

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAZZ PHARMACEUTICALS, INC.,)
)
Plaintiff,)
)
v.) C.A. No. 21-691 (MN)
)
AVADEL CNS PHARMACEUTICALS LLC,)
)
Defendant.)

JAZZ PHARMACEUTICALS, INC. and)
JAZZ PHARMACEUTICALS IRELAND)
LIMITED,)
)
Plaintiffs,)
)
v.) C.A. No. 21-1138 (MN)
)
AVADEL CNS PHARMACEUTICALS LLC,)
)
Defendant.)

JAZZ PHARMACEUTICALS, INC. and)
JAZZ PHARMACEUTICALS IRELAND)
LIMITED,)
)
Plaintiffs,)
)
v.) C.A. No. 21-1594 (MN)
)
AVADEL CNS PHARMACEUTICALS LLC,)
)
Defendant.)

**PLAINTIFFS' OBJECTION TO DEFENDANT'S RENEWED MOTION FOR PARTIAL
JUDGMENT ON THE PLEADINGS**

I. ARGUMENT

The Court's Scheduling Order in this case expressly states that "[t]he parties shall not file case dispositive motions without leave of Court." *See* C.A. No. 21-691, D.I. 31 at ¶ 15. Avadel did not seek leave of the Court before filing its "Renewed Motion for Partial Judgment on the Pleadings" (D.I. 117), and its motion should therefore be denied.

A "scheduling order is an important tool in controlling litigation." *United States ex rel. Streck v. Allergan, Inc.*, No. 08-5135, 2015 WL 12834374, at *1 n.1 (E.D. Pa. Apr. 9, 2015). It is "not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril." *Id.* (citation omitted). Instead, Federal Rule of Civil Procedure 16 "gives the district courts wide latitude to manage discovery and other pretrial matters, and to set deadlines for amending pleadings, filing motions, and completing discovery." *Eichorn v. AT&T Corp.*, 484 F.3d 644, 650 (3d Cir. 2007).

Accordingly, when a Scheduling Order provides that leave must be sought prior to filing a motion, courts within this Circuit routinely deny motions filed without first seeking the requisite leave. *See, e.g., Simon v. Robinson*, 219 F. App'x 137, 139 (3d Cir. 2007) (affirming denial of motion brought under Rule 60 where "submission violated the portion of the District Court's June 2, 2006 order that forbade filing without leave of court any further pleadings in that court arising out of the same facts"); *Bd. of Regents v. Boston Sci. Corp.*, No. 18-392-MN, D.I. 205 (D. Del. June 15, 2022) (holding "that the motion is DENIED for failure to comply with this Court's procedures set forth in the Scheduling Order.") (Ex. A); *Amgen Inc. v. Hospira, Inc.*, No. 18-1064-CFC, 2021 WL 4935868, at *1 (D. Del. May 20, 2021) ("Because Defendants did not comply with the Scheduling Order's requirements for summary judgment practice, I will deny their motion."); *Walker Digital LLC v. LinkedIn Corp. et al.*, No. 11-318-LPS, D.I. 222 (D. Del. Mar. 25, 2013)

(denying defendant’s motion for leave to file a motion for summary judgment of invalidity based on claiming unpatentable subject matter because “allowing the filing of one case-dispositive motion in advance of any other case-dispositive motions . . . is not warranted and will not promote judicial economy”) (Ex. B); *Enova Tech. Corp. v. Initio Corp. et al.*, No. 10-04-LPS, D.I. 437 (D. Del. Jan. 28, 2013) (denying plaintiff’s request to brief the sufficiency of the intent element of defendant’s claim of inequitable conduct because the court construed the request as one for leave to file an untimely “case dispositive motion”) (Ex. C); *Rodriguez v. Ortiz*, No. 16-1991, 2016 WL 6561556, at *1 (D.N.J. Nov. 2, 2016) (“Mr. Rodriguez filed the present motion without permission from the Court and did not bring this discovery dispute to the Court’s attention via an informal letter as directed. For these reasons, his request will be denied without prejudice.”).

In a letter filed after its motion was filed, Avadel has taken the position that its motion does not run afoul of the Scheduling Order because the provision in question “actually refers to ‘case dispositive’ motions (i.e., summary judgment motions).” *See* D.I. 121. Avadel’s position does not excuse its violation of the Court’s Scheduling Order in this case for two reasons.

