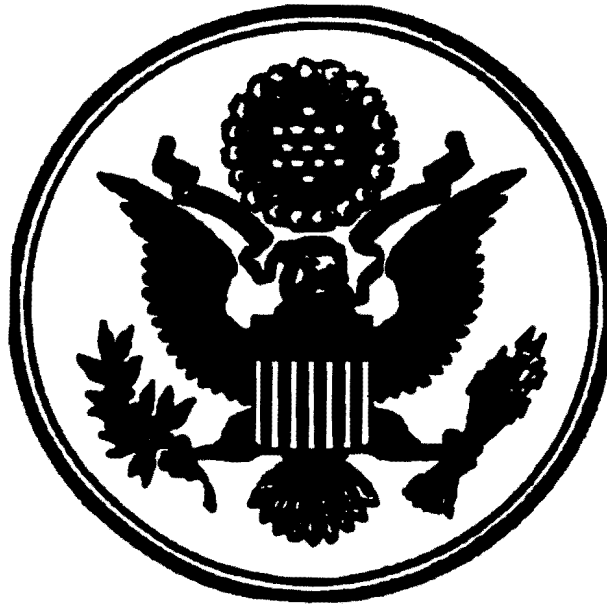


UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA



CIVIL JUSTICE EXPENSE AND DELAY
REDUCTION PLAN

Adopted October 18, 1993

Effective December 1, 1993

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

CIVIL JUSTICE REFORM ACT PLAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

COST AND DELAY REDUCTION PLAN

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

COST AND DELAY REDUCTION PLAN

The Advisory Group for this district has submitted its report to this court. Considering the report, this court adopts the following plan for reduction of cost and delay.

SECTION I. Differentiated Case Management (DCM).

- A. Introduction. "Differentiated Case Management" is a system providing for management of cases based on the characteristics of the individual case. Cases are divided into "tracks". Each track has procedures established for the most efficient and economical handling of that type case consistent with principles of justice. When a case is filed, the case is examined to determine the nature of the case and assigned to the appropriate track. If, during the life of the case, the nature of the case changes, it may be reassigned to another appropriate track. Nothing in the Differentiated Case Management system shall be interpreted to prevent any judge from opting out of any specific track or employing special procedures for the handling of any specific case.
- B. Establishment of Tracks. In this district the following case management tracks shall be established:

In Forma Pauperis Applications. This track shall consist of all original civil matters in which an application to proceed in forma pauperis is submitted. Existing cases in which an application to proceed further in forma pauperis is filed shall not be included in this track.

Uncontested. This track shall consist of all civil cases filed by the United States of America or any agency thereof for collection of obligations to the government such as student loan actions or foreclosures of mortgages.

Prisoner. This track shall include habeas corpus actions and all civil rights actions filed by prisoners involving conditions of confinement.

Social Security. This track shall include all appeals from decisions of administrative law judges in social security matters.

Accelerated. This track shall consist of civil non-jury cases requiring no live testimony or a minimal amount of live testimony, i.e. one half-day or less, in which a certificate has been filed by all attorneys certifying eligibility, and notifying the magistrate judge at the scheduling conference that the case is suited for this track.

Stand-By. This track shall consist of civil cases which are ready for trial, and in which all attorneys have certified that they can be ready for trial on short notice. The attorneys shall notify the court of such eligibility. The court shall maintain a list of all cases in this track.

General. This track shall consist of all civil cases which are not assigned to one of the specialized tracks listed above.

- C. Procedures for Tracks. Each track shall be governed by specialized rules. However, nothing in the DCM system shall be interpreted to prevent any judge from opting out of any specific track or employing special procedures for the handling of any specific case.

In Forma Pauperis Applications. Applications to proceed in forma pauperis in original civil matters shall be referred to the magistrate judge. After action on the application, the matter shall be transferred to the appropriate track in accordance with the nature of the action.

Uncontested. All civil actions for collections filed by the United States of America shall be referred to the magistrate judge, who shall handle all proceedings, including post judgment execution. If responsive pleadings are filed, the case shall be transferred to the general track.

notify the magistrate judge at the scheduling conference of such eligibility. An up-to-date list of cases on the accelerated track will be provided to each judge on a weekly basis. While these cases may not receive special attention in the normal calendaring procedure, each judge will attempt to schedule cases on the accelerated track at the earliest possible date when changes to the calendar occur. Listing of a case on the accelerated track will not remove a case from the normal calendaring process, nor will listing upset a trial date already set in the case. The accelerated track is designed to provide an additional opportunity for a case to be heard at the earliest possible date.

Stand-By. The stand-by track consists of cases which are ready for trial and may be called for trial on short notice. To be listed on the stand-by track, all attorneys in the case must certify to the court that the case is ready for trial and may be tried if the attorneys are given a certain amount of notice, not to exceed four weeks, which shall be set forth in the notice. Each judge will be provided with an updated list, provided on a weekly basis, listing all cases on the accelerated track and the amount of notice which would be required. When any judge has time available, either from a change in schedule or for any other reason, such judge may set any case on the accelerated track for trial, regardless of the prior judge assignment in the case. Listing of a case on the accelerated track shall not have any effect on the normal calendaring process, and shall not upset a case already set for trial. The stand-by track is designed to provide an additional opportunity for a case to be heard at the earliest possible date.

General. All cases not assigned to a specialized track shall be assigned to the general track. The standard procedures adopted by the court shall be applied to these cases.

SECTION II. Early and Ongoing Control of the Pretrial Process

- A. Introduction. There is a tendency of litigants and their attorneys to delay full and complete consideration of the matters required to advance the action to disposition either by settlement or by trial. It shall be the policy of this district to involve judicial officers in the early stages of litigation in an attempt to encourage litigants and their attorneys to initiate promptly the steps necessary to move the matter towards resolution. The primary method employed by the court will be to hold scheduling conferences within the deadlines set forth by Fed. R. Civ. P. 16(b).
- B. Procedures. In each case, except those specifically exempted, as permitted by Fed. R. Civ. P. 16, a scheduling conference shall be scheduled within 120 days from service of the last defendant or within 90 days from the first appearance of the last defendant, whichever is later.

