

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK  
COMMERCIAL DIVISION: IAS PART 44

**PRESENT: HON. ELIZABETH H. EMERSON**

Index No. \_\_\_\_\_

Plaintiff(s),

-against-

Defendant(s).

**Preliminary Conference  
Stipulation and Order**  
(Section 202.8[f] and 202.12  
of the Uniform Rules)

**(All items on the form must be completed unless inapplicable.)**

It is hereby STIPULATED and ORDERED that disclosure shall proceed as follows:

(1) **Nature of case:**

(a)

Plaintiff's Claims/Counterclaim Defenses

\_\_\_\_\_

Amount Demanded \$ \_\_\_\_\_

(b)

Defendant \_\_\_\_\_'s Claims/Defenses

\_\_\_\_\_

Amount Demanded \$ \_\_\_\_\_

Defendant \_\_\_\_\_'s Claims/Defenses

\_\_\_\_\_

Amount Demanded \$ \_\_\_\_\_

Defendant \_\_\_\_\_'s Claims/Defenses

\_\_\_\_\_  
\_\_\_\_\_

Amount Demanded \$ \_\_\_\_\_

Defendant \_\_\_\_\_'s Claims/Defenses

\_\_\_\_\_  
\_\_\_\_\_

Amount Demanded \$ \_\_\_\_\_

(Add additional sheets, if needed)

It is hereby STIPULATED and ORDERED that disclosure shall proceed as follows:

(2) **Insurance Coverage (CPLR 3101 [f]):** If not provided, shall be furnished by \_\_\_\_\_ on or before \_\_\_\_\_. Not Applicable \_\_\_\_\_.

(3) **Bill of Particulars:** (If relevant)

(a) Demand shall be served on or before \_\_\_\_\_.

(b) Bill of Particulars shall be served not later than \_\_\_\_\_ days after receipt of the demand.

(c) All previously served demands shall be responded to on or before \_\_\_\_\_ 200\_\_.

(4) **Discovery and Inspection:**

(a) All Demands for Discovery and Inspection (CPLR 3120) shall be served not later than \_\_\_\_\_ days from the date of this Order which shall be on or before \_\_\_\_\_.

(b) All responses to Discovery and Inspection demands shall be served not later than \_\_\_\_\_ days after receipt of the opposing party(ies) demand(s).

(c) All previously served demands shall be responded to on or before \_\_\_\_\_ 200\_\_.

(d) All demands for production of books, documents, records and other writings relevant to a party's claims or defenses shall be deemed to include a demand for production of any photograph(s), audio tape(s), video tape(s) and Electronically Stored Information ("ESI"). To the extent relevant the terms of Annex A are incorporated herein.

(5) **Depositions:**

- (a) Depositions shall be held as follows:  
(Priority shall be in accordance with CPLR 3106 unless otherwise agreed or ordered)

<u>Party</u>	<u>Date</u>	<u>Time</u>	<u>Place</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Add additional sheets, if needed)

- (b) Unless otherwise agreed or **Ordered**, if a party fails or refuses to be deposed, he/she may not utilize the deposition of the adverse party(ies) at trial in addition to such other sanctions as may be available (CPLR 3126).
- (c) Depositions of non-party witnesses shall not be noticed until the conclusion of all party depositions unless otherwise agreed by all party(ies) or **Ordered** by the Court.
- (d) Any disputes with regard to the propriety of questions at a deposition shall be promptly resolved via an application to the Court either in person, if the deposition is conducted in the Courthouse, or via telephone, if the deposition is conducted elsewhere. In the event the Justice presiding or his/her law secretary is not available, such applications shall be addressed to the Special Term Justice presiding on that day.

(6) **Other Disclosure:**

- (a) Expert disclosure shall be provided pursuant to CPLR 3101[d]
- (b) Interrogatories (CPLR 3130-3133): Each party shall serve no more than 25 interrogatories, inclusive of subdivisions and subparts unless otherwise **Ordered** by the Court.

(7) **Preservation of ESI:**

Parties shall review Annex A and complete as appropriate. To the extent ESI is relevant to the matters described in this order the provisions set forth on Annex A shall apply.

(8) **Motions:**

- (a) All motions shall be made in accordance with the Commercial Division Rules and as appropriate after a pre-motion conference has been completed.
- (b) All dispositive motion(s) (CPLR 3211 and 3212) shall also be made pursuant to applicable provisions of the CPLR.
- (c) Impleader motion(s) to amend pleadings or to add parties shall be completed on or before \_\_\_\_\_.

(9) **End Date for All Disclosure** other than expert disclosure \_\_\_\_\_.  
(Set by Court for Part Clerk)

(10) **Certification Conference** shall be held on \_\_\_\_\_ (set by Court or Part Clerk).

(11) **Status Conference** shall be held on \_\_\_\_\_ (set by Court or Part Clerk).

(12) **Confidentiality/Nondisclosure Agreement:**

(a) In the event that there is a need for a Confidentiality/Nondisclosure Agreement prior to disclosure, the party(ies) demanding same shall prepare and circulate the proposed agreement. If the party(ies) cannot agree as to same, they shall promptly notify the Court. The failure to promptly seek a confidentiality agreement may result in a waiver of same.

(b) \_\_\_\_\_ anticipates the need for a Confidentiality Agreement as to the following issues.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(13) **Miscellaneous:**

(a) If the matter settles, the Court shall be promptly notified and a courtesy copy of the Stipulation of Discontinuance shall be promptly forwarded to the Court. Failure to comply with any of these directions may result in the imposition of costs, sanctions or other actions authorized by law.

(b) The failure of any party(ies) to perform any of the requirements contained in this

Order shall not excuse any other party(ies) from performing any other requirement contained herein.

(c) Any dates established herein shall not be changed or adjourned without the prior approval of the Court.

(d) Each counsel/party acknowledges that they are familiar with the Commercial Division Rules.

(14) This Order includes the attached \_\_\_\_\_ page(s) which is/are incorporated herein by reference.

Attorney for Plaintiff(s) Firm Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Attorney for Defendant(s) Firm Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Attorney for Defendant(s) Firm Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Attorney for Defendant(s) Firm Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Signature: \_\_\_\_\_

Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

**SO ORDERED:**

\_\_\_\_\_  
**J.S.C.**