

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

v. : CIVIL ACTION
: :
: :
: :
: : NO.

FEDERAL RULE OF CIVIL PROCEDURE 16 PRETRIAL SCHEDULING ORDER

FOR TRIAL DE NOVO FROM ARBITRATION

AND NOW, TO WIT, this ___ day of _____, 20___, IT IS ORDERED as follows:

1. On or before _____, counsel for each party shall serve upon counsel for every other party:

(a) the original or a copy of each exhibit they expect to offer at trial de novo in furtherance of their respective contentions. Each party shall mark its trial de novo exhibits in advance of trial with consecutive numbers appropriately prefixed with an identifying letter of counsel's choice (i.e., P-1, P-2; D-1, D-2); (b) curriculum vitae for each expert witness expected to testify; (c) the information referred to in Federal Rule of Civil Procedure 26(a)(2)(B) by expert report, deposition or answer to expert interrogatory; and, (d) a specific identification of each discovery item expected to be offered into evidence.

2. All parties shall prepare and file with the Clerk of Court their pretrial memoranda, in accordance with this Order and Local Rule of Civil Procedure 16.1(c), as follows:

Plaintiffs - on or before _____;

Defendants - on or before _____.

In addition to compliance with Local Rule of Civil Procedure 16.1(c), the parties shall include the following in or attach to their pretrial memoranda:

- a. A listing of the identity of each expert witness to be called at the trial de novo by the party;
- b. a curriculum vitae for each expert witness listed;
- c. a listing of each fact witness to be called at the trial de novo with a brief statement of the nature of their expected testimony (witnesses not listed may not be called by that party in its case-in-chief);
- d. an itemized statement of claimant's damages or other relief sought;
- e. a statement of any anticipated important legal issues on which the Court will be required to rule, together with counsel's single best authority on each such issue.

One copy (1) of the pretrial memoranda shall be filed with the Clerk of the Court and one (1) copy shall be sent to the Court (Chambers).

3. (a) If a jury trial de novo is scheduled, the parties shall file in writing with the Clerk of Court one (1) copy of joint proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories to the jury. The parties shall also file one (1) copy of proposed jury instructions, verdict forms, or special interrogatories on those issues not agreed upon by the parties in their joint submission. **These filings shall be made no later than _____**. Jury instructions shall be submitted each on a separate sheet of paper, double spaced, with accurate quotes from and citations to cases and pattern jury instructions where appropriate. Two copies should be sent to the Court (Chambers). The Court also encourages that the parties submit a computer diskette in WordPerfect 6.1 for Windows format.

(b) If a non-jury trial de novo is scheduled, the parties shall file one (1) copy of proposed findings of fact and conclusions of law with the Clerk of the Court no later than _____. One (1) copy of the proposed findings of fact and conclusions of law shall be sent to the Court (Chambers). The Court also encourages that the parties submit a computer diskette in WordPerfect 6.1 for Windows format.

4. No later than three days before the date the trial de novo is scheduled to commence, the parties shall file a complete and comprehensive stipulation of uncontested facts pursuant to paragraph (d)(2)(b)(2) of Local Rule of Civil Procedure 16.1; the original shall be filed with the Clerk of the Court, and two (2) copies shall be submitted to the Court (Chambers).

5. At the commencement of trial, the parties shall provide the Court with three (3) copies of a schedule of exhibits which shall briefly describe each exhibit. At the trial de novo, the parties shall provide the Court with two (2) copies of each exhibit at the time of its first use at trial.

6. This case will be tried on _____, .

COUNSEL PLEASE NOTE: This Scheduling Order will be the only written notice counsel receive of the date this case will be tried. Counsel and all parties shall be prepared to commence the trial de novo on that date and as soon thereafter as counsel receive telephone notice that the trial de novo is to commence.

7. Any party having an objection to: (a) the admissibility of any exhibit based on authenticity; (b) the adequacy of the qualifications of an expert witness expected to testify; (c) the admissibility for any reason (except relevancy) of any item of evidence expected to be offered, or (d) the admissibility of any opinion testimony from lay witnesses pursuant to Federal Rule of

Evidence 701 shall set forth separately each such objection, clearly and concisely, in their pretrial memorandum. Such objection shall describe with particularity the ground and the authority for the objection. Unless the court concludes at the trial de novo that manifest injustice will result, the Court can be expected to overrule any objection offered at the trial de novo in respect to any matter covered by (a), (b), (c) and/or (d) above, if the Court concludes that the objection should have been made as required by this Order.

8. Only those exhibits, discovery items and expert witnesses identified in the manner set forth in this Order shall be considered by the Court for admission into evidence at the trial de novo, unless stipulated to by all affected parties and approved by the Court, or by Order of Court so as to avoid manifest injustice.

9. Because a witness may be unavailable at the time of the trial de novo in the manner defined in Federal Rule of Civil Procedure 32(a)(3), the Court expects use of oral or videotape depositions at the trial de novo of any witness whose testimony a party believes essential to the presentation of that party's case, whether that witness is a party, a non-party or an expert. The unavailability of any such witness will not be a ground to delay the commencement or progress of an ongoing trial. In the event a deposition is to be offered, the offering party shall file with the Court, prior to the commencement of the trial de novo, a copy of the deposition, but only after all efforts have been made to resolve objections with other counsel. Unresolved objections shall be noted in the margin of the deposition page(s) where a Court ruling is necessary.

JOHN R. PADOVA, J.