Trial counsel for each party shall attend the conference. No substitutions of counsel will be accepted without the court's prior approval. Counsel shall come to the conference fully prepared to achieve the purposes of the conference as set forth below:

1. Trial Schedule. To set trial and pretrial conference dates and other deadlines which will govern the progress of the case.
2. Discovery. To discuss a specific discovery approach for the case which will allow completion of discovery within the applicable deadline.
3. Settlement. To discuss settlement of the case.
4. Alternatives. To discuss other alternatives available to assist the litigants in resolving their dispute, including an early settlement conference, summary jury trial, a consent trial before a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c), mediation or arbitration.

5. Tracking. To discuss the appropriate track to assign the particular case, and to determine whether the case may be assigned to an accelerated or stand-by track. If so, the magistrate judge shall so notify the court.

Any counsel unable to attend the conference on the scheduled date and hour shall arrange an alternative date mutually agreeable to the court and other counsel. Notification of a conflict shall be communicated to the court within ten (10) days of receipt of the order setting the conference.

On or before the scheduling conference, counsel shall exchange written witness and document identification lists which conform to the requirements below:

1. Witness Lists. Each party shall provide opposing parties with a written list setting forth the identity and location of persons the party reasonably anticipates calling to testify at trial. Thereafter, each party shall be under a continuing obligation promptly to provide opposing parties with updated lists as other such persons are identified. Except upon a showing of good cause, a witness not identified on the required witness list at least two (2) weeks before the discovery cut-off will not be allowed to be placed on the will call witness list contained in the pretrial stipulations. This is to prohibit litigants who wait until after the discovery cut-off to declare witnesses they intend to call at trial.
2. Documents. Each party shall provide opposing parties with a written list identifying the documents or groups of documents reasonably available to the party which are believed to support the party's allegations. Thereafter, each party shall be under a continuing obligation promptly to notify all other parties of the existence and nature of other such documents as they become

known. Except upon a showing of good cause, a document not identified on the required document list or an updated list at least two (2) weeks before the discovery cut-off will not be allowed to be placed on the exhibit list contained in the pretrial stipulations. This is to prohibit litigants who wait until after the discovery cut-off to declare documents they intend to use at trial.

As a result of the scheduling conference, a detailed scheduling order will issue setting deadlines for all aspects of the case.

Trial dates will be set at the scheduling conference. Insofar as is feasible, a trial date will be set in accordance with 28 U.S.C. § 473(a)(2)(B). Multiple cases will be set for trial on the same date. A pretrial conference will be scheduled for approximately 3-1/2 weeks prior to the scheduled trial date.

SECTION III. Discovery Control

- A. Introduction. Under the proposed amendment to Fed. R. Civ. P. 26 certain initial disclosure will be required unless otherwise ordered by the court. The court will take whatever steps necessary to opt out of Federal Rule of Civil Procedure 26.
- B. Local Rule. This court will enact a local rule which prevents the initial disclosure provisions of Fed. R. Civ. P. 26 from applying to civil cases in this district. Disclosure shall be as required in the initial scheduling conference and subsequent scheduling orders. In appropriate cases a judge may order additional disclosure in an individual case.
- C. Procedure. The court will issue a scheduling order establishing deadlines for the orderly disposition of each case, adhering to the deadlines below. However, nothing in this discovery plan shall be interpreted to prevent any judge from opting out of this schedule or employing special procedures for the handling of any specific case.

Trial:

PRETRIAL CONFERENCE:

(3-4 weeks before trial)

DEADLINE:

FOR:

120 days before
pretrial conference

1. Joinder of parties and
amendment of pleadings.

90 days before
pretrial conference

2. Plaintiff's expert
information and reports.

Immediately upon
receipt

3. Furnishing copies of reports
of treating physicians or
other relevant information.

60 days before
pretrial conference

4. (a) Discovery cutoff.
(b) Defendant's expert
information and reports.
(c) Dispositive motions must
be filed.

46 days before
pretrial conference

5. Expert depositions.

30 days before
pretrial conference

6. Plaintiff's counsel to host
conference to prepare
pretrial stipulations.

15 days before
pretrial conference

7. Motions in limine.

7 days before
pretrial conference

8. Pretrial stipulations.

20 days before trial

9. (a) Discovery of requested
surveillance evidence/
final deposition of party
in question.
(b) Discovery of rule 613 and
801 impeachment evidence.

21 days before trial

10. Trial depositions (expert
and lay witnesses).

- 10 days before trial 11. (a) (Non-jury trials) Trial brief and proposed findings of fact and conclusions of law.
- (b) (Jury trials) Joint jury instructions and interrogatories.
- (c) Editing of trial depositions/ filing objections.
- (d) Affidavit of settlement efforts.
- (e) Exchange of exhibits and demonstrative aids and objections to exhibits.
- (f) Filing objections to impeachment/surveillance evidence.

7 days before trial 12. Bench book to court.

(The following instructions explain and define the deadlines set forth above. These deadlines have already been implemented in parts of the district as demonstrated by the appendix to this plan.)

INSTRUCTIONS

PARAGRAPH 1

DEADLINE (120 DAYS BEFORE PRETRIAL)

Joinder of Parties and Amendment of Pleadings. Motions to join additional parties which require leave of court and motions to amend pleadings must be filed on or before the deadline date. All discovery necessary for the joinder of parties or amendments to pleadings must be completed in time to allow compliance with this deadline. Requests for extension of this deadline will require a showing of good cause.

PARAGRAPH 2

DEADLINE (90 DAYS BEFORE PRETRIAL)

Plaintiff's Expert Information and Reports.

- (a) On or before the deadline, the plaintiff shall disclose to every other party any evidence that the plaintiff may present at trial under Rules 702, 703, or 705 of the Federal Rules of Evidence. Except for treating physicians¹, this disclosure shall be in the form of a written report prepared and signed by the witness and which includes (1) a complete statement of all opinions to be expressed and the basis and reasons therefore; (2) a complete list of the data or other information relied upon in forming such opinions; (3) any exhibits or demonstrative aids to be used as a summary of or support for such opinions; (4) the qualifications of the witness; and (5) a statement identifying the area of expertise in which the expert expects to testify at trial.
- (b) Unless the parties mutually agree to an earlier date and time, expert witnesses shall be available for deposition during the two-week period following the discovery cutoff.
- (c) A witness whose report was not timely provided will not be allowed to testify as an expert at trial over objection absent a showing of good cause.

