

This is the sample case scheduling stipulation for a plenary action 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,)
) C.A. No. _____ - ____
 v.)
)
_____,)
)
 Defendant.)

**STIPULATION AND [PROPOSED]
ORDER GOVERNING CASE SCHEDULE**

WHEREAS, Plaintiff filed its Verified Complaint on _____, 20__;
and

WHEREAS, the parties have discussed and agreed upon the proposed
schedule and ancillary issues as set forth below;

IT IS HEREBY STIPULATED AND AGREED, by the parties hereto, through
their undersigned counsel, subject to the approval of the Court, as follows:

1. The following schedule shall govern the proceedings in this matter:
 - (a) Parties substantially complete document _____, 20__
production
 - (b) Exchange of privilege logs _____, 20__
 - (c) Fact depositions (party and third-party) Between _____,
20__, and _____,
20__

- (d) Completion of fact discovery, including depositions (except for any fact discovery subject to a motion to compel or motion for protective order pending on this date) _____, 20__
- (e) Identification of Expert Witnesses and general subject matter of expert testimony _____, 20__
- (f) Exchange of Opening Expert Reports and production of all materials relied upon by Experts and not produced previously by the parties _____, 20__
- (g) Exchange of Rebuttal Expert Reports and production of all materials relied upon in Rebuttal Expert Reports and not produced previously by the parties _____, 20__
- (h) Completion of expert discovery, including expert depositions (except for any expert discovery subject to a motion to compel or motion for a protective order pending on this date) _____, 20__
- (i) Identification of trial witnesses (including adverse and third-party witnesses and experts) _____, 20__
- (j) Filing of motions *in limine*, if any. Opposition briefs to be filed 10 days after filing of motion; reply briefs to be filed 5 days thereafter _____, 20__
- (k) Parties' joint submission of a Joint Exhibit List _____, 20__
- (l) Simultaneous filing of Pre-Trial Opening Briefs _____, 20__

- (m) Plaintiff provides initial draft of the Pre-Trial Order _____, 20__
- (n) Defendant provides draft of the Pre-Trial Order _____, 20__
- (o) Simultaneous filing of Pre-Trial Answering Briefs _____, 20__
- (p) Parties' joint submission of Pre-Trial Order _____, 20__
- (q) Pre-trial conference _____, 20__ at _:___
_.m. via telephone to be
initiated by Plaintiff
- (r) Trial _____, 20__ in
_____, Delaware
commencing at _:___m.

2. The parties agree to meet and confer promptly regarding a confidentiality agreement, search terms, custodians, the form of production of electronically stored information and arrangements for any discovery to be taken from the parties' agents and advisors.

3. Production of documents shall commence on a rolling basis upon receipt of requests for production. For purposes of the substantial completion of document discovery, as referenced in Paragraph 1(a) above, each party will use its best efforts to serve all document requests and subpoenas prior to _____, 20__ , and each party will substantially complete production by _____, 20__ of documents responsive to requests or subpoenas served prior to _____, 20__.

4. Prior to production, the parties shall use their best efforts to de-duplicate any electronic material collected (including identical material transmitted between or among multiple custodians). All documents produced shall be produced in electronic form, in accordance with specifications agreed upon by the parties.

5. Privilege logs need not include privileged documents created or sent after the date the litigation was filed.

6. Depositions shall be taken on reasonable notice, and the parties shall work together in good faith on the scheduling of depositions.

7. Any party intending to file a motion for summary judgment shall file a letter no longer than five pages, double-spaced, setting forth the factual and legal bases for the motion. Within five business days after the filing of such a letter, the party against whom summary judgment would be sought may submit a response no longer than five pages, double-spaced, stating why leave to move for summary judgment should be denied. The Court will then determine whether to grant leave to file a motion for summary judgment. If leave is granted, the Court will further determine whether the trial dates should be removed from the calendar to permit time to resolve the summary judgment motions.

8. Any witness for trial pursuant to subparagraph 1(i) who has not previously been deposed in this action shall be made promptly available for deposition. Following the identification of trial witnesses, any party may designate additional party witnesses for trial only upon motion to the Court.

9. The parties shall work together to create a single set of trial exhibits without duplication, organized chronologically to the extent practicable, and to cite to them in their pre-trial briefs.

10. The parties may amend the dates set forth in subparagraphs 1(a)-(i), and (l)-(n), of this Order by written agreement, without Court approval. All other deadlines, the pre-trial conference date, and the trial date may be amended only by order of the Court.

[COUNSEL]
Attorneys for Plaintiff

[COUNSEL]
Attorneys for Defendant

SO ORDERED this _____ day of _____, 20__.

[Vice] Chancellor