First, Avadel’s motion seeks relief that is dispositive as to its delisting counterclaim. It does not matter whether that relief is sought through a Rule 12(c) motion or a summary judgment motion; leave is required either way under the operative Scheduling Order in this case. In fact, the decision that Avadel cited in its letter actually supports Jazz’s position. In *MAZ Encryption Techs. LLC v. Blackberry Corp.*, the Scheduling Order permitted two types of dispositive motions: (1) any kind, which had to “be served and filed *on or before* one hundred and eighty (180) days following the Court’s claim construction ruling”; and (2) “case dispositive motion[s] *under Rule 56*,” which could not be filed “more than ten (10) days before the above date without leave of the Court.” No. 13-304, D.I. 28 at 10 (D. Del. Mar. 21, 2014) (emphasis added) (Ex. D). Therefore,

the Scheduling Order in *MAZ Encryption* only required leave of Court for early summary judgment motions, and that is why the Court made its comment about requiring leave for such filings. *See* No. 13-304, 2016 WL 5661981, at *5 (D. Del. Sep. 29, 2016). The Scheduling Order in this case, on the other hand, does not draw any such distinction. Instead, it states that *no* case dispositive motions shall be filed without leave of Court, no matter whether they are pursuant to Rule 56 or otherwise.

Second, the motion need not be dispositive of the *entire* case to qualify as a “case dispositive motion.” An attempt to seek disposition of any claim or counterclaim in a case qualifies. *See Neology, Inc. v. Fed. Signal Corp.*, No. 11-672, 2012 WL 4342070, at *2 (D. Del. Sept. 21, 2012).

The Court’s admonition to seek leave prior to filing case dispositive motions is a means of overseeing and controlling its own docket. It is also a means to prevent a party from filing complex motions at a time when the Court’s time and resources need to be directed elsewhere or when other matters need to be resolved before such motion can be filed (which is the case here with respect to at least claim construction (*see* D.I. 55 at 5-6)). Avadel’s unilaterally filed motion usurps the Court’s authority over its own docket and should be denied on this basis.

The Court has not granted Avadel leave to file its “Renewed Motion for Partial Judgment on the Pleadings.” To the extent that the Court grants such leave in the future, Jazz will oppose on the merits at that time.

II. CONCLUSION

For the foregoing reasons, the Court should deny Avadel’s “Renewed Motion for Partial Judgment on the Pleadings” (D.I. 117).

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jeremy A. Tigan

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July 7, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2022, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on July 7, 2022, upon the following in the manner indicated:

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/s/ Jeremy A. Tigan

Jeremy A. Tigan (#5239)

EXHIBIT A

ORAL ORDER DENYING 194 MOTION for Summary Judgment on the Issue of Definiteness - WHEREAS, pursuant to the 47 Scheduling Order, a separate concise statement of facts shall be filed with any summary judgment motion; and WHEREAS, Plaintiff did not file such statement with its 194 Motion for Summary Judgment. THEREFORE, IT IS HEREBY ORDERED that the motion is DENIED for failure to comply with this Court's procedures set forth in the Scheduling Order. ORDERED Maryellen Noreika on 6/15/2022. (dlw) (Entered: 06/15/2022)

As of June 16, 2022, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

Board of Regents, The University of Texas System et al v. Boston Scientific Corporation
1-18-cv-00392 (DDE), 6/15/2022, docket entry 205

EXHIBIT B


**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WALKER DIGITAL, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 11-318-LPS
	:	
LINKEDIN CORPORATION, et al.,	:	
	:	
Defendants.	:	

MEMORANDUM ORDER

At Wilmington this 25th day of March, 2013:

IT IS HEREBY ORDERED that Defendants' Motion for Leave to File Motion for Summary Judgment of Invalidity Based on Claiming Unpatentable Subject Matter (D.I. 152), is DENIED. The Court has concluded that, under the circumstances presented here, allowing the filing of one case-dispositive motion in advance of any other case-dispositive motions Defendants may wish to file (which are presently due on the later of May 24, 2013 or 45 days after the last day to complete expert depositions) (D.I. 172), is not warranted and will not promote judicial economy.



