IN THE UNITED STATES DISTRICT COURT

**FOR THE DISTRICT OF NEW MEXICO**

**,**

**Plaintiff,**

**vs. No.**

**,**

**Defendant.**

**PRETRIAL ORDER**

In accordance with Fed. R. Civ. P. 16, the Court enters this Pretrial Order.

**I. APPEARANCES**

**Attorneys who will try this action:**

For Plaintiff:

For Defendant:

**II. JURISDICTION AND RELIEF SOUGHT**

**A. Subject Matter Jurisdiction.**

**1. Was this action**

\_\_\_\_\_\_\_\_ Removed \_\_\_\_\_\_\_\_ Transferred \_\_\_\_\_\_\_\_ Original forum

**2. Is subject matter jurisdiction of this Court contested?**

Uncontested\_\_\_\_\_\_\_\_ Contested \_\_\_\_\_\_\_\_ Party contesting

**3. Asserted basis for jurisdiction.**

Federal Question \_\_\_\_\_\_\_\_ Diversity \_\_\_\_\_\_\_\_ Other

Statutory Provision(s) Invoked: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**B. Personal Jurisdiction and Venue.**

**1. Is personal jurisdiction contested?**

\_\_\_\_\_\_\_\_ Uncontested \_\_\_\_\_\_\_\_ Contested

Identify the party contesting personal jurisdiction and state basis for contesting:

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

**2. Is venue contested?**

\_\_\_\_\_\_\_\_ Uncontested \_\_\_\_\_\_\_\_ Contested

Identify the party contesting venue and state basis for contesting:

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

**C. Are the proper parties before the Court?**

\_\_\_\_\_\_\_\_ Uncontested \_\_\_\_\_\_\_\_ Contested

If contested, identify each missing party or improper party and the basis for contention: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**D. Identify the affirmative relief sought in this action.**

1. Plaintiff seeks:

2. Defendant seeks:

**III. BRIEF DESCRIPTION OF NATURE OF CLAIMS/DEFENSES**

**A. Plaintiff’s claims:**

**B. Defendant’s defenses:**

**IV. FACTUAL CONTENTIONS UNDERLYING CLAIMS/DEFENSES**

**A. Stipulated Factual Contentions.**

The parties agree to the following facts listed separately below:

**B. Contested Material Facts.**

1. Plaintiff’s Contentions:

2. Defendant’s Contentions:

**V. APPLICABLE LAW**

**A. Do the parties agree which law controls the action?**

\_\_\_\_\_ Yes \_\_\_\_\_ No

**If yes, identify the applicable law:**

**If no, identify the dispute and set forth each party’s position regarding the applicable law.**

1. Plaintiff

2. Defendant

# VI. CONTESTED ISSUES OF LAW

**Identify the specific issues of law which are contested.**

1. Plaintiff

2. Defendant

**VII. MOTIONS**

**A. Pending Motions (indicate the date filed):**

**B. Motions which may be filed:**

1. Plaintiff:

2. Defendant:

Motions in Limine must be filed by , responses by , and replies by .

**VIII. DISCOVERY**

**A. Has discovery been completed?** \_\_\_\_\_ Yes \_\_\_\_\_ No. The Court’s deadline for discovery has passed.

If no, explain additional discovery, which must be completed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**B. Are there any discovery matters of which the Court should be aware?**

# IX. ANTICIPATED WITNESSES

*Each party is under a continuing duty to supplement this list and the description of anticipated testimony. This does not, however, apply to a rebuttal witness. Indicate if the witness will testify in person or by deposition and include a brief description of the anticipated testimony. If the testimony is by deposition, identify the deposition testimony by page number and line number. A witness who has not been identified and whose testimony has not been disclosed may not testify at trial unless good cause is shown.*

**A. Plaintiff’s Witnesses:**

**1. Plaintiff will call or have available at trial** **the following witnesses:**

**2. Plaintiff may call the following witnesses:**

**B. Defendant’s Witnesses:**

**1. Defendant will call or have available at trial the following witnesses:**

**2. Defendant may call the following witnesses:**

**X. TRIAL PREPARATION**

**A. Exhibits.**

By , all exhibits must be marked and made available to the opposing party. Plaintiff’s exhibits must be marked with numbers; Defendant’s exhibits must be marked with letters. The identification number or letter will remain the same whether the exhibit is admitted or not.