PARAGRAPH 3

DEADLINE (IMMEDIATELY UPON RECEIPT)

Reports of Treating Physicians and Other Relevant Information. A party who receives a report of a treating physician shall provide a copy to all other parties immediately upon receipt. The attorneys shall keep the opposing side currently apprised of the medical condition of the plaintiff (or of any other party whose physical or mental condition is placed into dispute).

¹See Paragraph 3 regarding physicians.

PARAGRAPH 4

DEADLINE (60 DAYS BEFORE PRETRIAL)

- (a) Discovery. All discovery must be completed on or before the deadline, with the exception of impeachment or surveillance evidence, expert depositions and trial depositions (see Paragraphs 5, 8, 9(a) and 9(b)). Untimely discovery requests are subject to objection.

Motions related to discovery, including motions to compel, shall be filed on or before the discovery cutoff.

- (b) Defendant's Expert Information and Reports. On or before the deadline, the defendant shall comply with the requirements of Paragraphs 2(a) and (b) above as to the defendant's expert witnesses. The provisions of Paragraph 2(c) will apply to any witness whose expert report is untimely.
- (c) Dispositive Motions. Any motion under Federal Rules 12(b), 12(c), 41(b) or 56, or which otherwise would dispose of a claim or defense of a party, must be filed on or before this deadline.

PARAGRAPH 5

DEADLINE (46 DAYS BEFORE PRETRIAL)

Expert Depositions. Discovery depositions of expert witnesses (whether medical or non-medical) may be taken after the discovery deadline set forth in Paragraph 4(a), but no later than the deadline set forth in this paragraph, absent a showing of good cause.

PARAGRAPH 6

DEADLINE (30 DAYS BEFORE PRETRIAL)

Conference to Prepare Pretrial Stipulations. Trial counsel shall personally meet on or before the deadline to prepare a pretrial stipulation. Counsel for plaintiff shall be responsible for scheduling the meeting at a mutually convenient date and time, and other counsel shall cooperate fully and assist in efforts to schedule the conference.

PARAGRAPH 7

DEADLINE (15 DAYS BEFORE PRETRIAL)

Motions in Limine. On or before the deadline, motions in limine shall be filed with the Clerk of Court and a copy shall be delivered to the trial judge's office.

PARAGRAPH 8

DEADLINE (7 DAYS BEFORE PRETRIAL)

Pretrial Stipulations. On or before the deadline, plaintiff's counsel shall file with the Clerk of Court pretrial stipulations. The stipulations shall be signed by all trial counsel and a copy shall be delivered to the trial judge's chambers.

PARAGRAPH 9

DEADLINE (20 DAYS BEFORE TRIAL)

(a) Surveillance Evidence.¹

- (1) A party must make a timely request for discovery of surveillance evidence. Timeliness means that this request must be made prior to the end of the discovery deadline. An untimely request for surveillance evidence may be treated as any other untimely discovery request.
- (2) The respondent need not respond to the discovery request and need not indicate whether there exists any such evidence until the deadline indicated. On or before the deadline, the respondent shall turn over to the requesting party all surveillance evidence in his possession or control which the respondent intends to offer at trial, and shall identify the individual(s) who will be necessary to lay a proper foundation.

¹ Surveillance evidence may be offered at trial for impeachment purposes or as substantive evidence or both. This rule governs discovery of any surveillance evidence intended to be offered at trial, regardless of the intention of the offering party.

- (3) The respondent has the right to depose or redepose the individual who might have been the subject of the surveillance prior to responding to the discovery request.
- (4) Depositions shall be upon reasonable notice to all parties, and shall be limited in scope to impeachment issues and updating any previous deposition.
- (5) Surveillance evidence will not be accepted at trial unless (a) the offering party has complied with the requirements set forth above; (b) the party subject to surveillance has failed to request discovery of the evidence in question; or (c) the offering party shows good cause for an exception to these rules.
- (6) Any party who intends to offer surveillance films or videotapes into evidence at trial shall meet with all other parties to edit the material and agree on the portions to be shown. If agreement cannot be reached, appropriate motions shall be filed with the Clerk of Court, a copy delivered to the trial judge's chambers, no later than ten (10) days before trial.

(b) Impeachment Evidence Under rules 613 and 801 F.R.E..

- (1) If a party has made a timely discovery request, the respondent shall make full disclosure of any impeachment evidence it reasonably anticipates offering at trial under Rules 613 or 801 of the Federal Rules of Evidence. Disclosure shall be made no later than the deadline indicated. Impeachment not covered by Rules 613 or 801 F.R.E. is not discoverable under this rule.
- (2) The parties shall try to reach agreement regarding the nature and scope of the Rule 613 or 801 impeachment evidence to be introduced at trial. If agreement cannot be reached, appropriate motions shall be filed with the Clerk of Court, and a copy delivered to the trial judge's chambers, no later than five (5) days before trial.

PARAGRAPH 10

DEADLINE (21 DAYS BEFORE TRIAL)

Trial Depositions. Depositions to be introduced at trial, whether of experts or lay witnesses, may be taken after the discovery deadline, but no later than the deadline indicated, absent a showing of good cause, provided reasonable notice of such depositions is given to all parties.

PARAGRAPH 11

DEADLINE (10 DAYS BEFORE TRIAL)

- a. Trial Briefs in Non-Jury Cases. On or before 10 days before trial, each party in a non-jury case shall file with the Clerk of Court and deliver a copy to the trial judge's chambers: (1) a trial memorandum outlining the facts the party expects to prove and citing the legal authorities relied upon, and (2) proposed findings of fact and conclusions of law.
- b. Joint Jury Instructions/Interrogatories. On or before 10 days before trial the parties in a jury case shall file with the Clerk of Court and deliver a copy to the trial judge's chambers joint jury instructions as required under Uniform Local Rule 13.10W, set forth below¹. Two modifications apply: (1) the term (joint jury instructions) shall be construed to include a joint verdict or interrogatory form; and (2) the applicable deadline is the one set forth in this order.
- (c) Editing Trial Depositions/Filing Objections. On or before the deadline, all depositions to be used at trial, including video depositions, shall be edited to remove non-essential, repetitious, and unnecessary material as

¹ "U.L.L.R. 13.10W. When a trial is to be held before a jury, counsel for all parties shall confer and prepare proposed jury instructions. If counsel are unable to agree as to any specific jury instruction, a separate proposal for such instruction may be submitted. If a separate proposal is submitted, it shall be supported by a memorandum of authorities. The joint and separate proposed jury instructions shall be filed with the Clerk of Court and a copy shall be provided to the judge before whom the trial is to be held at least seven (7) calendar days in advance of the date on which the jury trial is scheduled."

well as objections and colloquy of counsel. All objections to the deposition will be considered waived unless briefed and filed with the Clerk of Court, with a copy delivered to the trial judge's chambers, on or before the deadline.