UNITED STATES DISTRICT JUDGE

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ENOVA TECHNOLOGY CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 10-04-LPS
	:	
INITIO CORPORATION, ET AL.,	:	
	:	
Defendants.	:	

ORDER

At Wilmington this **28th** day of **January, 2013**:

Having reviewed the Joint Proposed Pretrial Order (D.I. 423), IT IS HEREBY

ORDERED that:

1. The parties shall advise the Court, by joint letter filed no later than **Wednesday, January 30, at 12:00 p.m.**, of the number of hours they are requesting for a bench trial on the issue of inequitable conduct.
2. Plaintiff's request to brief the sufficiency of the intent element of Defendants' claim of inequitable conduct, which the Court construes as a request for leave to file an untimely case dispositive motion, is **DENIED**.
3. Regarding Defendants' request for additional claim construction:
 - a. Plaintiff's motion for leave to file a supplement to appendix 21 to the pretrial order (D.I. 426) is **DENIED**.
 - b. The parties' submissions regarding additional terms for claim construction (pretrial order Exs. 20 and 21) are **STRICKEN**.

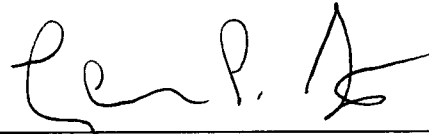
- c. The parties have filed what amount to supplemental claim construction briefs that exceed the page limits that apply to briefs filed in this Court. Defendants have filed 32 pages (pretrial order Ex. 20) and Plaintiff proposes to file a 20 page brief (D.I. 426 Ex. A); if the Court were to permit Plaintiff's new brief, Defendants request an opportunity to respond (D.I. 430). No request for leave to file briefs of such length has been requested nor granted. In the context of preparing this case for trial, submissions of this length are not helpful to the Court.
- d. Proceedings on Defendants' request for additional claim construction shall proceed as follows:
 - i. Simultaneous opening briefs, not to exceed 20 pages per side [i.e., 20 pages for Plaintiff, and 20 pages for Defendants collectively], are due on **February 4**;
 - ii. Simultaneous answering briefs, not to exceed 10 pages per side, are due **February 11**;
 - iii. The Court will conduct a *Markman* hearing during the first day of trial, **February 25**, at some point following the completion of jury selection.

4. The parties' overlength submissions relating to their dispute over Plaintiff's proposed testimony from Robert Wann are **STRICKEN**. These submissions – i.e., Exhibit 18, containing 27 pages of briefing by Defendants, and Exhibit 19, containing 17 pages of briefing by Plaintiff – far exceed what the Court would ordinarily permit for a dispute of this type. No leave to file briefs of such length was requested nor granted. In the context of preparing this case

for trial, submissions of this length are not helpful to the Court. Each side shall submit a letter brief relating to Mr. Wann's testimony, not to exceed three pages, to be filed no later than

Wednesday, January 30 at 12:00 p.m.

Delaware counsel are reminded of their obligations to inform out-of-state counsel of this Order. To avoid the imposition of sanctions, counsel shall advise the Court immediately of any problems regarding compliance with this Order.



UNITED STATES DISTRICT JUDGE

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

C.A. No. 13-299-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

DELL INC.,

Defendant.

C.A. No. 13-300-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

FUJITSU FRONTECH NORTH AMERICA
INC.,

Defendant.

C.A. No. 13-301-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY,

Defendant.

C.A. No. 13-306-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

LENOVO (UNITED STATES) INC.,

Defendant.

C.A. No. 13-303-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

BLACKBERRY CORPORATION,

Defendant.

C.A. No. 13-304-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

TOSHIBA AMERICA INFORMATION
SYSTEMS, INC.,

Defendant.

C.A. No. 13-305-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

MCAFEE, INC.,

Defendant.

C.A. No. 13-729-LPS

MAZ ENCRYPTION TECHNOLOGIES LLC,

Plaintiff,

v.

ORACLE CORPORATION, AND
T-MOBILE USA, INC.,

Defendants.

C.A. No. 13-730-LPS

~~JOINT PROPOSED~~ SCHEDULING ORDER

This 20th day of March, 2014, the Court having consulted with the parties' attorneys and received a joint proposed scheduling order, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS ORDERED that:

1. Rule 26(a)(1) Initial Disclosures and E-Discovery Default Standard. The parties shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) on or before **February 28, 2014**. If they have not already done so, the parties are to review the Court's Default Standard for Discovery of Electronic Documents, which is posted at

<http://www.ded.uscourts.gov> (see Orders, etc., Policies & Procedures, Ad Hoc Committee for Electronic Discovery), and is incorporated herein by reference.

