

This is the sample scheduling stipulation for a cross-motion for summary judgment referenced in Section C(5)(d)(iii) (“Scheduling Stipulations”), page 15 of the Guidelines on Best Practices for Litigating Cases Before the Court of Chancery. It should be modified to fit the circumstances and used in conformity with the Guidelines.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

_____,)
)
Plaintiff,)
)
v.) C.A. No. ____ - ____
)
_____,)
)
Defendant.)

STIPULATION AND [PROPOSED] ORDER GOVERNING BRIEFING ON CROSS-MOTIONS FOR SUMMARY JUDGMENT

WHEREAS, Defendant filed its Motion for Summary Judgment on _____, 20__;

[WHEREAS, the parties agree that the Complaint presents solely legal issues that should be decided on a paper record without further discovery pursuant to Court of Chancery Rule 56(h);]

WHEREAS, Plaintiff intends to file a cross-motion for summary judgment promptly; and

WHEREAS, the parties have discussed establishing a briefing schedule to govern the above-captioned action;

IT IS HEREBY STIPULATED AND AGREED, by the parties hereto, through their undersigned counsel, subject to the approval of the Court, that the following schedule shall govern their cross-motions for summary judgment:

1. Defendant's Opening Brief in Support of its Motion for Summary Judgment and any supporting affidavit(s) shall be filed and served on or before _____, 20__;

2. Plaintiff's Combined Answering Brief in Opposition to Defendant's Motion for Summary Judgment and Opening Brief in Support of its Cross-Motion for Summary Judgment and/or any supporting or opposing affidavit(s) shall be filed and served on or before _____, 20__;

3. Defendant's Reply Brief in Support of its Motion for Summary Judgment and Answering Brief in Opposition to Plaintiff's Cross-Motion for Summary Judgment and/or any supporting or opposing affidavit(s) shall be filed and served on or before _____, 20__.

4. Plaintiff's Reply Brief in Support of its Motion for Summary Judgment and any supporting affidavit(s) shall be filed and served on or before _____, 20__.

5. Counsel for the parties will contact the Court to schedule oral argument after Defendant files its Reply Brief.

[COUNSEL]
Attorneys for Plaintiff

[COUNSEL]
Attorneys for Defendant

SO ORDERED this _____ day of _____, 20__.

[Vice] Chancellor