- (d) Affidavit of Settlement Efforts. On or before the deadline, counsel for each party shall file with the Clerk of Court an affidavit stating the date and time that a conference of counsel was held to attempt to settle the case. In addition, plaintiff's counsel shall attest that he or she made a good faith settlement offer to defense counsel, and that the defense counsel's counteroffer was conveyed to the plaintiff. Defense counsel shall attest that plaintiff's settlement offer was conveyed to the defendant, and that a good faith counteroffer was made.

In the event that plaintiff makes an offer of settlement to defendant which is refused, and judgment finally obtained by plaintiff is more favorable to plaintiff than the offer to defendant, then defendant may be ordered to pay the cost incurred by plaintiff after the date of refusal of plaintiff's offer unless good cause is shown. These costs may include all expert and witness fees incurred at trial, in addition to court costs of the litigation but shall not include attorney's fees.

In the event that defendant makes an offer of settlement to plaintiff or responds to an offer by plaintiff which offer or response is refused and judgment, finally obtained by plaintiff, is less favorable to plaintiff than the offer of defendant, plaintiff may be ordered to pay the cost incurred by defendant after the date of refusal of defendant's offer unless good cause is shown. These costs may include all expert and witness fees incurred at trial, in addition to the court costs of the litigation but shall not include attorney's fees.

- (e) Exchange of Exhibits/Demonstrative Aids. On or before the deadline, the parties shall exchange exhibits and demonstrative aids, or copies thereof.

Unless otherwise ordered by the Court, all exhibits must be exchanged in a bench book, a copy of which must be delivered to the trial judge at the time of the exhibit.

All exhibits contained in the bench book will be considered by the Court to have been exchanged timely; those not included in the judge's bench book will be considered as not having been exchanged and therefore, may not be used at trial over objection.

- (f) Objections to Impeachment or Surveillance Evidence. On or before the deadline, the parties shall comply with the requirements of Paragraphs 9(a)(6) and 9(d)(2) above with respect to filing appropriate motions addressing the nature and scope of impeachment or surveillance evidence to be introduced at trial.

PARAGRAPH 12

DEADLINE (7 DAYS BEFORE TRIAL)

Bench Book. All counsel shall prepare a bench book which contains all exhibits exchanged with opposing counsel. A copy of the bench book must be delivered to the trial judge seven (7) days prior to trial. All exhibits contained in the bench book will be considered by the court to have been exchanged timely; those not included in the judge's bench book will be considered as not having been exchanged and therefore, may not be used at trial over objection.

SECTION IV. Alternative Dispute Resolution

- A. Introduction. This court recognizes the value of alternative dispute resolution. The court employs a number of procedures to attempt to resolve actions without necessity of trial.
- B. Procedures. The court shall promote settlement efforts at every stage of the proceedings, but only insofar as is consistent with fairness to the litigants. The court encourages alternative dispute resolution. In cases where the litigants feel a conference would be beneficial, they are to notify the court. The court may schedule settlement conferences at the request of the parties or on its own motion.

The court will not establish formal procedures for arbitration or mediation. However, a list of resources which provide both arbitration and mediation will be maintained at a designated location. This list will be made available to litigants upon request.

The court may, in instances which merit, order non-binding mediation or arbitration.

SECTION V. Other Features

- A. Uniformity. The Western District is made up of a number of judges sitting in five divisions. While situations differ in the various divisions, the judges will strive

APPENDIX A

(Rev. 5/19/93)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

VERSUS

CIVIL ACTION NO. _____
JUDGE _____
MAGISTRATE JUDGE _____

SCHEDULING ORDER

The following dates are hereby set:¹

TRIAL: _____
PRETRIAL CONFERENCE: _____
(3-4 weeks bef.trial)

DEADLINE:

FOR:

(120 days bef.PTC)

1. JOINDER OF PARTIES AND AMENDMENT OF PLEADINGS.

(90 days bef.PTC)

2. PLAINTIFF'S EXPERT INFO/REPORTS.

Immediately upon receipt

3. FURNISHING COPIES OF REPORTS OF TREATING PHYSICIANS OR OTHER RELEVANT INFORMATION.

(60 days bef.PTC)

4. (a) DISCOVERY.
(b) DEFENDANT'S EXPERT INFO/REPORTS.
(c) DISPOSITIVE MOTIONS.

(46 days bef.PTC)

5. EXPERT DEPOSITIONS.

(30 days bef.PTC)

6. PLAINTIFF'S COUNSEL TO HOST CONFERENCE TO PREPARE PRETRIAL STIPULATIONS.

¹If a deadline falls on a Saturday, Sunday or federal holiday, the effective date is the first business day following the deadline imposed.

- | | | |
|---------------------|-------|---|
| (15 days bef.PTC) | 7. * | MOTIONS IN LIMINE |
| (7 days bef.PTC) | 8. * | PRETRIAL STIPULATIONS. |
| (21 days bef.Trial) | 9. | TRIAL DEPOSITIONS (EXPERTS AND LAY WITNESSES). |
| (10 days bef.Trial) | 10. * | (a) (NON-JURY TRIALS) TRIAL BRIEF AND PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW. |
| | | (b) (JURY TRIALS) JOINT JURY INSTRUCTIONS AND INTERROGATORIES. |
| | | (c) DISCOVERY OF REQUESTED SURVEILLANCE EVIDENCE/FINAL DEPOSITION OF PARTY IN QUESTION. |
| | | (d) DISCOVERY OF RULE 613 AND 801 IMPEACHMENT EVIDENCE. |
| | | (e) EDITING OF TRIAL DEPOSITIONS/FILING OBJECTIONS. |
| | | (f) AFFIDAVIT OF SETTLEMENT EFFORTS. |
| | | (g) EXCHANGE OF EXHIBITS AND DEMONSTRATIVE AIDS. |
| (5 days bef.Trial) | 11. * | FILING OBJECTIONS TO IMPEACHMENT/SURVEILLANCE EVIDENCE (SEE INSTRUCTIONS FOR PARAGRAPHS 10(c)(6) AND 10(d)(2)). |

NOTE: THE FOLLOWING INSTRUCTIONS, LISTED BY PARAGRAPH, SPECIFY WHAT CONSTITUTES COMPLIANCE WITH THE DEADLINES SET FORTH ABOVE.

