



Defendant to comply with this Order if counsel for Plaintiff(s) fails to serve the Order. **Counsel for Plaintiff(s) shall promptly file a certificate of service certifying service of a copy of this Order on each Defendant.**

**1. LOCAL AND BANKRUPTCY RULES**

All counsel shall familiarize themselves with and follow the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Ohio. Copies of the Local Bankruptcy Rules are available on the Court's website at [www.ohnb.uscourts.gov](http://www.ohnb.uscourts.gov) or from the Clerk of the Bankruptcy Court for the Northern District of Ohio.

**2. CONSENT TO ENTRY OF FINAL ORDERS AND JUDGMENTS**

All responsive pleadings shall (i) be filed within the time prescribed in Federal Rule of Bankruptcy Procedure 7012; and (ii) include a statement that the party does or does not consent to entry of final orders and judgments by this Court. If a party disputes this Court's authority to enter final orders and judgments in this proceeding absent its consent, such party shall identify in its responsive pleading any cause(s) of action: (i) over which it alleges that this Court does not have the authority to enter final orders and judgments; and (ii) to which it does not consent to this Court's entry of final orders and judgments.

### 3. DISCOVERY

Formal discovery shall begin promptly upon service of the summons and complaint consistent with Federal Rule of Bankruptcy Procedure 7026 and, unless so ordered otherwise by the Court prior to the Discovery Completion Date, **shall be completed by the one hundred twentieth (120th) day following such service (the "Discovery Completion Date")**. Counsel are expected to comply with discovery requirements. Counsel conducts "informal discovery" at his/her own peril because "informal discovery" is no substitute for the formal discovery process. The initial disclosure requirements of Federal Rule of Civil Procedure 26(a) shall not apply, unless specifically ordered by the Court.

Pursuant to Federal Rules of Civil Procedure 16(b) and 26(f), incorporated and made applicable to this proceeding by Federal Rules of Bankruptcy Procedure 7016 and 7026, counsel for Plaintiff(s) and Defendant(s) share responsibility to confer, as soon as possible, and to develop a proposed discovery plan.

Discovery disputes may be brought to the Court's attention by appropriate motion, subject to applicable Local Bankruptcy Rules, Federal Rules of Bankruptcy Procedure 7026-37 and other provisions of applicable law. The Court will consider appropriate sanctions of a party or its counsel for failure to respond to discovery requests. In the case of a corporate or partnership party,

sanctions may be made applicable to officers, partners, agents or employees.

#### **4. MOTIONS FOR DEFAULT JUDGMENT**

If a party fails to timely answer, move or otherwise plead in response to a claim, a cross-claim or a counter-claim, the party asserting such claim may file a motion for default judgment specifying that proper service was made upon the defaulting party and that such party has failed to timely appear, answer, move or plead. If the party against whom default is sought is an individual, an appropriate affidavit setting forth that the individual is not a minor, incompetent or in military service shall accompany such motion. The Court will hold hearings on motions for default judgment. In chapter 7 and 13 cases, the moving party shall select a hearing date from the Court's website and shall provide notice of the hearing that provides at least twenty-one (21) days for a response to be filed. In chapter 11 and 12 cases, the moving party shall obtain a hearing date from the Courtroom Deputy at 330-742-0906.

#### **5. TELEPHONIC STATUS CONFERENCES**

Following a review of the initial pleadings and after the Discovery Completion Date, the Court may schedule a telephonic status conference by entry of the Clerk. The purpose of a telephonic status conference is for the parties to inform the Court about: (i) the status of discovery; and (ii) whether the case is

a candidate for summary judgment. Counsel may request a telephonic status conference prior to the Discovery Completion Date by contacting the Courtroom Deputy at 330-742-0906 and specifying the reason for such request, as well as the subject matter to be discussed at the requested conference.

Pretrials designated as "telephonic" status conferences will be conducted by telephone. The Court will contact each counsel at his/her respective telephone number set forth on the docket, unless counsel timely notifies the Courtroom Deputy of an alternate telephone number.

## **6. DISPOSITIVE MOTIONS**

### **A. Leave of Court Required**

A motion for summary judgment may be filed only if the movant first obtains leave of the Court. Such motion for leave shall be filed subsequent to the close of discovery and prior to the Court setting a final pretrial date. The motion for leave shall set forth the elements of the movant's claim(s) or defense(s) and shall be accompanied by a joint stipulation of facts demonstrating that: (i) there are no disputed facts; and (ii) no genuine issue of material fact exists. When an issue of material fact is unreasonably disputed and the moving party has testimonial or documentary evidence to prove the material fact, the party shall include in the motion for leave: (i) identification of the material fact; (ii) the reason for the dispute; and (iii) the basis for

alleging that the fact cannot be reasonably disputed. If a party files a motion for summary judgment without leave of the Court, the motion for summary judgment may be stricken by the Court *sua sponte*.

#### **B. Response Time**

Motion practice is governed by Local Bankruptcy Rules 9013-1 and 9013-2. For all dispositive motions (e.g., judgment on the pleadings, summary judgment and Defendant's motion to dismiss), the opposing party shall file a response within fourteen (14) days after the motion is filed and served. The movant may file a reply within seven (7) days after the response is filed and served. Absent prior leave of the Court, no further pleading will be permitted.

#### **7. FINAL PRETRIALS**

The Court shall conduct a final pretrial on the record – with counsel and all parties required to be present – prior to setting a trial date. At the final pretrial conference, counsel shall be prepared to discuss:

- (a) the estimated time for presentation of its case-in-chief and/or defense;
- (b) any pre-trial motions, including motions in limine, the party anticipates filing;
- (c) each cognizable claim and/or defense;
- (d) exhibit and witness lists, which include a summary of the testimony to be presented by each witness;

- (e) the formulation and simplification of issues, including the elimination of frivolous claims and/or defenses;
- (f) the possibility of obtaining admissions of fact and stipulations regarding authenticity of documents;
- (g) the avoidance of unnecessary proof and of cumulative evidence;
- (h) the current status of settlement negotiations, the possibility of settlement and the use of alternative dispute resolution procedures; and
- (i) such other matters as may aid in the disposition of the adversary proceeding.

Unless otherwise instructed and/or so ordered by the Court, counsel **shall appear with clients at the final pretrial**. At the final pretrial conference, at least one of the attorneys for each party shall have authority to: (i) settle the case; (ii) enter into stipulations; and (iii) make admissions regarding all matters that participants may reasonably anticipate will be discussed. Federal Rule of Civil Procedure 16(f), incorporated herein by Federal Rule of Civil Procedure 7016, is made specifically applicable to this Order. Failure to appear may be sanctioned by dismissal, entry of default or otherwise.

#### **8. ALTERNATIVE DISPUTE RESOLUTION**

The Court may apply Court-annexed dispute resolution processes where appropriate pursuant to Local Bankruptcy Rule 9019-2. Such alternative dispute resolution may take one or more of the forms set forth in the Local Rules of the United States District Court for the Northern District of Ohio, available on the

District Court's website at [www.ohnd.uscourts.gov](http://www.ohnd.uscourts.gov). Any party may move the Court for the application of such dispute resolution alternatives: (i) at any time prior to or at a final pretrial conference; or (ii) thereafter on a showing of cause or agreement of all parties to the proceeding. Any costs attendant thereto may be taxed by the Court equally among the parties or otherwise as the parties may agree. Unless otherwise ordered, any such dispute resolution order by the Court shall be binding on the parties and their counsel.

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