

**SENIOR JUDGE STERLING JOHNSON, JR.**

**CHAMBERS  
(718) 613-2460  
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(718) 613-2465**

**Memorandum To Counsel - By The Hon. Sterling Johnson, Jr.**

**Re: Expectations And Requirements For Trial**

1. Trial sessions will begin promptly.
2. Counsel should be prepared with witnesses to proceed continuously to the end of trial without interruption.
3. Applications: If counsel has any applications to make before testimony begins at any trial session, (s)he should alert his or her adversary and notify the courtroom deputy clerk well before the judge takes the bench.
4. All counsel shall remain seated and attentive while a witness is being sworn.
5. Counsel will question all witnesses from behind the lectern and should approach a witness only with permission of the court.

6. Objections: a) Counsel should rise when making objections or addressing the Court. b) In making objections, counsel should initially state that (s)he objects and the broad ground for the objection, e.g., leading, argumentative, irrelevant, etc. If argument is needed, the Court will request it or, if the significance of the objection is not clear, the counsel should ask for a side bar conference. There should be no argument on objections before the jury.
  
7. Learned Treatises: In all cases in which counsel intends to read statements from "learned treatises" to the jury pursuant to Fed. R. Evid. 803(18), the following procedure should be followed:
  - a. Copies of any statements to be used shall be marked and designated in the same manner as exhibits in the Pretrial Order. At trial the court shall be provided with an extra copy of each statement to be read to the jury.
  
  - b. Before reading the statement, counsel will indicate to the Court, out of the jury's hearing, how the statement has been established as a reliable authority.

These requirements do not apply to impeachment on cross-



United States District Court  
Eastern District of New York

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Docket

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

-against-

Proposed Pretrial Order

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At a pretrial conference held before the Honorable Sterling Johnson, Jr., and attended by counsel, the following matters were discussed and agreed to; and are hereby ordered:

1. General: The parties recognize that this pretrial order controls the subsequent course of the action unless the order is modified by consent of the parties and the court, or by order of the court to prevent manifest injustice. The attached schedules are part of this order. Each schedule shall be on a separate sheet.
2. Parties And Counsel: Schedule A sets forth the names of all parties, the names, addresses and telephone numbers of their respective attorneys and the names of trial counsel for each party.
3. Jurisdiction: Schedule B-1 sets forth the statutes, legal doctrines, and facts upon which plaintiff claims jurisdiction is based. Schedule B-2 indicates which, if any, of these are contested.

4. Uncontested Facts: All uncontested facts are set forth in Schedule C.
5. Liability Claims And Defenses: The parties' claims and defenses on liability are separately listed in Schedules D-1 for the plaintiff and D-2 etc., for the defendant(s).
6. Damages And Other Relief: Claims with respect to damages and other relief sought by each party are detailed in Schedules E-1 as to the plaintiff and E-2 etc., for the defendant(s).
7. Waiver On Claims: Please be advised that the parties will be deemed to have waived all claims with respect to liability, damages, and other relief and all affirmative defenses which are not set forth in Schedules D and E.
8. Issues: Schedule F sets forth and separately numbers the factual and legal issues in this case including legal issues as to the admissibility of evidence. If the parties cannot agree as to the issues, then their separate statements of the issues shall be set forth as Schedules F-1, F-2, etc.
9. Witnesses: In Schedules G-1, G-2, etc. each respective party must list the witnesses to be called at trial, setting forth for each witness the (a) name, (b) address, and (c) a summary of expected testimony. For expert witnesses list, in addition, (d) the area of expertise.
10. Exhibits: In Schedules H-1, H-2, etc. each respective party must list the exhibits to be offered in evidence by that party. Each list shall identify and describe each exhibit. Plaintiff's exhibits shall be identified by

numbers, defendant's by letters. Copies of statements proposed to be read to the jury as "learned treatises" under FRE 803(18) shall be listed as exhibits.

11. Objections To Exhibits: In Schedules I-I, 1-2, etc. each respective party must list each adversary's exhibits whose authenticity and admissibility are challenged. The specific ground for objection to each contested exhibit listed shall be stated.
12. The parties recognize that they will not be allowed to use at trial any exhibits or witnesses not identified in this Pretrial Order except upon prompt notice to all parties and to the court, and upon a showing of good cause.
13. All discovery is complete.
14. The trial will take approximately \_\_\_\_ days; \_\_\_\_ days for the plaintiff's case and \_\_\_\_ days for the defense.
15. This is a (jury) (non-jury) case.
16. With regard to a trial date \_\_\_\_\_.
17. Counsel will be expected to comply with the court's "expectations and requirements at trial" outlined in the memorandum for counsel, a copy of which has been previously supplied to each counsel.

Dated: Brooklyn, New York  
, 2009

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Sterling Johnson, Jr.  
Senior U.S. District Judge

Approved And consented To:

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Attorney for

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Attorney for

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Attorney for

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Attorney for