STATE OF NORTH CAROLINA
Mecklenburg County

FILE NO.
In The General Court of Justice
Superior Court Division

_____
                   Plaintiff.

VERSUS

_____
                   Defendant

CONSENT
CASE MANAGEMENT ORDER

Pursuant to N. C. Gen. Stat. 1A-1, Rules 16 and 26, **and by and with the consent of the parties**, this Consent Case Management Order s h a l l govern discovery and trial of this case. This Order supersedes any previous Case Management Orders entered in this case and is subject to further amendment upon motion for good cause shown, or by the Court, first made with the Superior Trial Caseflow Coordinator under Local Civil Rule 9.

Except where modified by this Order, the 26th Judicial District Superior Court Division Civil Rules (the "Local Civil Rules") are incorporated into this Order. **The Parties shall know and follow the Local Civil Rules which are available for viewing at www.nccourts.gov or www.meckbar.org**.

1.   **Discovery Deadline:** Unless otherwise agreed by the parties:

    (1) **discovery** must be completed no later than _____ days after entry of the Case Management Order (**the "discovery deadline"**); and

    (2) all discovery must be noticed or served in sufficient time under the N.C. Rules of Civil Procedure for the receiving party to be able to appear or respond by the discovery deadline. Unless otherwise agreed by the parties or ordered by the Court, an extension of the trial date after the end of the discovery deadline, does not extend the discovery deadline. The discovery deadline is intended to give the Parties time to prepare dispositive motions and/or prepare for trial following the completion of discovery.

Under no circumstances shall any agreed extensions or any consent order extensions of the discovery deadline by the clerk impact the dispositive motion filing deadline, nor shall any party seek any ex parte extensions of time from the clerk to respond to timely served discovery beyond the discovery deadline. If one is submitted in violation of these rules, the motion and/or order shall be deemed invalid and will not be honored.

2.   **Expert discovery**:

    (1) In lieu of expert interrogatories, and unless otherwise agreed by the parties, **expert witnesses** shall be designated by providing the information required by N.C. Rule of Civil Procedure 26(b)(4)a, on the following schedule:

        (a) **Plaintiffs' and Defendants' experts** no later than _____ days after the issuance of the Case Management Order;

        (b) **Plaintiffs' and Defendants' rebuttal experts or rebuttal opinions** no later than _____ days after the expert designation or no later than _____ days after the issuance of the Case Management Order, whichever is sooner; and

    (2) Unless otherwise agreed by the parties, **depositions of experts** are permitted, provided they are noticed to occur prior to the discovery deadline, and provided the party desiring to depose the expert witness pays the expert a reasonable hourly rate for the expert's actual time testifying at the deposition. In the event of a dispute regarding the reasonable hourly fee, upon motion, the court shall determine the fee.

3. **Depositions:** (1) <u>Objections and attorney statements</u>: During depositions: (a) attorneys shall not make objections or statements designed to suggest an answer to the witness; and (b) attorney's statements when making objections shall be succinct, stating the basis for the objection and nothing more.

      (2) <u>Instructions Not to Answer</u>: During depositions, attorneys shall not direct or request that a witness not answer a question, unless: (a) the attorney has objected on the ground that the answer is protected by privilege; (b) the answer is protected by some limitation on evidence ordered by the Court; or (c) the attorney states on the record that a Protective Order will be sought with respect to the question asked, and then, unless otherwise resolved by the parties, files a motion for Protective Order within five business days after the refusal to answer is given.

4. **Dispositive Motions** shall be filed by _____ (**the "dispositive motions filing deadline"**) and shall be scheduled for a hearing date to be held within _____ days after the filing of the motion. Such motions must be scheduled through the scheduling process under the Local Civil Rules within 3 days of the filing of the Motion with the Court.

5. **Mediation** shall be conducted unless, upon motion, the Court orders otherwise under the 26th Judicial District Local Rules Governing Mediated Settlement Conferences in Superior Court Civil Actions. All forms of ADR must be completed <u>no later than 185 days after the entry of the Case Management Order</u>. <u>(The actual ADR deadline will be assigned at the time the Order for ADR (CCF-14) is issued.)</u>

6. **Assignment of Trial Date:** After 240 days from the date of this Order, unless the final disposition has been filed with the Clerk of Superior Court's Office closing the case, the parties shall have 15 calendar days to collaborate and agree upon a date for trial within the next 90 days. Once agreement has been reached upon a trial date or it has been determined an agreement on a trial date is not possible, the parties must file a fully completed Request to Set (Local Form CCF-2) with the Clerk of Superior Court. If an agreement is unable to be reached, the Superior Trial Caseflow Coordinator will schedule a conference with the parties to discuss the setting of a trial date. After consideration of all parties' situations, the Superior Trial Caseflow Coordinator shall enter a trial date with or without agreement from all parties. Failure to timely file the required form shall not delay the setting of the trial date but shall serve as a waiver for any input into the setting of the trial date.

Failure to comply with the deadlines set forth in this Case Management Order may result in the exclusion of evidence or witnesses not timely disclosed, absent a showing of excusable neglect for noncompliance.

_____   _____
Date   Senior Resident Superior Court Judge/Designee

Signatures of Parties or their Attorneys:

_____   _____
Date

_____   _____
Date

_____   _____
Date

_____   _____
Date