

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

| | | |
|---------------------|---|-----------------------------------|
| F11 TO REPLACE | : | Case No. F11 TO REPLACE-TPA |
| | : | |
| <i>Debtor(s)</i> | : | Chapter F11 TO REPLACE |
| | : | |
| F11 TO REPLACE | : | Adversary No. Doc. No. |
| F11 TO REPLACE | : | |
| <i>Plaintiff(s)</i> | : | Related to Doc No. F11 TO REPLACE |
| | : | |
| v. | : | |
| | : | |
| F11 TO REPLACE | : | Hearing: F11 TO REPLACE |
| F11 TO REPLACE | : | |
| <i>Defendant(s)</i> | : | |

PRETRIAL SCHEDULING ORDER AND 7016(f) NOTICE

AND NOW, this *F11 TO REPLACE* day of *F11 TO REPLACE*, after hearing on *F11 TO REPLACE(pleading and filing party)* filed by F11 TO REPLACE, pursuant to *Fed.R.Bankr.P. 7016*, it is hereby **ORDERED, ADJUDGED and DECREED** that all discovery shall close on *F11 TO REPLACE*.

It is **FURTHER ORDERED**, that:

(1) **On or before F11 TO REPLACE (14 days)**, all preliminary motions including motions for summary judgment must be filed. If pleadings are not filed within the specified time period, the Court’s calendar will not permit the motion(s) to be heard prior to the date of trial.

(2) At the times listed below, Counsel for the Parties shall file with the Clerk and serve upon opposing counsel, a **Pretrial Narrative Statement/Stipulation** (hereinafter “Pretrial

Statement”) using the form attached to this *Order* and marked Exhibit “A” including (among the other things listed in the form): (a) A brief statement of the case, including proposed findings of fact and conclusions of law; (b) The names and addresses of witnesses expected to be called; and, (c) A list of the exhibits to be offered.

(3) ***On or before F11 TO REPLACE (same date as in Paragraph 1)***, Plaintiff(s)/Movant(s)/Claimant(s)’ portion of the *Pretrial Statement* shall be finalized and served on all Parties with a copy filed with the Court. ***On or before F11 TO REPLACE (14 days later)***, Defendant(s)/Respondent(s)/Claimant(s)’ portion of the *Pretrial Statement* shall be finalized and served on all Parties with a copy filed with the Court. *[(Add this to paragraph only if relevant) On or before (14 days later)*, any Third Party Defendant(s)’ portion of the *Pretrial Statement* shall be finalized and served on all Parties with a copy filed with the Court.] The Parties shall then meet and prepare a *Consolidated Pretrial Statement*. ***On or before F11 TO REPLACE (14 days later)***, Plaintiff/Movant/Clamant shall file with the Court the completed and ***Consolidated Pretrial Statement*** signed by all Parties.

(4) The ***Final Pretrial Conference*** in this matter shall take place on ***F11 TO REPLACE (no earlier than 14 days later)*** before Judge Thomas P. Agresti via the ***Zoom Video Conference Application*** (“Zoom”). To join the Zoom hearing please initiate and use the following link at least 15 minutes prior to the scheduled hearing time: <https://www.zoomgov.com/j/16021303488>, or alternatively, you may use the following to access the Zoom Hearing: **Meeting ID: 160 2130 3488**. For questions regarding the connection, contact Judge Agresti’s Chambers at 814-464-9760. ***All attorneys and Parties may only appear by Zoom*** and must comply with Judge Agresti’s ***Amended Notice of Temporary Modification of Appearance Procedures***, dated and effective November 22, 2021, which can be found on the

Court's website at <https://www.pawb.uscourts.gov/sites/default/files/pdfs/tpa-proc-appearances.pdf>.

(5) The Parties must supply the Court with a copy of Exhibits at least three (3) business days prior to the *Final Pretrial Conference*. See the *Pretrial Narrative Form* at ¶ 7(C)(1). Trial will be scheduled at that time for a date soon to follow. Unless prior leave of Court to excuse such appearance on the basis of extraordinary circumstances is granted, it is **mandatory** for lead Trial Counsel to appear at the Final Pretrial Conference.