The parties must confer about all trial exhibits. By , the parties must file a “consolidated exhibit list identifying all exhibits that the parties have stipulated are admissible” and a separate “consolidated exhibit list identifying all exhibits the parties have stipulated to be authentic, but to which there are other objections,” along with a statement of the objecting party’s grounds for objections.

**B. Witness Lists.**

By , each party must file a trial witness list. If a party wishes to present the deposition testimony of a witness, the party must mark, in accordance with “D.N.M. LR-Civ. 10.6, the parts of the deposition testimony the party plans to offer. By , a party may file objections to proposed deposition testimony, must mark those portions of the proposed deposition testimony to which the party objects, and must state the grounds for objections.

**C. Voir Dire.**

Each party wishing to participate in voir dire must submit “Proposed Voir Dire Questions” by .

**D. Jury Instructions and Verdict Form.**

**1. In General.** The parties must confer about proposed jury instructions. General “stock” instructions may be found on Judge Parker’s website. The parties must prepare instructions that set forth the elements and definitions of the claims or charges, and that set forth any defenses.

**2. Sources for Instructions.** The judge will indicate at the pretrial conference the judge’s preference for the source of pattern instructions.

**3. Submission of Proposed Instructions.** By , the parties must submit one mutually approved set of jury instructions, and each party must separately file its own proposed instructions on issues on which the parties could not agree.

**4.** **Form of Instructions.**

a. Submit to Judge Parker’s proposed text email sets of double-spaced instructions as follows:

1 set of originals without citations and headed “Instruction No. \_\_\_”; and

1 set with citations and numbered accordingly.

b. Submit all instructions in a format compatible with MS Word. Please refer to the procedures, available on our web site, for electronically submitting proposed text.

c. Submit no more than one instruction to a page.

d. All deviations from pattern instructions must be identified as “modified” in the citation, and the modification must be highlighted in the body of the instruction.

e. Submit a cover sheet on all sets of instructions.

**E. Statement of Case.**

By , the parties must confer and submit an agreed statement of the case to the Court.

**F.** **Submission for Bench Trials.**

1. The parties must submit one mutually approved set of proposed findings of fact and conclusions of law no later than \_\_\_ calendar days before trial. For those findings of fact and conclusions of law the parties are unable to agree upon, each party must submit its own proposed findings of fact and conclusions of law at the same time as submission of the mutually approved set.

2. The parties should submit the findings of fact and conclusions of law in a format compatible with MS Word. Please refer to the procedures, available on the court’s web site, for electronically submitting proposed text.

**XI. OTHER MATTERS**

**A. Settlement Possibilities.**

1. The possibility of settlement in this case is considered:

\_\_\_\_\_\_ Poor \_\_\_\_\_\_ Fair \_\_\_\_\_\_ Good \_\_\_\_\_\_ Excellent \_\_\_\_\_\_ Unknown

2. Do the parties have a settlement conference set with the assigned Magistrate Judge? \_\_\_\_\_\_\_ Yes \_\_\_\_\_\_ No. If yes, when? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If a settlement conference has already been held, indicate approximate date: Would a follow-up settlement conference be beneficial? \_\_\_\_\_\_ Yes \_\_\_\_\_\_ No

3. Does either party wish to explore any alternatives for dispute resolution such as mediation or a summary jury trial?

If yes, please identify: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If no, explain why not: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**B. Length of Trial and Trial Setting.**

1. This action is a \_\_\_\_\_\_ Bench Trial \_\_\_\_\_\_ Jury Trial \_\_\_\_\_\_ Both

2. The case is set for trial on .

3. The estimated length of trial is \_\_\_\_ days.

**XII. EXCEPTIONS**

**XIII. MODIFICATIONS-INTERPRETATION**

The Pretrial Order when entered will control the course of trial and may only be amended *sua sponte* by the Court or by consent of the parties and Court approval. The pleadings will be deemed merged herein.

Respectfully submitted,

Attorney for Plaintiff (s):

Attorney for Defendant (s):

SENIOR UNITED STATES DISTRICT JUDGE