STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY

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

PLAINTIFF,

Plaintiff/Counterclaim Defendant,

vs **SCHEDULING ORDER**

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

DEFENDANT.

Defendants/Counterclaim Plaintiffs.

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

A scheduling conference in the above-entitled action was held before the Honorable \_\_\_\_\_\_\_\_\_\_\_ with

Atty. appearing on behalf of .

Atty. appearing on behalf of .

Atty. appearing on behalf of .

 .

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 outlining all opinions to be offered, by \_\_\_\_\_\_\_\_\_. All expert disclosures and reports in response to those named on \_\_\_\_\_\_\_\_ 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 \_\_\_\_\_\_\_\_\_. Movant must obtain a date set not less than 45 days from the filing of the motion and supporting documents; responding party has 30 calendar 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 7 calendar 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.

**COURTESY COPIES OF ALL SUM. JUDG. AND DISPOSITIVE MOTIONS & BRIEFS MUST BE DELIVERED TO THE COURT’S CLERK, either by First-Class Mail or hand-delivery the same day that the document is efiled.**

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 no later than \_\_\_\_\_\_\_ or 20 days before the final pretrial conference. In the event the above-captioned action is rescheduled from its original trial date, **discovery is not reopened without permission of the Court**. Any motion to compel discovery must comply with the Local Rules, and will not be heard unless accompanied by a statement in writing by the moving party that after consultation with the opposing party and sincere attempts to resolve their differences, the parties are unable to reach an agreement. 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/Settlement Alternative is ordered by the Court. The Court appoints **\_\_\_\_\_\_\_\_\_\_\_** as mediator, but the parties may agree upon a different mediator. 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, unless approved by the Court. Each corporate party must be represented by an individual with the authority to negotiate a resolution in this matter. 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/settlement alternative. The ordered settlement alternative 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 ten days prior to the final pretrial conference. All exhibits must be premarked. Plaintiff is to use exhibit numbers 1-999 and Defendant is to use exhibit numbers 1000 – 1999. They are NOT to be filed with the Court unless ordered to do so.

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.

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. **Copies of non-Wisconsin authorities cited in any brief (or letter briefs) need *not* be filed with the Clerk of Court as required under Local Rule 3.3.**

12. 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.

13.

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**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.**