STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY

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PLAINTIFF,

Plaintiff/Counterclaim Defendant,

vs **SCHEDULING ORDER**

Case No. \_\_\_\_\_\_

DEFENDANT.

Defendants/Counterclaim Plaintiffs.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The parties held a scheduling conference pursuant to the Court’s meet and confer order. \_\_\_\_ appeared on behalf of the Plaintiff and \_\_\_\_\_\_\_\_ appeared on behalf of Defendant. The parties stipulate to the following deadlines and conditions for the litigation of the case, with each party reserving the right to move to amend this order for good cause or in the interest of justice.

IT IS ORDERED:

1. Plaintiff must pay the jury fee or give written notification of non-payment no later than \_\_\_\_\_\_. Defendant(s) must pay the jury fee or give written notification of non-payment no later than \_\_\_\_\_\_\_\_. The right to a jury trial is waived or otherwise forfeited if the fees are not timely paid. The trial date will be scheduled at the final pretrial conference.

2. Amended pleadings, including the addition of parties, must be accomplished by Plaintiff no later than \_\_\_\_\_\_\_ and by Defendant by \_\_\_\_\_\_\_\_. In the event that a party is added and the appropriate fee paid, a copy of this scheduling order along with any additional pleading must be served on the added party(ies).

3. The party bearing the burden of proof on a claim or counterclaim must provide in writing to the court and the opposing parties: (1) the names and addresses of all lay witnesses along with a brief statement of his/her anticipated testimony; and (2) an itemized statement of damages claimed, including, if applicable, any special damage claims and permanency, no later than \_\_\_\_\_\_\_\_. Responsive disclosures must be made no later than **\_\_\_\_\_\_\_\_\_**. The party bearing the burden of proof on a claim or counterclaim must serve the names, addresses, and resumes for each expert named, along with a written report specifying all opinions to be offered, by \_\_\_\_\_\_\_\_\_. All expert disclosures and reports in response to those named above must be named by \_\_\_\_\_\_\_. Any rebuttal expert or rebuttal expert opinion must be disclosed no later than \_\_\_\_\_\_\_\_. Witnesses not timely named and described will be precluded from testifying as witnesses at trial, except for good cause shown.

4. Summary judgment and other dispositive pretrial motions must be filed no later than \_\_\_\_\_\_\_\_\_. Unless otherwise ordered by the Court, responding party has 30 days from service of the movant’s motion and supporting documents to serve and file a response brief and supporting documents, or waiver in writing; movant has 14 days from service of a response brief and supporting documents to serve and file a reply brief limited to matters in reply to the response brief. All submissions must comply with Civ. L. Rule 3.3. Parties are encouraged to file a joint scheduling order for the briefing of summary judgment and other significant motions.

5. Any motion pursuant to Wis. Stats. § 901.04 to allow (out of the ordinary experts) or to challenge the admission of expert testimony must be filed by \_\_\_\_\_\_\_, unless a stipulation is filed by the parties which resolves such issues. The motion must be accompanied by an offer of proof and a written basis for the requested relief.

6. Discovery must be completed by all parties twenty (20) days prior to the scheduled final pretrial in accordance with Civ. L. Rule 2.8. In the event the trial date is rescheduled or a second final pretrial conference is scheduled, **discovery is not reopened without permission of the Court**. At this time, the parties agree to the provisions in Civ. L. Rule 2.5, but the parties reserve their right to pursue additional discovery pursuant to Civ. L. Rule 2.5(3). Any motion to compel discovery must comply with Civ. L. Rule 2.7. Pursuant to Wis. Stat. § 804.12(1)(c), the Court will award the successful party its expenses, including attorneys fees, incurred relating to the motion, unless the losing party convinces the Court that an award of expenses would be unjust.

7. Mediation is ordered by the Court. The Court appoints **\_\_\_\_\_\_\_\_\_\_\_** as mediator, but the parties may agree upon a different mediator. Within 90 days from the date of this scheduling order, the parties must participate in a discovery conference with the mediator pursuant to Civ. L. Rule 2.1. The Court expects the parties and the mediator to address the discovery to be completed prior to mediation, to identify any contemplated motions that may impact the scheduling of mediation, and to secure a date for mediation on the mediator’s calendar. Fees and expenses of mediation will be divided equally between the parties unless otherwise ordered by the Court. The parties and their attorneys must be personally present for mediation, unless approved by the Court. Each corporate party must be represented by an individual with decision-making authority to negotiate a resolution in this matter, or such person with decision-making authority must be immediately available to the mediator during the mediation. In the event a party appears without full authority to negotiate a resolution, the party may be ordered to pay all costs of the mediation. The ordered mediation must be completed no later than 20 days prior to the final pretrial conference unless approved by the Court.

8. Copies of all documents and evidence to be used at trial must be identified and made available to the opposing party(ies) no later than 48 hours prior to the final pretrial conference. All exhibits must be premarked. Plaintiff is to use exhibit numbers 1-99 and Defendant is to use exhibit numbers 100 – 199, or an agreed upon and consistent protocol to prevent duplicate numbers. Exhibits are to be filed with the Court pursuant to Civ. L. Rule 4.4.

9. A final pretrial conference is set on \_\_\_\_\_\_\_ **at \_\_\_\_ a.m. in Room \_\_\_\_**. The attorney(s) who will actually try the case must be present. The party must also personally appear unless the attorney has full authority to act for the party. If the party cannot be personally present, the party must be reasonably available by phone. The parties must be prepared to discuss the scheduling of any evidentiary depositions for use at trial, as well as the order of witnesses and the exchange of any final trial exhibits. If any party fails to appear at the final pretrial conference, the Court may enter an order dismissing the case or defaulting the party without further notice.

10. Pretrial Report: Each party must file with the Court a pretrial report no later than seven days prior to the final pretrial conference. The report must be signed by the attorney who will try the case or a party personally if not represented by an attorney. The pretrial report must include the following:

A. A detailed summary of the facts of the case, issues, theories of liability or defense, and evidentiary issues. The summary should not exceed two pages.

B. Identification of each trial witness, lay and expert, and a summary of anticipated testimony not exceeding one page per witness.

C. Exhibit List identifying each exhibit (except those to be used for impeachment only). In addition, each party must identify any objections (and the grounds therefor) to the admissibility of opposition exhibits.

D. An estimate of the probable length of the trial in half-day increments.

E. Designation of all depositions or portions thereof to be read into the record at trial as substantive evidence, unless used only for impeachment purposes.

F. **If a jury trial**, provide: (a) all proposed jury instructions, numbers only unless requesting modified or special instructions; (b) proposed special verdict form and (c) motion(s) in limine. A date to hear the motion(s) in limine will be set at the time of the final pretrial conference. The Court will order the parties to meet and confer to agree upon a special verdict and jury instructions.

G. **If a court/bench trial**, provide: proposed findings of fact and conclusions of law.

H. Certification that alternative dispute resolution occurred, including the mediator and the date(s) it occurred.

I. In addition to completing a report, parties are expected to confer and make a good faith effort to settle the case. Parties are also expected to arrive at stipulations that will save time during the trial. The pretrial report must itemize any stipulations.

11. The parties may stipulate to an extension of time limits in this order that will not affect dispositive motions or the final pretrial conference date. Other stipulations must be approved by the Court.

12.

**FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER IS CAUSE FOR IMPOSING SANCTIONS, INCLUDING THE DISMISSAL OF CLAIMS AND DEFENSES, THE EXCLUSION OF WITNESSES, AND MONETARY SANCTIONS.**