**UNITED STATES BANKRUPTCY COURT**

**SOUTHERN DISTRICT OF NEW YORK**

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In re: :

:

:

[ ] : Chapter \_\_

: Case No. \_\_-\_\_\_\_ (SMB)

:

Debtor(s) :

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:

:

Plaintiff(s), :

: Adv. Proc. No.\_\_\_\_\_\_\_\_\_\_(SMB)

- against - :

:

: JOINT PRETRIAL ORDER

: (PROPOSED)

Defendant(s). :

:

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The parties having conferred among themselves and with the Court pursuant to

Fed. R. Civ. P. 16, the following statements, directions and agreements are adopted as the

Pretrial Order herein.

1. NATURE OF THE CASE

[Set forth a brief statement of the general nature of the action and the relief sought by each party.]

1. BASIS FOR JURISDICTION, WHETHER THE CASE IS CORE OR NON-CORE, AND WHETHER THE BANKRUPTCY JUDGE MAY ENTER FINAL ORDERS OR JUDGMENT

[Set forth the basis for subject matter jurisdiction and whether the case is core or non-core, and if core, whether the court can enter final orders and judgment. If these matters are disputed, the positions of each of the parties should be explained. Also, state whether the parties consent to the bankruptcy judge entering final orders or judgment.]

1. STIPULATED FACTS

[Set forth any stipulated facts in separately numbered paragraphs.]

1. PARTIES' CONTENTIONS

The pleadings are deemed amended to embrace the following, and only the

following, contentions of the parties:

1. Plaintiff's Contentions

[Set forth a brief statement of the plaintiff's contentions in separately numbered paragraphs as to all ultimate issues of fact and law.]

1. Defendant's Contentions

[Set forth a brief statement of the defendant's contentions in separately numbered paragraphs as to all ultimate issues of fact and law.]

1. ISSUES TO BE TRIED

[Set forth an agreed statement of the issues to be tried.]

1. PLAINTIFF'S EXHIBITS
2. DEFENDANT'S EXHIBITS

No exhibit not listed by plaintiff or defendant may be used at trial except (a) for cross-examination purposes or (b) if good cause for its exclusion from the pretrial order is shown. Each side shall list all exhibits it intends to offer on its case in chief. All exhibits shall be pre-marked with each exhibit bearing a unique number or letter (numbers for plaintiff and letters for defendant), with the prefix PX for plaintiff’s exhibits and DX for defendant’s exhibits. Each party must supply a loose-leaf bound book of pre-marked exhibits separated by dividers and containing an index to the Court, his or her adversary and the witness stand at the commencement of the trial.

1. STIPULATIONS AND OBJECTIONS WITH RESPECT TO EXHIBITS

The parties shall set forth any stipulations with respect to the authenticity and admissibility of exhibits and indicate all objections to exhibits and the grounds therefor. The parties should deliver to chambers a copy of any pre-marked exhibit that is the subject of an objection at the time they deliver the proposed pre-trial order. Any objections not set forth in this order will be considered waived absent good cause shown.

1. PLAINTIFF'S WITNESS LIST
2. DEFENDANT'S WITNESS LIST

Any witness who is not identified in accordance with this order shall not be permitted to testify on either party's case in chief absent good cause shown. Each party shall list the witnesses it intends to call on its case in chief and, if a witness's testimony will be offered by deposition, shall designate by page and line numbers the portions of the deposition transcript it intends to offer. Each party shall set forth any objections it has to deposition testimony designated by the other and the basis therefor.

1. PLAINTIFF’S EXPERT WITNESSES
2. DEFENDANT’S EXPERT WITNESSES

The parties should list any expert witnesses they intend to call in their direct cases, summarize each expert witness’s testimony, and identify the date of the expert witness’s report, if any. Any expert witness who is not identified in accordance with this order shall not be permitted to testify on either party's case in chief absent good cause shown.

1. RELIEF SOUGHT

The plaintiff shall set forth the precise relief sought, including each element of damages. If the defendant has asserted counterclaims, it shall do the same.

1. ESTIMATED TIME OF TRIAL

Each party shall set forth a good faith estimate of the amount of hours it will take to complete the party’s presentation of its direct case.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

 [Signature of Plaintiff’s counsel]

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

 [Signature of Defendant’s counsel]

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IT IS SO ORDERED:**

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

 **STUART M. BERNSTEIN**

 **United States Bankruptcy Judge**