

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

[CAPTION]

PROPOSED FINAL PRETRIAL ORDER

This matter comes before the Court at a final pretrial conference held pursuant to Rule 7016 of the Federal Bankruptcy Rules.

Plaintiff(s) Counsel:

Defendant(s) Counsel:

I. State the Nature of the Case

(The parties should prepare a brief statement of the nature of the case including the claims of the parties.)

II. Jurisdiction

A. This is an action for:

(State the remedy sought, such as damages, injunctive or declaratory relief.)

B. The jurisdiction of the Court is not disputed (or, if the issue has not previously been raised, the basis on which jurisdiction is contested). If not disputed, state the statutory or other basis of jurisdiction.

C. This is a core/non-core proceeding if the matter is non-core, 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..

(Describe the basis for this assertion.)

III. Statement of Facts Which Are Admitted and Require No Proof

A. The following facts are not disputed or have been agreed to or 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.

IV. Statement of Facts Which Are in Dispute

A. No facts should be disputed unless opposing counsel expects to present contrary evidence on the point of trial, or genuinely challenges the fact on credibility grounds.

V. Agreed to Issues of Law

A. The parties agree that the following are the issues to be decided by the Court:

VI. Witnesses (Including those who will testify by deposition.)

A. List of names and addresses of witnesses in the order the plaintiff expects to call them, including experts:

1. Expert witnesses and their areas of expertise.
2. Non-expert witnesses.

B. List of witnesses in the order defendant expects to call them, including experts:

1. Expert witnesses and their areas of expertise.
2. Non-expert witnesses.

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

D. Identify any witnesses for whom there is an objection.

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 of the parties may call such rebuttal witnesses as may be necessary, without prior notice thereof to the other party.

VII. Exhibits

A. A list of pre-marked exhibits, including designations of interrogatories and answers thereto, request for admissions and responses, 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 said 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 attached is deemed to be admissible and may be entered into evidence by the party listing it.

VIII. Statement of Plaintiff's Intended Proofs.

A. States what the plaintiff intends to prove in support of its claim.

IX. Statement of Defendants' Intended Proofs.

A. States what the defendants intend to prove in support of their defenses.

X. Statement by Counterclaimants or Cross-Claimants.

If applicable.

XI. Amendments to Pleadings Desired by Any Party.

XII. Certification of Attempted Resolution of the Controversy

A. The parties certify that two-way communication has occurred between persons having authority in a good faith effort to explore the resolution of this controversy by settlement. No agreement has been reached.

XIII. Other Matters.

XIV. Damages

A. A statement of damages claimed or relief sought. A party seeking damages shall list each item claimed under a separate descriptive heading, shall 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.

XV. Motions *in Limine* and Trial Briefs

A. 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 five *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. Any party may, but is not required to, file a trial brief, no less than two (2) 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 25 double-spaced pages in length, without leave of the Court.

XVI. Limitations, Reservations and Other Matters

A. Length of Trial. The probable length of trial is _____ days.

IT IS 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: _____

KEVIN GROSS, U.S.B.J.

APPROVED AS TO FORM AND SUBSTANCE:

ATTORNEY FOR PLAINTIFF(S)

ATTORNEY FOR DEFENDANT(S)

NOTE: Where a third-party defendant is joined pursuant to Bankruptcy Rule 14(a), the pretrial order may be suitably modified. The initial page may be modified to reflect the joinder. List attorney's name, address, and telephone number.

(Revised January 4, 2011)