(6) ***Failure by any Party to timely comply with any terms of this Order*** will result in the imposition of sanctions on said Party by, *inter alia*, reprimand, fine, prohibition against said Party from offering testimony and/or dismissal.

Thomas P. Agresti, Judge
United States Bankruptcy Court

Case administrator to serve:
F11 TO REPLACE

[EXHIBIT "A" TO PRETRIAL SCHEDULING ORDER]

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

| | | |
|---------------------|----|---------------------|
| _____ | : | Case No. _____-TPA |
| <i>Debtor(s)</i> | : | Chapter _____ |
| | : | |
| | :: | |
| _____ | : | |
| <i>Plaintiff(s)</i> | : | |
| v. | : | Adversary No. _____ |
| | : | |
| _____ | : | |
| <i>Defendant(s)</i> | : | |

(Note: The designation "Plaintiff(s)/Defendant(s)" has been used throughout this form. Depending on the type of matter at issue, Counsel shall appropriately designate the respective Parties involved in this matter, i.e., "Plaintiff(s)/Defendant(s)", "Movant(s)/Respondent(s)", "Claimant(s)/Respondent(s)", etc.)

PRETRIAL NARRATIVE STATEMENT/STIPULATION

It is stipulated by and between the Parties that:

- (1) *This is an action for:***
- (2) *Jurisdiction:*** *(State basis and whether facts relative to jurisdiction and/or venue are disputed or agreed.)*
- (3) *Plaintiff(s)' narrative statement of the case:*** *(Very important to include a statement of the Plaintiff's theory of Defendant's liability, Plaintiff's injuries (personal and/or proprietary), and Plaintiff's damages.)*
- (4) *Defendant(s)' narrative statement of the case:***
- (5) *Third Party Defendant's narrative statement of the case:*** *(where applicable)*

- (6) *The following facts are stipulated by the Parties and require no proof: (here list each stipulated fact)*
- (7) *In addition to the procedures below regarding exhibits, and for a more detailed description of instructions for processing exhibits, see "Procedures for all of Judge Agresti's Cases" on the Court's website at <http://www.pawb.uscourts.gov/tpa-proc.htm>.*

The exhibits to be offered at the trial, together with a statement of all admissions, any objections and/or issues as to admissibility between the Parties with respect thereto are as follows:

- (A) You are to list all exhibits intended to be offered at trial by each Party, in the sequence proposed to be offered, with a description of each exhibit sufficient for identification. If no objection exists as to a specific exhibit, the "Objection" column on the required Exhibit List is to remain blank. Any statement of issues between any of the Parties regarding admissibility of the specific exhibit, for example, "authenticity", "due execution" thereof, or "relevancy", must be inserted in the "Objection" column otherwise the objection will be waived. ***If no objections are noted on the Exhibit List following the description of an exhibit, the Parties will be deemed to have agreed to the admission of the exhibit for all intents and purposes.***
- (B) You are to use a form substantially similar to the form following this Pretrial Narrative Statement/Stipulation for your Exhibit List.
- (C) The courtroom practice concerning the use of exhibits is as follows:
1. Unless otherwise directed to do so sooner, Counsel must provide the Court with ***three (3) copies*** of the marked exhibits ***three (3) full business days prior to the date set for the commencement of any proceeding in which exhibits are to be offered.*** Each Party shall make an additional set of exhibits available for use by witnesses at the time of the taking of evidence in any proceeding. All exhibits must be marked by Counsel using appropriate exhibit labels. The labels must be marked to identify the proponent of the exhibit and the date of the proceeding in which it is used. Plaintiffs/Movants shall identify their exhibits by using *letters*. Defendants/Respondents shall use exhibit *numbers*.
 2. In addition to the other requirements of this procedure, if any Party's exhibits cumulatively number, in the total aggregate, in excess of 20, single-sided, pages (not including an "Exhibit List" cover page index) they shall be bound in some manner, i.e., in loose-leaf notebook or hard binding, at the time of presentation to the Court and for use during any proceeding. The lower right hand corner of each page of the collective exhibit document shall be consecutively numbered (Bates Stamp numbering) from the first

page to the last page, independent of exhibit identification numbers previously placed on exhibits. The Party shall also provide the Court with a USB drive containing the scanned exhibits in PDF format prior to the start of the proceeding with Bates Stamp numbering that matches the 3 hard copies provided. Counsel should contact the Court's Chambers, if necessary, to ensure that the electronic medium is compatible with the Court's computer system. Exhibits are **NOT** to be emailed to Chambers without prior Court approval.

