



IN RE ARBITRATION BETWEEN:

Claimants,

and

Respondents.

REPORT OF PRELIMINARY HEARING AND SCHEDULING ORDER

Pursuant to the ___ Rules for _____, a preliminary hearing was held on _____ before Arbitrator Nancy Lesser of Pax ADR LLC. Appearing at the hearing were _____, Esq. attorney for Claimants, and _____, Esq., attorney for Respondents.

By agreement of the parties and Order of the Arbitrator, the following is now in effect:

1. **PRELIMINARY HEARING.** An additional preliminary hearing shall be held if needed, by mutual agreement later.
2. **AMENDMENT OF CLAIMS.** Any party may amend/specify claims as of right on or before _____. Any party may seek leave by motion to join additional parties by _____. Oppositions to motions to join additional parties shall be due on _____. The parties' answers and affirmative defenses to the other's amended claims are due on _____.
3. **PRELIMINARY MOTIONS.** Motions to dismiss claims, defenses, counterclaims and/or parties are to be filed on or before _____. Oppositions to such motions are to be filed by _____, and reply briefs are to be filed by _____. A hearing on the motions may be scheduled by the Arbitrator in her discretion.
4. **DISCOVERY.** A party may serve written discovery on the opposing signatory party on or before _____. Requests for production of documents are not to exceed _____, including all discrete subparts, and written interrogatories, not to exceed _____. Objections to the document requests and interrogatories are due 10 days from service. Responses to interrogatories and document requests are due by _____. If a privilege is asserted, a privilege log shall be compiled and provided.

If any party requests documents in electronic format, the parties shall meet and confer within 10 days of the service of the request, to discuss and come to agreement where possible on

the scope and extent of any such electronic discovery, including but not limited to the following subjects:

1. limiting disclosure of documents or categories of documents to particular date ranges and/or custodians;
2. use of agreed upon search terms and/or software tools;
3. formats for preservation and production of e-discovery;
4. the use, if appropriate, of data sampling;
5. the format and methods of e-disclosure; and
6. arrangements regarding confidentiality of information and inadvertent waiver of privilege.

The parties' agreement regarding e-discovery will then be memorialized in an ESI case management order to be submitted in draft to the Arbitrator on or before _____. If the parties cannot come to agreement regarding all salient issues concerning e-discovery, they may raise the remaining issues to the Arbitrator by motion, to be filed within 10 days of the meet and confer in accordance with the deadlines below.

Motions to compel discovery, of no more than 10 pages excluding exhibits, shall be filed in letter format on or before _____, and oppositions to such motions, of no more than 10 pages excluding exhibits, are due on or before _____. Replies are not to be filed without leave of the Arbitrator. The parties shall meet and confer to make reasonable efforts to resolve all discovery disputes before the filing of a motion. A hearing on the motions to compel may be scheduled in the Arbitrator's discretion. Parties should not file discovery requests and responses with the Arbitrator.

5. {applicable if appropriate} **DEPOSITIONS.** If the parties agree that there shall be deposition discovery, they shall exchange a complete list of all fact witnesses that each party desires to depose on _____. Depositions of fact witnesses may commence on _____. Each side shall be limited to ___ depositions. The parties will make every effort to schedule depositions for the convenience of parties, witnesses and counsel. Unless otherwise authorized by the Arbitrator or stipulated by the parties, a deposition is limited to one day of seven hours. All depositions must be completed by _____. {If the parties do not agree to depositions, a party may upon application to the Arbitrator, for good cause shown, seek leave to take the deposition of one or more persons.}

6. {applicable if appropriate} **EXPERTS.** On or before _____, Claimants shall provide a disclosure of all expert witnesses expected to be called by the Claimants, and shall provide expert reports, which shall include the full name of each witness, a summary of the expert's opinions, the basis for the opinions, and a written C.V.

On or before _____, Respondents shall provide a disclosure of all expert witnesses expected to be called by the Respondents, which shall include the full name of each witness, a summary of the expert's opinions, the basis for the opinions, and a written C.V.

Each party shall be responsible for updating its disclosures, including discovery responses and expert opinions, as such information becomes available. The duty to update this information continues up to and including the date that hearing(s) in this matter terminate.

7. **TRIAL EXHIBITS.** Not later than _____, the parties shall exchange copies of all exhibits to be offered and all schedules, summaries, diagrams and charts to be used at the hearing.

Each proposed exhibit shall be pre-marked for identification using the following designations:

<u>PARTY</u>	<u>EXHIBIT # to EXHIBIT #</u>
Claimants	1-499
Respondents	500-1000

The parties shall attempt to agree upon and submit a jointly prepared consolidated and comprehensive set of joint exhibits. Copies of exhibits shall be delivered directly to the Arbitrator at the commencement of the hearing.

8. **HEARING.** A final preliminary conference shall be held telephonically on _____. Hearings in this matter will commence before the Arbitrator in _____ on _____ through _____. Additional hearing days will be scheduled if needed, in consultation with the parties. The location of the hearing will be at _____.

9. **TRIAL WITNESSES.** The parties shall exchange their lists of witnesses on or before _____. The parties shall make arrangements to schedule the attendance of witnesses so that the case can proceed with all due speed and without unnecessary delay. If witness subpoenas are required, requests for issuance of same by the Arbitrator shall be submitted sufficiently in advance of the commencement of the final hearing to insure that they may be timely served on the witnesses.

The party presenting evidence shall give notice to the other party at least two days before their anticipated date of testimony, the names of witnesses who will be called to testify and the order in which the witnesses will be called.

10. **PRE-HEARING BRIEF.** Each party shall serve and file a pre-hearing brief on _____ of no longer than _____ pages in length, addressing all significant disputed issues, and setting forth briefly the party's position and the supporting arguments and authorities. The issue of post-hearing briefs, if appropriate shall be addressed at the conclusion of the hearing.

11. **FORM OF AWARD.** Pursuant to Rule ____ of the ____ Rules, the award shall be a _____ award unless all parties agree otherwise prior to the commencement of the hearing.

12. **COURT REPORTER.** The parties shall discuss at least 10 days before the hearing whether a stenographer shall be provided to record the hearing, with costs to be shared between the parties.

13. **COMMUNICATIONS WITH ARBITRATOR.** Any and all documents to be filed with or submitted to the Arbitrator outside the hearing shall be sent in both hard copy to the Arbitrator's office address and emailed in PDF format. Should any case law be cited in any party's filing, copies of the cases primarily relied upon shall be provided to the Arbitrator in PDF or CD format.

14. **MISCELLANEOUS.** All deadlines stated herein will be strictly enforced. After such deadline, the parties may not file such motions except with the permission of the Arbitrator, good cause having been shown.

This order shall continue in effect unless and until amended by subsequent order of the Arbitrator.

Dated: _____
Nancy F. Lesser, Arbitrator