*Contains a requirement that a COPY OF AN ITEM BE DELIVERED TO THE TRIAL JUDGE'S CHAMBERS.

I N S T R U C T I O N S

PARAGRAPH 1

DEADLINE (120 DAYS BEFORE PRETRIAL)

Joinder of parties and Amendment of Pleadings. Motions to join additional parties which require leave of court and motions to amend pleadings must be filed on or before the deadline date. All discovery necessary for the joinder of parties or amendments to pleadings must be completed in time to allow compliance with this deadline. Requests for extension of this deadline will require a showing of good cause.

PARAGRAPH 2

DEADLINE (90 DAYS BEFORE PRETRIAL)

Plaintiff's Expert Information and Reports.

(a) On or before the deadline, the plaintiff shall disclose to every other party any evidence that the plaintiff may present at trial under Rules 702, 703, or 705 of the Federal Rules of Evidence. Except for treating physicians², this disclosure shall be in the form of a written report prepared and signed by the witness and which includes (A) a complete statement of all opinions to be expressed and the basis and reasons therefor; (B) a complete list of the data or other information relied upon in forming such opinions; (C) any exhibits to be used as a summary of or support for such opinions; (D) the qualifications of the witness; and (E) a statement identifying the area of expertise in which the expert expects to testify at trial.

(b) Unless the parties mutually agree to an earlier date and time, expert witnesses shall be available for deposition during the two-week period following the discovery cutoff.

(c) A witness whose report was not timely provided will not be allowed to testify as an expert at trial over objection absent a showing of good cause.

² See Paragraph 3 regarding physicians.

PARAGRAPH 3

DEADLINE (Immediately upon receipt!)

Reports of Treating Physicians and Other Relevant Information. A party who receives a report of a treating physician shall provide a copy to all other parties immediately upon receipt. The attorneys shall keep the opposing side currently apprised of the medical condition of the plaintiff (or of any other party whose physical or mental condition is placed into dispute.

PARAGRAPH 4

DEADLINE (60 DAYS BEFORE PRETRIAL)

(a) Discovery. All discovery must be completed on or before the deadline, with the exception of impeachment or surveillance evidence, expert depositions and trial depositions (see Paragraphs 5, 8, 10(c) and 10(d)). Untimely discovery requests are subject to objection.

Motions related to discovery, including motions to compel, shall be filed on or before the discovery cutoff.

(b) Defendant's Expert Information and Reports. On or before the deadline, the defendant shall comply with the requirements of Paragraphs 2(a) and (b) above as to the defendant's expert witnesses. The provisions of Paragraph 2(c) will apply to any witness whose expert report is untimely.

(c) Dispositive Motions. Any motion under rules 12(b), 12(c), 41(b) or 56, or which otherwise would dispose of a claim or defense of a party, must be filed on or before this deadline.

PARAGRAPH 5

DEADLINE (46 DAYS BEFORE PRETRIAL)

Expert Depositions. Discovery depositions of expert witnesses (whether medical or non-medical) may be taken after the discovery deadline set forth in Paragraph 4(a), but no later than the deadline set forth in this paragraph absent a showing of good cause.

PARAGRAPH 6

DEADLINE (30 DAYS BEFORE PRETRIAL)

Conference to Prepare Pretrial Stipulations. Trial counsel shall personally meet on or before the deadline to prepare a pretrial stipulation in accordance with the attached form. Counsel for plaintiff shall be responsible for scheduling the meeting at a mutually convenient date and time, and other counsel shall cooperate fully and assist in efforts to schedule the conference.

PARAGRAPH 7

DEADLINE (15 DAYS BEFORE PRETRIAL)

Motions in Limine. On or before the deadline, motions in limine shall be filed with the Clerk of Court and **A COPY SHALL BE DELIVERED TO THE TRIAL JUDGE'S CHAMBERS.**

PARAGRAPH 8

DEADLINE (7 DAYS BEFORE PRETRIAL)

Pretrial Stipulations. On or before the deadline, plaintiff's counsel shall file with the Clerk of Court pretrial stipulations in accordance with the attached form. The stipulations shall be signed by all trial counsel and **A COPY SHALL BE DELIVERED TO THE TRIAL JUDGE'S CHAMBERS.**

PARAGRAPH 9

DEADLINE (21 DAYS BEFORE TRIAL)

Trial Depositions. Depositions to be introduced at trial, whether of experts or lay witnesses, may be taken after the discovery deadline, but no later than the deadline indicated absent a showing of good cause, provided reasonable notice of such depositions is given to all parties.

PARAGRAPH 10

DEADLINE (10 DAYS BEFORE TRIAL)

(a) Trial Briefs in Non-Jury cases. On or before the deadline, each party in a non-jury case shall file with the Clerk of Court **AND DELIVER A COPY TO THE TRIAL JUDGE'S CHAMBERS:** (1) a trial memorandum outlining the facts the party expects to prove and citing the legal authorities relied upon; and (2) proposed findings of fact and conclusions of law.

(b) Joint Jury Instructions/Interrogatories. On or before the deadline, the parties in a jury case shall file with the Clerk of Court AND DELIVER A COPY TO THE TRIAL JUDGE'S CHAMBERS joint jury instructions as required under Uniform Local Rule 13.10W, set forth below. Two modifications apply: (1) the term (joint jury instructions) shall be construed to include a joint verdict or interrogatory form; and (2) the applicable deadline is the one set forth in this order:

"U.L.L.R. 13.10W. When a trial is to be held before a jury, counsel for all parties shall confer and prepare proposed joint jury instructions. If counsel are unable to agree as to any specific jury instruction, a separate proposal for such instruction may be submitted. If a separate proposal is submitted, it shall be supported by a memorandum of authorities. The joint and separate proposed jury instructions shall be filed with the Clerk of Court and a copy shall be provided to the judge before whom the trial is to be held at least seven (7) calendar days in advance of the date on which the jury trial is scheduled."

