **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 \_\_\_\_\_.

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

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

The trial of this Action shall begin on \_\_\_\_\_ at **9:30 a.m.**, and continue for \_\_\_\_\_, if necessary. Jury selection will be conducted on \_\_\_\_\_.

#### **B. Jury Questionnaire**

To expedite the selection of jurors who will be able to serve for as long as two (2) weeks (10 trial days), 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.

3. On or before \_\_\_\_\_, the parties shall submit to the Court the following:

- a. a proposed Pre-Trial Stipulation and Order;
- b. a set of joint-proposed jury instructions which shall include a proposed special verdict sheet; and
- c. any special interrogatories.

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. One hard copy AND an electronic copy in Microsoft Word format of the proposed jury instructions shall be delivered to Chambers via my assistant at [Lisa.Iannelli@state.de.us](mailto:Lisa.Iannelli@state.de.us).

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

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.

**IT IS SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Eric M. Davis, Judge