

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Plaintiff(s),
-against- _____ Civ. _____ (HB)

**PROPOSED PRETRIAL
SCHEDULING ORDER**

Defendant(s).

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APPEARANCES:

Plaintiff(s) by: _____

Defendant(s) by: _____

HAROLD BAER, Jr., District Judge:

Do the parties consent to proceed before a United States Magistrate Judge for all purposes, pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73?

Yes ___ No ___

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, after holding an initial pretrial conference on notice to all parties, it is hereby ordered that:

Except under circumstances agreed to by the Court:

1. **This case is added to the _____ Trailing Trial Calendar.**
Jury __. Non-Jury __. Estimated number of trial days is _____. Counsel should not make any other commitments during this month.

As a general rule, and for your information when filling this out prior to the PTC, keep in mind that all cases will be tried within a reasonable time from the date of this pretrial conference (e.g., 9 – 11 months) based on the complexity of the case. I will abide by your choice of month to try your case, assuming I deem it to be a reasonable time. Keep in mind the quid pro quo is that the month you choose, due to my trailing trial calendar format, will rarely if ever be changed.

2. No additional parties may be joined after _____.

New parties shall be bound by the deadlines included in this Pretrial Scheduling Order. If new parties are joined, the party joining them shall forward to them a copy of this Pretrial Scheduling Order and offer to provide them with access to all previously taken discovery. Should this pose a seemingly insurmountable problem, call Chambers.

3. No additional causes of action or defenses may be asserted after _____.

4. **Discovery:** All discovery shall be commenced immediately, but for a statutory bar (e.g. PSLRA) or further Order of the Court, and will be completed by ____, _____. Any delays that threaten this timetable are to be brought immediately to the attention of the Court. As the Court rarely grants extensions, any delays or disputes in the taking of discovery should be reported to the Court immediately.

Where applicable, decisions with respect to disclosure and discovery of electronically stored information, along with privilege issues related to that information, shall be provided to the Court within **10 days** following the signing of this Order by the Court.

5. **Motions:** The last day for fully-briefed motions (i.e., moving, opposition and reply papers) to be in Chambers is ____, _____. Either party may request (and will be given a date by Chambers) for oral argument. It is up to the parties, consistent with Federal and/or Local Rules, to ensure that each has sufficient time to brief their motions by the deadline.

In choosing the last date to submit fully briefed motions juxtaposed with your agreed-to trial month, keep in mind that the Court requires at least **60 days** to decide dispositive motions.

6. **Expert testimony:** Disclosure of expert testimony, if any, will be made at least 45 days before the first day of the agreed to trial month. Evidence intended to contradict or rebut the subject matter of the expert testimony will be submitted within 21 calendar days after the disclosure made by the other party, subject only to further order of this Court.

7. **Joint Pretrial Order:** A joint pretrial order may be requested when your trial date is set, and will typically need to be submitted to Chambers from 10 days to 2 weeks prior to trial. See my Individual Practices for details.

8. The law clerk assigned to this case is _____.

9. **Mediation:** Upon request to Chambers by either side, the Court will schedule and conduct a settlement conference and/or mediation. The Court will also, upon request, facilitate mediation under the Court Mediation Program or a settlement conference before your Magistrate Judge. In the case of a mediation to be conducted by the Court, all parties must bring their respective clients to the mediation. Keep in mind, closure, for the most part, is accomplished in direct proportion to how early in the litigation the mediation occurs. Any ADR procedure must occur within the framework of this order.

10. **Settlement/Discontinuance:** Whenever a case is resolved, the parties must submit an Order of Discontinuance, signed by all parties, before the case will be removed from the trial calendar. When the parties settle within forty-eight hours of trial or the filing of a dispositive motion, they must notify the Court immediately of such settlement, and fax to the Court no less than thirty-six hours prior to their planned appearance an Order of Discontinuance (copy attached), signed by all parties.

11. The parties' signatures below represent their understanding and agreement that this schedule is final and binding upon them unless the Court concludes that extraordinary circumstances warrant an extension with respect to one or more than one of the scheduled dates.

 For Plaintiff

 For Plaintiff

 For Defendant

 For Defendant

SO ORDERED.

DATED:

_____,
 New York, New York

 HAROLD BAER, JR.
 United States District Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

- against -

____ Civ. ____ (HB)

**ORDER OF
DISCONTINUANCE**

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Hon. HAROLD BAER, JR., District Judge:

This cause having duly come on to be heard before me and the attorneys for all parties having advised the Court that all claims asserted herein are settled or are in the process of being settled, it is hereby

ORDERED that the above entitled action be and hereby is discontinued with prejudice and without costs to either party. Should settlement not be finalized by _____, any party may apply to have the action reopened, and it is further

ORDERED that the Clerk of the Court is instructed to close any pending motions, close this case and remove it from my docket.

SO ORDERED:
New York, New York

Dated: _____

U.S.D.J.

I hereby consent to the entry of this proposed order:

Attorneys for Plaintiff

Attorneys for Defendant

Attorneys for Third-party