(c) Surveillance Evidence.³

(1) A party must make a timely request for discovery of surveillance evidence. Timeliness means that this request must be made prior to the end of the discovery deadline. An untimely request for surveillance evidence may be treated as any other untimely discovery request.

(2) The respondent need not respond to the discovery request and need not indicate whether there exists any such evidence until the deadline indicated. On or before the deadline, the respondent shall turn over to the requesting party all surveillance evidence in his possession or control which the respondent intends to offer at trial, and shall identify the individual(s) who will be necessary to lay a proper foundation.

(3) The respondent has the right to depose or redepose the individual who might have been the subject of the surveillance prior to responding to the discovery request.

(4) Depositions shall be upon reasonable notice to all parties, and shall be limited in scope to impeachment issues and updating any previous deposition.

³ Surveillance evidence may be offered at trial for impeachment purposes or as substantive evidence or both. This rule governs discovery of any surveillance evidence intended to be offered at trial, regardless of the intention of the offering party.

(5) Surveillance evidence will not be accepted at trial unless (A) the offering party has complied with the requirements set forth above; (B) the party subject to surveillance has failed to request discovery of the evidence in question; or (C) the offering party shows good cause for an exception to these rules.

(6) Any party who intends to offer surveillance films or videotapes into evidence at trial shall meet with all other parties to edit the material and agree on the portions to be shown. If agreement cannot be reached, appropriate motions shall be filed with the Clerk of Court, **AND A COPY DELIVERED TO THE TRIAL JUDGE'S CHAMBERS**, no later than 5 days before trial.

(d) Impeachment Evidence Under Rules 613 and 801 F.R.E.

(1) If a party has made a timely discovery request, the respondent shall make full disclosure of any impeachment evidence it reasonably anticipates offering at trial under Rules 613 or 801 of the Federal Rules of Evidence. Disclosure shall be made no later than the deadline indicated. Impeachment not covered by Rules 613 or 801 F.R.E. is not discoverable under this rule.

(2) The parties shall try to reach agreement regarding the nature and scope of the Rule 613 or 801 impeachment evidence to be introduced at trial. If agreement cannot be reached, appropriate motions shall be filed with the Clerk of Court, **AND A COPY DELIVERED TO THE TRIAL JUDGE'S CHAMBERS**, no later than 5 days before trial.

(e) Editing Trial Depositions/Filing Objections. On or before the deadline, all depositions to be used at trial, including video depositions, shall be edited to remove non-essential, repetitious, and unnecessary material as well as objections and colloquy of counsel. All objections to the deposition will be considered waived unless briefed and filed with the Clerk of Court, **WITH A COPY DELIVERED TO THE TRIAL JUDGE'S CHAMBERS**, on or before the deadline.

(f) Affidavit of Settlement Efforts. On or before the deadline, counsel for each party shall file with the Clerk of Court an affidavit stating the date and time that a conference of counsel was held to attempt to settle the case. In addition, plaintiff's counsel shall attest that he or she made a good faith settlement offer to defense counsel, and that the defense counsel's counteroffer was conveyed to the plaintiff. Defense counsel shall attest that plaintiff's settlement offer was conveyed to the defendant, and that a good faith counteroffer was made.

In the event that plaintiff makes an offer of settlement to defendant which is refused, and judgment finally obtained by plaintiff is more favorable to plaintiff than the offer to defendant, then defendant may be ordered to pay the cost incurred by plaintiff after the date of refusal of plaintiff's offer unless good cause is shown. These costs may include all expert and witness fees incurred at trial, in addition to court costs of the litigation but shall not include attorney's fees.

In the event that defendant makes an offer of settlement to plaintiff or responds to an offer by plaintiff which offer or response is refused and judgment, finally obtained by plaintiff, is less favorable to plaintiff than the offer of defendant, plaintiff may be ordered to pay the cost incurred by defendant after the date of refusal of defendant's offer unless good cause is shown. These costs may include all expert and witness fees incurred at trial, in addition to the court costs of the litigation but shall not include attorney's fees.

(g) Exchange of Exhibits/Demonstrative Aids. On or before the deadline, the parties shall exchange exhibits and demonstrative aids, or copies thereof.

Unless otherwise ordered by the Court, all exhibits must be exchanged in a bench book, a copy of which must be delivered to the trial judge at the time of the exhibit exchange. All exhibits contained in the bench book will be considered by the Court to have been exchanged timely, those not included in the judge's bench book will be considered as not having been exchanged and therefore, may not be used at trial over objection.

PARAGRAPH 11

DEADLINE (5 DAYS BEFORE TRIAL)

Objections to Impeachment or Surveillance Evidence. On or before the deadline, the parties shall comply with the requirements of Paragraphs 10(c)(6) and 10(d)(2) above with respect to filing appropriate motions addressing the nature and scope of impeachment or surveillance evidence to be introduced at trial.

Lafayette, Louisiana, this _____ day of _____, 1993.

BY DIRECTION OF THE COURT
ROBERT H. SHEMWELL, CLERK

BY: _____
Deputy Clerk

APPENDIX B

FILED

AUG - 6 1993

ROBERT H. SHEMPELL, CLERK

BY  DEPUTY

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

STANDING ORDER EFFECTIVE AUGUST 6, 1993 GOVERNING PRETRIAL
PROCEDURE IN CIVIL CASES ASSIGNED TO JUDGE TRIMBLE

The Court establishes the following rules for civil actions assigned to Judge James T. Trimble, Jr.

1. In the absence of a specific order of court to the contrary, the following deadlines will apply:
 - (a) Motions: All dispositive motions must be filed no later than sixty (60) days prior to the trial date; untimely motions shall be referred to the merits and will be resolved on the evidence presented at trial. If the trial date is continued, the burden lies with the moving party to timely obtain an order refixing the motion for hearing at the Court's next regular motion day.
 - (b) Discovery: The court will not compel discovery sought later than thirty (30) days prior to trial nor consider motions to compel or for a protective order filed later than twenty (20) days prior to trial.
 - (c) Physicians' Reports. Reports of physicians' examinations must be furnished to opposing counsel no later than sixty (60) days before trial; if this deadline is not met, the physician concerned will not be permitted to testify at trial over objection.
 - (d) Other Expert Reports. The plaintiff shall furnish the names and written reports of the experts that he intends to call at trial to opposing counsel no later than one hundred five (105) days before trial and the defendant shall furnish the names and written reports of the experts that he expects to call no later than seventy-five (75) days before the trial; if the deadline is not met, the expert witness concerned will not be permitted to testify at trial as an expert over objection.

