

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
Plaintiff, : PRE TRIAL ORDER
-against- : _ CIV. ___ (PKL)
:
Defendants. :
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LEISURE, District Judge:

The parties having conferred among themselves and with the Court pursuant to Rule 16, Fed. R. Civ. P., now, therefore, the following statements, directions and agreements are adopted as the Pretrial Order herein:

1. NATURE AND JURISDICTIONAL BASIS OF ACTION:

[This paragraph should contain a statement of the nature of the case and the basis upon which the jurisdiction of the Court has been invoked by the plaintiff. In the event that any issues raised in any of the prior pleadings have been abandoned, or removed from the case by prior Order of the Court, that should be so stated here also.]

2. JURY OR NON-JURY STATUS:

[State whether any party has demanded a jury trial of all or any of the issues and, if so, whether that demand for jury trial is in any way contested.]

3. UNDISPUTED FACTS:

[This paragraph should contain, in as many subparagraphs as appear necessary, a statement of those facts which are stipulated to be true and as to which proof is accordingly unnecessary. If counsel so directs, such stipulation may contain the reservation that there is no concession as to the materiality or relevance of such stipulated facts.]

4. CONTENTIONS OF THE PARTIES:

[This paragraph should include the separate contentions of each party, including contentions by and against impleaded parties. Separate paragraphs should, of course, be used for the respective contentions of each party, each such subparagraph to be further subdivided as may appear necessary. Include all the claims for damages or for other relief asserted by plaintiff(s) in this action. If there are counterclaims and/or crossclaims, such claims must also be set forth.]

{7/15/96}

5. **ISSUES OF LAW:**

[This paragraph should contain a statement of the ultimate issues of law in the case, preferably in the form of a joint statement. Should the parties find themselves unable to agree as to a joint statement of the legal issues, each party may then set forth a separate statement of the issues as perceived by that party.]

6. **LISTS OF PROSPECTIVE WITNESSES:**

[This paragraph should contain the respective lists of all prospective witnesses, other than expert witnesses, on behalf of each party.]

7. **STATEMENT AS TO EXPERT WITNESSES:**

[This paragraph shall contain a listing of the expert witnesses, if any, that each party intends to present, together with a brief summary of each such expert's proposed testimony, consistent with the provisions of Rule 26(b)(4)(A)(i), Fed. R. Civ. P.]

8. **LISTS OF PROSPECTIVE EXHIBITS:**

[This paragraph should contain lists of the prospective Exhibits on behalf of each party. Each such Exhibit shall be identified appropriately by letter or number. In so listing the Exhibits, counsel shall use one asterisk (*) to denote Exhibits conceded to be genuine without concession of admissibility and two asterisks (***) to denote any Exhibits conceded to be admissible in evidence.

a. Plaintiff(s)' exhibits:

[List by number and description and by party if more than one.]

b. Defendant(s)' exhibits:

[List by letter and description. If double letter designations are required, the alphabetical designations shall be AA, AB, etc., and by party if more than one defendant.]

c. Third party exhibits:

[List by name, letter and description.]

[Copies of hospital records may be offered into evidence if authenticated by a letter or other certificate which purports to be that of the custodian of the records who certifies that the copy is true and complete.]

9. **SUBSEQUENT AMENDMENTS OF WITNESS OR EXHIBITS LISTS:**

[Under this caption, the following language should appear verbatim: "Absent the subsequent consent of all parties hereto, or the issuance of a subsequent Order by this Court so permitting, no witnesses or exhibits shall be presented at the trial of this case other than those listed in paragraphs 6, 7 and 8 hereof."]

{7/15/96}

10. **DEPOSITION TESTIMONY:**

[List by name of deponent, date of deposition, and page numbers of the transcript. All objections to the use of such testimony shall be noted by each party. A copy of deposition testimony shall be provided for the Court.]

11. **PREVIOUS SUBSTANTIVE MOTIONS.**

[List all previous motions to dismiss, for summary judgment, for separate trial of issues, for consolidation of cases, for change of venue, or for pendente lite relief and indicate the disposition or status thereof.]

12. **REQUESTED EVIDENTIARY RULINGS.**

13. **VOIR DIRE REQUESTS (JURY TRIALS ONLY).**

[Requested voir dire questions are to be submitted simultaneously with this order, under separate cover. All parties must submit requested voir dire in jury cases.]

14. **REQUESTS FOR JURY INSTRUCTIONS (JURY TRIALS ONLY).**

[Proposed jury instructions must be submitted for all jury trials. Each party is to submit requested jury charges simultaneously with this order, under separate cover. Case will not be placed on ready-trial calendar until requested jury charges are received.]

[Set forth in the submitted requests the following language: "All requests for jury instructions submitted herewith will be ruled upon by the Court. No additional requests will be entertained without leave of the Court."]

15. **TRIAL MEMORANDUM OF LAW.**

[Mandatory in all cases. Trial memos shall be submitted by each party simultaneously with this order, under separate cover. Ideally, a trial memo should be brief (about 10 pages) and cover questions of law that the party anticipates will arise at trial. Case will not be placed on ready-trial calendar until trial memos are received.]

16. **PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW (NON-JURY TRIALS).**

[Must be submitted in all nonjury cases. To be submitted under separate cover by each party simultaneously with submission of this order. Case will not be placed on ready trial calendar until proposals are received.]

17. **ESTIMATE AS TO TRIAL TIME:**

[This paragraph shall consist of a statement setting forth each party's estimate for the trial time of that party's portion of the case.]

18. **TRIAL TO BE BASED ON PRETRIAL ORDER:**

[This paragraph should contain the following language: "The trial of this case shall be based upon the pleadings herein except to the extent modified or limited by the terms of this Pretrial Order."]

19. **MODIFICATION OF ORDER:**

[The following language should appear verbatim: "IT IS ORDERED that the Court may, in order to prevent manifest injustice or for good cause shown, at the trial of the action or prior thereto, upon application of counsel for any party made in good faith, or upon the Court's own motion, modify this Pretrial Order to the extent that the Court may deem such modification to be just and proper."]

Dated: New York, New York
 Date

U.S.D.J.

Attorney(s) for Plaintiff(s)
(Address & Telephone Number)

Attorney(s) for Defendant(s)
(Address & Telephone Number)

Attorney(s) for Third-Party Defendant(s)
(Address & Telephone Number)