

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

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)	
Plaintiff,)	C.A. NO. N22C-00-000 SSA
)	
v.)	
)	NON JURY TRIAL
)	
)	
)	
Defendant.)	

TRIAL SCHEDULING ORDER

The Court hereby enters the following Order:

- a. **TRIAL: A JURY TRIAL** is scheduled to commence on _____ **at 9:30a.m.**

The Court has set aside _____ days for trial.

- b. **Filing of Motions to Add a Party or Amend a Pleading** shall be filed no later than _____.

- c. **Discovery.**

(1) Plaintiff's Expert Report (or Rule 26(b)(4) Disclosure) Deadline is _____.

(2) Defendant's Expert Report (or Rule 26(b)(4) Disclosure) Deadline is _____.

(3) Plaintiff's Rebuttal Expert Report (or Rule 26(b)(4) Disclosure) Deadline is _____.

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

- d. **Mandatory ADR** is to be conducted by no later than _____. 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.
- e. An **Interim Status Report** shall be submitted no more than 14 days after ADR has been conducted. Among other issues, the parties shall advise the Court of the outcome of mandatory ADR.
- f. **Motions.**
- (1) **Dispositive Motions** shall be filed by no later than _____. Responses are due 14 business days after filing. Additional information and procedures pertaining to dispositive motions are attached.
- (2) **Motions *in Limine*** (including *Daubert* motions, or any motion to exclude all or part of a witness's testimony) shall 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.

- (3) **Routine Motions** shall be noticed for Judge Augusthy's Routine Civil Motions calendar (Tuesdays at 9:00 a.m.) in accordance with information and procedures attached to this Order.

- g. **Pretrial Stipulation and Pretrial Conference.** At least 15 days before the pretrial conference, Plaintiff's Counsel shall forward to Defendant's Counsel a draft of the Pretrial Stipulation with the information Plaintiff proposes to include. 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. The proposed Order shall, at a minimum, cover the matters set forth in Form 46 (pretrial stipulations) contained in the appendix of Superior Court Civil Rules. Counsel shall indicate in the Pretrial Stipulation whether any motions *in limine* have been filed and the evidentiary issue sought to be resolved. The completed Pretrial Stipulation must be received by the Court on or before _____. Failure to comply with this deadline may result in sanctions being imposed upon the responsible party or parties. On _____, at ____ a.m./p.m., the Court will hold a pretrial conference via Courtscribes. **Trial Counsel *must* attend the pretrial conference.**
- h. **Special *voir dire*.** Counsel shall submit to the Court any special *voir dire* questions a party proposes to be asked of the jury panel. All proposed special *voir dire* questions shall be included with the Pretrial Stipulation.

- i. **Trial Fee.** The trial fee shall be paid no later than the date of the pretrial conference. If the trial fee is not paid within two business days of the pretrial conference, the case will be removed from the Court's trial calendar. A new trial date will be scheduled upon payment of the trial fee.
- j. **Jury Instructions.** Jury instructions shall be submitted to the Court by not later than _____. Counsel shall consult among themselves and attempt to agree upon appropriate jury instructions. Plaintiff's counsel shall provide the Court an agreed-upon set of instructions (both hard copy and in Microsoft Word (.docx) format to Kimberly.Henson@Delaware.gov). 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 their 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.
- k. A **Final Trial Status Report** shall be submitted by no later than _____, the Wednesday before the trial date. 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 the status report in the form required by paragraph (i) above; and
 - (3) that any request for special *voir dire* has been reviewed by the opposing party and there are no exceptions or objections, and that a copy of the requested special *voir dire* is attached to the letter

notifying the Court of the status; and

- (4) that the parties and counsel agree there are no remaining evidentiary or legal issues for the Court to resolve prior to jury selection and opening statements.
- l. 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.
- m. Counsel are advised that all the deadlines established by this Trial Scheduling Order are firm. Failure to meet these deadlines, absent good cause shown, may 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 using the form included under Judge Augusthy's preferences.

Dated: _____

Judge

ADDITIONAL INFORMATION AND PROCEDURES

Settlement Negotiations. The parties are required to actively 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 Kimberly.Henson@Delaware.gov.**

Interim Status Report. The Interim Status Report is to be filed by Plaintiff's Counsel with a copy to the Judge's chambers. The interim report shall 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 defense counsel's consent to form or additional input to be included in the Report sufficiently in advance of the submission deadline to ensure compliance with the deadline.

Case Dispositive Motions. Counsel shall notice dispositive motions by obtaining a date and time from Judge Augusthy's Chambers by emailing **Kimberly.Henson@Delaware.gov**. The original motion and the response thereto shall be filed with the Prothonotary's Office with **one courtesy copy (with exhibits) delivered to Judge Augusthy in chambers**. The response is due no later than fourteen 14 days (excluding weekends and holidays) after the filing of the motion. The motion and the response shall not exceed 6 pages in length and shall have a notice page indicating the date and time of the motion hearing. Further briefing on the motion will be as ordered by the Court.

Routine Civil Motions. Judge Augusthy's routine civil motions are heard on Tuesdays at 9:00 a.m. Motions must be filed **no less than 15 calendar days** prior to the noticed presentation date with **one courtesy copy (with exhibits) delivered to Judge Augusthy in chambers**. Responses are due **no later than 7 calendar days** after the filing of the motion, with **one courtesy copy of a response (with exhibits) delivered to Judge Augusthy in chambers**. If no response is timely filed, the Court may deem the motion unopposed, grant the motion before the hearing, and so notify the parties. A **Motion to Continue a Trial Date** shall be filed as a routine motion and must include the position of each other party or otherwise represent that opposing counsel or a self-represented party could not be reached. The Court strongly discourages requests for relief submitted in the form of letters or emails. Such requests should be made by motion.

Pretrial Conference. Trial Counsel *must* attend the pretrial conference.

Please refer to the Court's [Judicial Preferences page](#) and to the New Castle County Civil Case Management Plan for a fuller explanation of these procedures and further guidance.

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