Information regarding Delaware Default Standard for Discovery Paragraph 3 shall be served on or before **February 28, 2014**; Plaintiff shall serve/produce information regarding Delaware Default Standard for Discovery Paragraph 4(a) on or before **March 6, 2014**; Defendants shall serve/produce information regarding Delaware Default Standard for Discovery Paragraph 4(b) on or before **May 11, 2014**; Plaintiff shall serve/produce information regarding Delaware Default Standard for Discovery Paragraph 4(c) on or before **July 3, 2014**; Defendants shall serve/produce information regarding Delaware Default Standard for Discovery Paragraph 4(d) on or before **September 2, 2014**.

2. Joinder of Other Parties and Amendment of Pleadings. All motions to join other parties, and to amend or supplement the pleadings, shall be filed on or before **May 15, 2014**. Notwithstanding the foregoing, all motions to add claims and/or affirmative defenses for inequitable conduct shall be filed on or before **February 28, 2015**.

3. Discovery. Unless otherwise ordered by the Court, the limitations on discovery set forth in Local Rule 26.1 shall be strictly observed.

a. Fact Discovery Cut Off. All fact discovery in this case shall be initiated so that it will be completed on or before **April 15, 2015**.

b. Document Production. Document production shall be substantially complete by **November 15, 2014**.

c. Requests for Admission. A maximum of 25 common requests for admission are permitted for each side. Each Defendant Group (a Defendant Group consists of one or more defendants that are related corporate entities) is permitted up to 25 additional

individual requests for admission to Plaintiff, and Plaintiff is permitted up to 25 additional individual requests for admission to each Defendant Group. Notwithstanding the foregoing, there is no limitation on the number of requests for admission that a document is authentic and/or a business record.

d. Interrogatories.

i. Plaintiff may serve 15 joint interrogatories on Defendants collectively. Plaintiff may serve 15 additional Defendant specific interrogatories per Defendant Group. Defendants may collectively serve 15 joint interrogatories on Plaintiff. Each Defendant Group may individually serve 15 additional interrogatories.

ii. The Court encourages the parties to serve and respond to contention interrogatories early in the case. In the absence of agreement among the parties, contention interrogatories, if filed, shall first be addressed by the party with the burden of proof. The adequacy of all interrogatory answers shall be judged by the level of detail each party provides; i.e., the more detail a party provides, the more detail a party shall receive.

e. Depositions.

i. Limitation on Hours for Deposition Discovery. Plaintiff may take up to 38 hours of fact depositions of each Defendant Group. Defendants may collectively take up to 76 hours of fact depositions of Plaintiff. No single Defendant shall be permitted more than 38 hours of fact depositions of Plaintiff. Plaintiff may take up to 120 hours of third party depositions. Defendants may collectively take up to 165 hours of third party depositions. The foregoing limitations do not apply to deposition of experts. Depositions of the inventor of the patents asserted against any Defendant or Defendant Group shall be limited to a maximum of sixteen (16) hours and shall not count toward Defendants' deposition hour limits. The parties

will work to minimize the burden on common witnesses by coordinating depositions with the parties in the related MAZ Encryption Technologies cases pending in this District (captioned above).

ii. Location of Depositions. The parties agree that in this case the deposition of any individual, including any individual testifying as a Rule 30(b)(6) witness for a corporate entity, will presumptively take place where the witness resides, or at least some other mutually agreeable location. Any individual resident in a foreign country who is under control of a party that filed a claim or counterclaim and is produced as a Rule 30(b)(6) witness for such party shall be made available for deposition at a mutually agreeable location within the continental United States.

f. Disclosure of Expert Testimony.

i. Expert Reports. For the party who has the initial burden of proof on the subject matter, the initial Federal Rule 26(a)(2) disclosure of expert testimony is due on or before **sixty (60) days following the Court's claim construction ruling.** The supplemental disclosure to contradict or rebut evidence on the same matter identified by another party is due on or before **ninety (90) days following the Court's claim construction ruling.** Reply expert reports from the party with the initial burden of proof are due on or before **one hundred and fifteen (115) days following the Court's claim construction ruling.** No other expert reports will be permitted without either the consent of all parties or leave of the Court. Expert depositions shall be completed no later than **one hundred and sixty (160) days following the Court's claim construction ruling.**

ii. Objections to Expert Testimony. To the extent any objection to expert testimony is made pursuant to the principles announced in *Daubert v. Merrell Dow*