3. Plaintiffs use exhibit letters. Defendants use exhibit numbers. Third Party Defendants use exhibit numbers preceded by the notation "TPD". Example:

| |
|---------------------|
| Plaintiff (Name) |
| Exhibit A |
| Date: |

| |
|---------------------|
| Defendant (Name) |
| Exhibit #1 |
| Date: |

| |
|-------------------------------------|
| 3 rd Pty Deft. (Name) |
| Exhibit #TPD-1 |
| Date: |

4. As previously noted, each Counsel shall prepare a List of Exhibits on the attached form, identifying exhibits in the sequence in which they are intended to be offered at trial, with a descriptive notation sufficient to identify each separately identified exhibit. Counsel shall furnish a copy of the Exhibit List in their respective Pretrial Narrative Statements. Exhibits not so identified in the pretrial statement shall not be allowed at trial except upon a showing of cause. ***Mere inability to timely locate the exhibit shall not be considered cause.***
5. Counsel shall provide opposing counsel with copies of all exhibits along with submittal of the Pretrial Stipulation. Copies provided in response to a pretrial order will suffice at trial unless the Court rules otherwise.
6. Unless an objection is noted on the Exhibit Form provided on the Pretrial Narrative Statement/Stipulation, the exhibits will be admitted without further testimony. As to any objections noted, the admissibility of those exhibits will be considered at the pretrial conference or before any testimony is taken, subject to the Court's discretion. Only those exhibits to which a ruling on admission is reserved will require witness identification or authentication.
7. If necessary to offer, explain, or examine an exhibit, counsel shall request leave to approach the bench or the witness.
8. Counsel are the custodians of their exhibits throughout the trial.
9. All exhibits will be returned to the courtroom clerk at the conclusion of the trial. The clerk will retain the exhibits for 30 days after expiration of the

time for appeal, they then will be destroyed. If there is no appeal and you wish to have your exhibits returned to you, you must make the necessary arrangements with the clerk *prior* to expiration of the said 30 day period.

- (8) ***Examination of witnesses and argument*** may be conducted from counsel table or from the lectern, using a microphone.

- (9) ***A complete list of all witnesses including names and addresses follows: (If any witnesses are to be called as experts, an expert's report must be filed with the Pretrial Statement, otherwise the opinion testimony will be excluded at the time of trial.)***

- (10) ***Issues of Law:*** The following issues of law are contested and remain to be litigated upon the trial. *(A brief, no longer than 20 pages, should be filed along with the Pretrial Statement by each of the Parties setting forth the authorities in support of their respective legal positions.)*

- (11) ***Stipulations:*** The foregoing admissions of fact having been made, and the Parties having specified the issues of fact and law remaining to be litigated, this stipulation shall supplement the pleadings and govern the course of the trial unless modified to prevent injustice.

- (12) ***Authorization:*** My signature on this document authorizes the Parties and/or their attorney(s) to examine all pertinent records and acknowledges that I have reviewed all documents and exhibits identified herein by all other parties and/or their attorney(s).

STIPULATED AND AGREED BY:

Attorney for Plaintiff

Attorney for Defendant

Attorney for Third Party Defendant

[EXHIBIT FORM]

(CAPTION)

EXHIBITS FILED ON BEHALF OF: _____

Identification

| Exhibit Number | Date of Exhibit | Witness | Description | Objections | Court Rulings |
|-----------------------|------------------------|----------------|--------------------|-------------------|----------------------|
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