

**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter _____
	)	
Debtor(s).	)	Case No. _____ (JKS)
_____	)	
	)	
Plaintiff(s),	)	
	)	
v.	)	Adv. Pro. No. _____ (JKS) <sup>1</sup>
	)	
Defendant(s).	)	
_____	)	

**FORM OF FINAL PRETRIAL ORDER**

This matter comes before the Court at a final pretrial conference held pursuant to Rule 16 of the Federal Rules of Civil Procedure, incorporated by Rule 7016 and, if applicable, Rule 9014(c) of the Federal Rules of Bankruptcy Procedure.

**I. Identity of the Parties**

A. Plaintiff(s):

Plaintiff(s) Counsel: [List name, address, telephone number and email address]

B. Defendant(s):

Plaintiff(s) Counsel: [List name, address, telephone number and email address]

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<sup>1</sup> [**Note:** This order may be modified to reflect whether this pretrial order is in a contested matter or an adversary proceeding. For example, “plaintiff” may be substituted for “movant” or “Debtor” and “defendant” with “nonmovant,” and the caption may be suitably modified. Moreover, where a third-party defendant is joined pursuant to Fed. R. Civ. P. 14, incorporated by Fed. R. Bankr. P. 7014 and, if applicable 9014(c), the pretrial order may also be suitably modified.]

## **II. Nature of the Case**

[The parties should prepare a brief statement of the nature of the case including the claims of the parties.]

## **III. Jurisdiction**

A. Subject Matter Jurisdiction: [Include a statement whether each matter is core or noncore. If a matter is noncore, the Parties shall state whether they consent to the Court's entry of a final order pursuant to 28 U.S.C. § 157(c)(2). If the Parties disagree, they shall each cite to relevant authority to support their positions.]

B. Personal Jurisdiction: [If contested, the Parties must include a statement, and cite supporting authorities, as to personal jurisdiction over each defendant.]

## **IV. Statement of Uncontested Facts**

A. The following facts are undisputed and have been agreed to and stipulated by the Parties:

[This section should contain a comprehensive statement of the facts which will become a part of the evidentiary record in the case.]

## **V. Statement of Disputed Facts**

A. The following facts are disputed:

[Identify the facts in issue, with a brief statement of what each party intends to prove in support of its claims and/or defenses. No facts should be disputed unless opposing counsel expects to present contrary evidence or genuinely challenges credibility.]

## **VI. Statement of Relief Sought or Damages Claimed**

[A Party seeking damages shall list each item claimed under a separate descriptive heading, provide a detailed description of each item, and state the amount of damages claimed.]

A Party seeking relief other than damages shall list the exact form of relief sought with precise designations of persons, parties, places and things expected to be included in any order providing relief.]

## **VII. Legal Issues**

A. The Parties agree and stipulate that the issues to be decided by the Court and the burdens of proof on each issue are as follows:

## **VIII. Witnesses**

A. Plaintiff's Witnesses: The Plaintiff expects to call the following witnesses:

- i. Expert witness [Area of expertise. Brief statement of evidence that witness will present.]
- ii. Non-expert witness [Brief statement of evidence that witness will present.]

B. Defendant's Witnesses: The Defendant expects to call the following witnesses:

- i. Expert witness. [Area of expertise. Brief statement of evidence that witness will present.]
- ii. Non-expert witness. [Brief statement of evidence that witness will present.]

C. Third Party Witnesses: [Third Party] expects to call the following witnesses:

[If there are any third parties to the action, they should include a list of witnesses as that contained in Parts A and B above.]

D. Witness Objections: The following witnesses are subject to objections:

[Identify all witnesses for whom there is an objection, the Federal Rule of Evidence in support of the objection and the Federal Rule of Evidence relied upon by the Party offering the witnesses.]

E. The Parties' lists of pages of deposition testimony that they intend to offer at trial is attached as Exhibit \_\_\_\_\_. The objections and counter-designations to the deposition designations, together with reply designations and objections to counter-designations, are attached as Exhibit(s) \_\_\_\_\_.

F. Rebuttal Witnesses: Each Party may call such rebuttal witnesses as may be necessary without prior notice thereof to the other Party.

## **IX. Exhibits**

A. List of Exhibits: A list of pre-marked exhibits, including designation of interrogatories, answers and responses to requests for admissions, which each Party intends to offer at the trial with a specification of those which will be admitted in evidence without objection, those that will be objected to and the Federal Rule of Evidence in support of the objection and the Federal Rule of Evidence relied upon by the proponent of the exhibit.

B. Any exhibit identified in any Party's exhibit list and not objected to in the list of objections is deemed to be admissible and may be entered into evidence by the listing Party.

## **X. Demonstrative Exhibits**

A. The Parties stipulate and agree that the following demonstratives may be used:  
[List each demonstrative and its intended use. Attach a copy of each demonstrative as an exhibit.]

## **XI. Estimated Length of Trial**

The Parties estimate the trial will require \_\_\_\_\_ hours.

## **XII. Motions *in Limine* and Trial Briefs**

A. Motions in *Limine*: Motions *in limine* shall not be separately filed. Any *in limine* requests shall be set forth, with citation to authorities and brief argument, in the proposed pretrial

order. Each party shall be limited to three *in limine* requests, unless otherwise permitted by the Court. Briefing shall not be submitted on *in limine* requests, unless otherwise permitted by the Court.

B. Trial Briefs: Any Party may, but is not required to, file a trial brief, no less than five (5) business days prior to trial. If filed, two (2) courtesy copies of each such brief shall be delivered to chambers contemporaneously with its filing. No trial brief shall be more than 30 double-spaced pages in length without leave of the Court.

**XIII. Additional Matters**

[List here any additional issues requiring resolution prior to trial.]

**IT IS SO ORDERED** that this Final Pretrial Order shall control the subsequent course of the action unless modified at the trial of the action, or prior thereto, to prevent manifest injustice, or for good cause shown. Such modification may be made either on application of counsel for the parties or by the Court.

Dated: \_\_\_\_\_

\_\_\_\_\_  
J. Kate Stickles  
United States Bankruptcy Judge

APPROVED AS TO FORM AND SUBSTANCE:

\_\_\_\_\_  
Attorney for Plaintiff(s)

\_\_\_\_\_  
Attorney for Defendant(s)