Pharm., Inc., 509 U.S. 579 (1993), as incorporated in Federal Rule of Evidence 702, it shall be made by motion no later than the deadline for dispositive motions set forth herein, unless otherwise ordered by the Court.

g. Discovery Matters and Disputes Relating to Protective Orders. Should counsel find they are unable to resolve a discovery matter or a dispute relating to a protective order, the parties involved in the discovery matter or protective order dispute shall contact chambers at (302) 573-4571 to schedule a telephone conference. On a date to be set by separate order, but not less than forty-eight (48) hours prior to the conference, the party seeking relief shall file with the Court a letter, not to exceed three (3) pages, outlining the issues in dispute and its position on those issues. On a date to be set by separate order, but not less than twenty-four (24) hours prior to the conference, any party opposing the application for relief may file a letter, not to exceed three (3) pages, outlining that party's reasons for its opposition. Should any document(s) be filed under seal, a courtesy copy of the sealed document(s) must be provided to the Court within one (1) hour of e-filing the document(s).

Should the Court find further briefing necessary upon conclusion of the telephone conference, the Court will order it. Alternatively, the Court may choose to resolve the dispute prior to the telephone conference and will, in that event, cancel the conference.

If a discovery related motion is filed without leave of the Court, it will be denied without prejudice to the moving party's right to bring the dispute to the Court through the discovery matters procedures set forth in this Order.

4. Application to Court for Protective Order. Should counsel find it will be necessary to apply to the Court for a protective order specifying terms and conditions for the disclosure of confidential information, counsel should confer and attempt to reach an agreement

on a proposed form of order and submit it to the Court within 30 days from the date of this Order. Should counsel be unable to reach an agreement on a proposed form of order, counsel must follow the provisions of Paragraph 3(g) above.

Any proposed protective order must include the following paragraph:

Other Proceedings. By entering this order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or party subject to this order who becomes subject to a motion to disclose another party's information designated "confidential" [the parties should list any other level of designation, such as "highly confidential," which may be provided for in the protective order] pursuant to this order shall promptly notify that party of the motion so that the party may have an opportunity to appear and be heard on whether that information should be disclosed.

5. Papers Filed Under Seal. When filing papers under seal, counsel shall deliver to the Clerk an original and one (1) copy of the papers. In accordance with section G of the Administrative Procedures Governing Filing and Service by Electronic Means, a redacted version of any sealed document shall be filed electronically within seven (7) days of the filing of the sealed document.

6. Courtesy Copies. The parties shall provide to the Court two (2) courtesy copies of all briefs and one (1) courtesy copy of any other document filed in support of any briefs (i.e., appendices, exhibits, declarations, affidavits etc.). This provision also applies to papers filed under seal.

7. ADR Process. This matter is referred to a magistrate judge to explore the possibility of alternative dispute resolution.

8. Interim Status Report. On **October 16, 2014**, counsel shall submit a joint letter to the Court with an interim report on the nature of the matters in issue and the progress of

discovery to date. Thereafter, if the Court deems it necessary, it will schedule a status conference.

9. Tutorial Describing the Technology and Matters in Issue. Unless otherwise ordered by the Court, the parties shall provide the Court, no later than the date on which their opening claim construction briefs are due, a tutorial on the technology at issue. In that regard, the parties may separately or jointly submit a DVD of not more than 30 minutes. The tutorial should focus on the technology in issue and should not be used to argue claim construction contentions. The parties may choose to file their tutorial(s) under seal, subject to any protective order in effect. Each party may comment, in writing (in no more than 5 pages) on the opposing party's tutorial. Any such comment shall be filed no later than the date on which the answering claim construction briefs are due. As to the format selected, the parties should confirm the Court's technical abilities to access the information contained in the tutorial.

10. Claim Construction Issue Identification. If the Court does not find that a limited earlier claim construction would be helpful in resolving the case, on **September 15, 2014**, the parties shall exchange a list of those claim term(s)/phrase(s) that they believe need construction. On **October 6, 2014**, the parties shall exchange their proposed claim construction of those term(s)/phrase(s). This document will not be filed with the Court. Subsequent to exchanging that list, the parties will meet and confer to prepare a Joint Claim Construction Chart to be submitted on **October 27, 2014**. The parties' Joint Claim Construction Chart should identify for the Court the term(s)/phrase(s) of the claim(s) in issue, and should include each party's proposed construction of the disputed claim language with citation(s) only to the intrinsic evidence in support of their respective proposed constructions. A copy of the patent(s) in issue as well as

those portions of the intrinsic record relied upon shall be submitted with this Joint Claim Construction Chart. In this joint submission, the parties shall not provide argument.