(e) Surveillance Evidence:

(i) A party must make a timely request for discovery of surveillance evidence. Timeliness means that this request must be made prior to the end of the discovery deadline.

(ii) A party need not respond to the discovery requests for surveillance evidence and need not indicate whether there exists any such evidence until five (5) days prior to trial. On or before the deadline, the respondent shall turn over to the requesting party all surveillance evidence in his possession or control which the respondent intends to offer at trial, and shall identify the individual(s) who will be necessary to lay a proper foundation.

(iii) The respondent has the right to depose or redepose the individual who may have been the subject of the surveillance prior to responding to the discovery request. This deposition shall be made upon reasonable notice to all parties, and shall be limited in scope to impeachment issues and updating any previous deposition.

(iv) Surveillance evidence will not be accepted at trial unless (a) the offering party has complied with the requirements set forth above; (b) the party subject to surveillance has failed to request discovery of the evidence in question; or (c) the offering party shows good cause for an exception to these rules.

(v) If a timely request for discovery of surveillance evidence has been made as required by subsection (i) above, any party who intends to offer surveillance films or video tapes into evidence at trial shall meet with all other parties to edit the material and agree on the portions to be shown. If agreement cannot be reached, appropriate motions in limine shall be filed with the Clerk of Court and a copy delivered to the trial Judge's chambers no later than three (3) days before trial.


- (f) Pretrial Statements. Each party must file a pretrial statement no later than seven (7) days prior to the pretrial conference if a pretrial conference has been requested, otherwise the pretrial statements will be due thirty (30) days before trial. The statements are to be submitted independently by each party and need not be signed jointly by counsel for other parties unless the parties desire to set forth any joint stipulations prior to trial; forms may be obtained from the Clerk of Court in Lake Charles.
- (g) Witness Lists. Each party must file a list of "will call" witnesses, and serve a copy on opposing counsel, no later than ten (10) days before trial; a witness, other than a witness used exclusively for impeachment, not so listed will not be permitted to testify at trial over objection; see also Rule 5, below.
- (h) Exhibit Lists. Each party must file a list of exhibits with the Clerk of Court in Lake Charles, Louisiana, and serve a copy on opposing counsel, no later than five (5) working days before trial; an exhibit not so listed will not be admitted into evidence at trial over objection; the Clerk will not accept exhibits before trial; exhibits will be accepted by the Clerk only when introduced in the normal course of trial. If copies of original documents are to be substituted for trial exhibits, the copies must be made available at the time the original is introduced as an exhibit.
- (i) Jury Charges/Verdict Form. When a trial is to be held before a jury, counsel for all parties shall confer and prepare proposed joint jury instructions. If counsel are unable to agree as to any specific jury instruction, a separate proposal for such instruction may be submitted. If a separate proposal is submitted, it shall be supported by a memorandum of authorities. The joint and separate proposed jury instructions shall be filed with the Clerk of Court and a copy shall be provided to Judge Trimble at least seven (7) calendar days in advance of the date on which the jury trial is scheduled. A verdict form should be submitted at least five (5) working days before trial.

2. (a) Pretrial conferences will not be routinely scheduled. If there are foreseeable evidentiary or other problems which would make a pretrial conference desirable, please contact Judge Trimble's office within sixty (60) days prior to the trial date so that a pretrial conference can be scheduled. If no pretrial conference is requested, the pretrial statements referred to in this Standing Order will be due no later than thirty (30) days prior to trial. You may call the Judge's Office at any time to determine your place on the docket. It is suggested that you do so at least the Thursday prior to the scheduled trial date by which time a docket should be ascertained.
- (b) If a settlement conference would be helpful, please contact Magistrate Judge Alonzo P. Wilson, 921 Moss Street, Room 2530, Lake Charles, Louisiana 70601 - (318) 437-7316.
3. (a) The continuance of the trial date automatically relieves the parties from the effect of the deadlines set forth in Rule 1. That is, the date on which the case was set for trial before the continuance will no longer serve as the reference date for applying the deadlines. When the continued case is again set for trial, the Rule 1 deadlines will be figured from the new trial date. Note that duplicates of papers submitted previously in compliance with subparagraphs (a) through (i) for a (subsequently continued) trial date need not be resubmitted for the new trial date unless the party wishes to supplement or amend those papers. Yet, any such supplements or amendments must be submitted in accordance with the deadlines applicable for the new trial date under Rule 1.
- (b) The continuance of the trial date automatically upsets the pretrial conference date, if one has been set. Such requested pretrial conference will be rescheduled at the time the trial of the matter is rescheduled at the request of counsel.

4. Filing Instructions. All materials submitted for filing in record should be sent directly to the Clerk of Court's office in Shreveport, Louisiana, unless expedited consideration is necessary. Where expedited consideration is required, the original of the motion or other paper should be sent directly to the Court. A "work" copy of all motions, supporting memoranda, pretrial statements, proposed jury instructions, trial memoranda, and proposed findings and conclusions should be sent directly to the Court within the time limits for filing of the original paper.
5. The listing of a "will call" witness as such in the pretrial statement filed with the Clerk will satisfy the requirements of Rule 1(g) if the statement was filed no later than ten (10) days before trial. Any "may call" witness listed in the pretrial statement must be converted to a "will call" witness by the ten day deadline of Rule 1(g) if the party wishes to use the witness at trial. A "may call" witness not so converted will not be permitted to testify over objection.
6. The deadlines set forth in this Standing Order will be extended only on good cause shown and exceptions will be granted only in the interest of justice.
7. The Clerk of Court shall attach a copy of this Standing Order to the notice of trial date sent to counsel or pro se litigants in each case.
8. Procedure in Selecting Juries.

Eight (8) jurors will be selected from the venire to serve. The judge will conduct the initial voir dire after which he will accept suggested questions from counsel via a bench conference. Counsel will be allowed ten (10) minutes per side (may be modified in complex cases) to personally conduct voir dire. Challenges for cause will be made at a bench conference. A venire of fourteen (14) will be submitted for peremptory challenges after challenges for cause. Challenges will be exercised out of the presence of the jury during a recess. The first eight (8) prospective jurors whose names are called and are not challenged will constitute the jury.
9. The provisions of this Standing Order shall supersede all previously issued Scheduling Orders.

Lake Charles, Louisiana, August 6, 1993.



JAMES T. TRIMBLE, JR.
UNITED STATES DISTRICT JUDGE

APPENDIX C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

_____ CIVIL ACTION NO. _____
vs. JUDGE _____
_____ MAG. JUDGE _____

ORDER SETTING SCHEDULING CONFERENCE

1. CONFERENCE DATE AND TIME: _____
CHAMBERS OF MAGISTRATE JUDGE _____
705 JEFFERSON STREET, ROOM _____
LAFAYETTE, LOUISIANA
2. DEADLINE FOR EXCHANGE OF LISTS: (1 week before conf.) _____

1. C O N F E R E N C E

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, a scheduling conference will be held in my chambers on the day and time set forth above.

Trial counsel for each party shall attend the conference. No substitutions of counsel will be accepted without the court's prior approval. Counsel shall come to the conference fully prepared to achieve the purposes of the conference as set forth below:

A. Trial schedule. To set trial and pretrial conference dates and other deadlines which will govern the progress of the case.

B. Discovery. To discuss a specific discovery approach for the case which will allow completion of discovery within the applicable deadline.

C. Settlement. To discuss settlement of the case.

D. Alternatives. To discuss other alternatives available to assist the litigants in resolving their dispute, including an early settlement conference, summary jury trial, or a consent trial before a U. S. Magistrate Judge pursuant to 28 U.S.C. §636(c).

IT IS FURTHER ORDERED that any party unable to attend this conference on the scheduled date and hour shall arrange an alternative date mutually agreeable to the court and other counsel. NOTIFICATION OF A CONFLICT shall be communicated to the court within ten (10) days of receipt of this Order.

2. L I S T S

On or before the date indicated above, counsel shall exchange written witness and document identification lists which conform to the requirements below:

A. Witness Lists. Each party shall provide opposing parties with a written list setting forth the identity and location of persons the party reasonably anticipates calling to testify at trial. **Thereafter, each party shall be under a continuing obligation promptly to provide opposing parties with updated lists as other such persons are identified.** Except upon a showing of good cause, a witness not identified on the required witness list or an updated list will not be allowed to be placed on the Will Call witness list contained in the pretrial stipulations.

B. Documents. Each party shall provide opposing parties with a written list identifying documents or groups of documents reasonably available to the party which are believed to support the party's allegations. **Thereafter, each party shall be under a continuing obligation promptly to notify all other parties of the existence and nature of other such documents as they become known.** Except upon a showing of good cause, a document not identified on the required document list or an updated list will not be allowed to be placed on the Exhibit List contained in the pretrial stipulations.

THUS DONE AND SIGNED at Lafayette, Louisiana, this _____ day of _____, 1992.

Mildred E. Methvin
United States Magistrate Judge
705 Jefferson Street, Room 207
Lafayette, Louisiana 70501

(318) 264-6651

APPENDIX D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

vs. CIVIL ACTION NO. _____

JUDGE _____

MAG. JUDGE _____

PRETRIAL STIPULATIONS

A conference of attorneys was held in this case on the _____
day of _____, 19____.

_____ appeared as counsel for plaintiff.

_____ appeared as counsel for defendant.

1. Outline all parties in this case, and all claims, counter-claims, cross-claims and third party claims.

2. The court has jurisdiction of this matter pursuant to (cite statute or other authority conferring jurisdiction). (If a motion raising jurisdictional questions has not yet been ruled upon, the parties should so indicate).

3. The following disposition was made of pending motions: (Set out). (If any motions remain pending before the court, so indicate).

4. In general, the plaintiff claims: (Set out each claim and its pertinent statutory authority).

5. In general, the defendant claims: (Set out each defense and claim, and its pertinent statutory authority).

6. The following facts are established by the pleadings or are established by the stipulations or admissions of counsel: (Set out)

7. The contested issues of fact are: (Set out)

8. The contested issues of law are: (Set out)

9. (Each party shall attach to the pretrial stipulations exhibit and witness lists in accordance with the following instructions. **NO EXHIBIT OR WITNESS SHALL BE USED AT TRIAL UNLESS LISTED IN ACCORDANCE WITH THE FOLLOWING INSTRUCTIONS, ABSENT A SHOWING OF GOOD CAUSE.**)

a. Exhibit List.

(1) Each party shall list separately and with particularity each exhibit or group of exhibits to be offered into evidence at trial. The list shall include exhibits reasonably anticipated to be offered in rebuttal, but may exclude exhibits which constitute impeachment or surveillance material (see Paragraphs 9(c) and (d) of the Scheduling Order for instructions regarding these items).

(2) Each entry on the list shall be followed by a statement that its admission into evidence at trial will be unopposed, or that a specified party will make a specified objection to its admission. A party who has an objection to the admission at trial of another party's exhibit is responsible for ensuring that the objection is noted on the offering party's exhibit list, **otherwise the court may deem the objection waived.** The notation shall include citations to the Federal Rules of Evidence and other legal authorities supporting the objection.

(3) At trial, should any party fail to introduce an exhibit on that party's list, another party may introduce the exhibit.

b. Will Call Witness List.

(1) Each party shall list the name, address, and a brief description of the expected testimony of each witness the party will call at trial. As to expert witnesses, each party shall also state the area in which the party intends to qualify the expert, and attach a copy of the

expert's curriculum vitae. The list shall include rebuttal witnesses reasonably anticipated, but may exclude impeachment and surveillance-related witnesses (see Paragraphs 9(c) and (d) of the Scheduling Order for instructions regarding these witnesses).

(2) The party listing a "will call" witness bears the responsibility of producing that witness at trial. Should a party fail to call a witness on that party's "will call" list at trial, another party may call the witness to testify.

(3) Any witness not listed on the Will Call Witness List will not be allowed to testify at trial over objection.

9. The following amendments to the pleadings are allowed:
(Set out)

10. The following additional matters, to aid in the disposition of the action, were determined: (Set out).

11. The case will probably take _____ days to try.

Date: _____

APPROVED: _____
Attorney for Plaintiff

Date: _____

APPROVED: _____
Attorney for Defendant