11. Claim Construction Briefing. The parties shall contemporaneously submit initial briefs on claim construction issues, not to exceed 45 pages, on **December 11, 2014**. The parties' answering/responsive briefs, not to exceed 30 pages, shall be contemporaneously submitted on **January 22, 2015**. No reply briefs or supplemental papers on claim construction shall be submitted without leave of the Court.

12. Hearing on Claim Construction. Beginning at 10 a.m. on **February 26, 2015**, the Court will hear argument on claim construction. The parties shall notify the Court, by joint letter submission, no later than the date on which their answering claim construction briefs are due: (i) whether they request leave to present testimony at the hearing; and (ii) the amount of time they are requesting be allocated to them for the hearing.

13. Case Dispositive Motions. All case dispositive motions, an opening brief, and affidavits, if any, in support of the motion shall be served and filed on or before **one hundred and eighty (180) days following the Court's claim construction ruling**. Briefing will be presented pursuant to the Court's Local Rules. No case dispositive motion under Rule 56 may be filed more than ten (10) days before the above date without leave of the Court. Each party is permitted to file as many case dispositive motions as desired; provided, however, that each party will be limited to a combined total of 40 pages for all opening briefs, a combined total of 40 pages for all answering briefs, and a combined total of 20 pages for all reply briefs regardless of the number of case dispositive motions that are filed.

14. Applications by Motion. Except as otherwise specified herein, any application to the Court shall be by written motion filed with the Clerk. Any non-dispositive motion should

contain the statement required by Local Rule 7.1.1.

15. Pretrial Conference. ^{On February 5, 2016,} ~~On a date to be determined at the Trial Scheduling~~
~~Conference~~, the Court will hold a pretrial conference in Court with counsel beginning at 10 am
_.m. Unless otherwise ordered by the Court, the parties should assume that filing the pretrial
order satisfies the pretrial disclosure requirement of Federal Rule of Civil Procedure 26(a)(3).
The parties shall file with the Court the joint proposed final pretrial order with the information
required by the form of Final Pretrial Order which accompanies this Scheduling Order on or
before **seven (7) days before the pretrial conference**. Unless otherwise ordered by the Court,
the parties shall comply with the timeframes set forth in Local Rule 16.3(d)(1)-(3) for the
preparation of the joint proposed final pretrial order. The Court will advise the parties at or
before the above-scheduled pretrial conference whether an additional pretrial conference will be
necessary.

16. Motions in Limine. Motions in limine shall not be separately filed. All in limine
requests and responses thereto shall be set forth in the proposed pretrial order. Each party shall
be limited to three (3) in limine requests, unless otherwise permitted by the Court. The in limine
request and any response shall contain the authorities relied upon; each in limine request may be
supported by a maximum of three (3) pages of argument and may be opposed by a maximum of
three (3) pages of argument, and the party making the in limine request may add a maximum of
one (1) additional page in reply in support of its request. If more than one party is supporting or
opposing an in limine request, such support or opposition shall be combined in a single three (3)
page submission (and, if the moving party, a single one (1) page reply), unless otherwise ordered
by the Court. No separate briefing shall be submitted on in limine requests, unless otherwise
permitted by the Court.

17. Jury Instructions, Voir Dire, and Special Verdict Forms. Where a case is to be tried to a jury, pursuant to Local Rules 47 and 51 the parties should file (i) proposed voir dire, (ii) preliminary jury instructions, (iii) final jury instructions, and (iv) special verdict forms **three (3) full business days before the final pretrial conference.** This submission shall be accompanied by a computer diskette containing each of the foregoing four (4) documents in WordPerfect format.

18. Trial. ^{7 day jury} The first trial in these matters will ^{begin on March 7, 2016 at 9:30 am} ~~be scheduled for trial beginning at a time to be set by the Court at a later date,~~ with the subsequent trial days beginning at 9:00 a.m. Until the case is submitted to the jury for deliberations, the jury will be excused each day at 4:30 p.m. The trial will be timed, as counsel will be allocated a total number of hours in which to present their respective cases.


UNITED STATES DISTRICT JUDGE