

**PRACTICES AND PROCEDURES OF  
JUDGE KIM R. GIBSON  
(Effective January 2004)  
(Last Revised May 2010)**

**I. GENERAL MATTERS**

**A. Communications with the Court**

The Court has a preference for communications to be in the form of motions so that they can be docketed. However, in an emergency situation Judge Gibson will permit communication by correspondence or telephone provided all parties receive notice.

**B. Communications with Law Clerks**

Communications with law clerks concerning the administration, not the merits of a case, are permissible. Such inquiries include those pertaining to the status of any pending matter. Law clerks are not permitted to provide legal advice concerning any matter.

**C. Telephone Conferences**

Requests for attorneys and parties to participate in conferences by telephone will be considered on a case by case basis. **Attorneys should fax their request to participate by phone to the Court at (814) 539-6364.** Unless otherwise ordered by the Court, settlement conferences, final scheduling conferences, **and final pretrial conferences** will not be conducted over the telephone. Status and initial scheduling conferences may be conducted by telephone conference, provided advance notice to the Court is provided.

When a telephone conference is permitted, counsel shall initiate the conference and contact the Court only after all parties are on the line.

**D. Pro Hac Vice Admissions**

Pro Hac Vice admissions should be done by motion. The contents of all pro hac vice motions shall conform to the requirements set forth in Miscellaneous Case Number 2:2006-151(query "2:06-mc-151" in this district's CM/ECF for a copy of the Court's order).

**E. Comments to the Media**

No special policy is in effect and the Rules of Professional Conduct govern.

## II. MOTIONS PRACTICE

### A. Oral Argument

Oral argument is entertained only on selected, factually and legally complex matters, but not otherwise. An order will be issued should the Court deem oral argument necessary.

### B. Briefs

Briefs in support of a motion shall be filed at the same time as the motion with respect to all motions except discovery motions, motions for extensions of time, and motions for continuance, for which no briefs are required. Briefs in support of a motion and briefs in opposition to a motion shall be limited to twenty-five (25) pages excluding tables.

**With the exception of replies to the opposing party's submission under Local Rule 56.D, reply briefs and sur-reply briefs are not to be filed without leave of Court.**

### C. Chamber Copies of Motion Papers

Counsel are not required to send courtesy copies of motions and briefs to chambers as they are available to the Court on the Case Management/Electronic Case Filing System.

### D. Responses to Motions-Scheduling

Responses for motions *in limine* shall be filed within seven (7) days from the date of service of the motion. Responses to motions for summary judgment shall be filed within twenty-eight (28) days from the date of service of the motion. Responses to motions to compel shall be filed within fourteen (14) days from the date of service of the motion. Responses to all other motions shall be filed within twenty-one (21) days from the date of service of the motion. In the event that different response periods are set forth in the initial or final scheduling orders **or pretrial order**, then the period in that order shall govern. **If service of the motion is made in accordance with Fed.R.Civ.P. 5(b)(2) (C)-(F), Fed.R.Civ.P. 6(d) operates to add three days to the above time limits.**

### E. Magistrate Judge's Report and Recommendation

Reports and Recommendations to which objections have been filed generally will not be decided until a timely response is filed by the non-objecting party (or opposite party if both object). Briefs not in excess of ten (10) pages are encouraged. If no objections have been filed, a decision is made solely on the basis of the R & R and the briefs already filed. Objections and appeals to Magistrate Judge orders on discretionary issues pertaining to discovery disputes are discouraged.

**F. Evidentiary Hearings**

In both civil and criminal matters which require an evidentiary hearing on a pretrial motion, Judge Gibson will normally schedule the hearing in advance of trial and as soon as possible after all motions and briefs have been filed.

**G. Motions In Limine**

Deadlines for filing motions in limine, with their supporting briefs, will be set forth in the pretrial order. Unless there is a good reason not to do so, motions in limine will be ruled upon in advance of trial. (See Side Bars.)

**III. CIVIL CASES**

**A. Pretrial Procedures**

**1. Local Rule 16.1**

The Court utilizes the standard form for Initial and Final Scheduling Orders based on L.R. 16.1. Each case is designated as Track I or Track II. Other than the requirements of L.R. 16.1, no additional items are included in the order. Copies of the standard Initial Scheduling Order and Final Scheduling Order are attached hereto as Exhibits "A" and "B."

**2. Initial Rule 16 Scheduling Conference**

An Initial Rule 16 Scheduling Conference is scheduled within 30 days of the filing of a responsive pleading. At least twenty-one (21) days prior to the Initial Rule 16 Scheduling Conference, the parties must conduct a Rule 26(f) conference in order to consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case and to make arrangements for the disclosures required by Rule 26(f). At least fourteen (14) days prior to the Initial Rule 16 Scheduling Conference, the parties must file a Rule 26(f) Report. At least seven days prior to this initial conference counsel and unrepresented parties are jointly responsible for filing a proposed Initial Scheduling Order (see Exhibit "A"). Chief trial counsel are required to attend and shall obtain full settlement authority prior to the conference unless Judge Gibson grants permission to participate by telephone. All parties shall be available by telephone.

At the Initial Rule 16 Scheduling Conference, or shortly thereafter, the Initial Scheduling Order is issued after discussion with lead trial counsel as to the length of time necessary for discovery, handling of expert witnesses and other matters. Settlement and ADR options also will be discussed in depth. In addition, the Court may ask the parties to agree to submit the case to final and binding arbitration or trial before a United States Magistrate Judge. Accordingly, counsel shall speak with their clients about both of these issues

prior to attending the conference and be prepared to respond.

A post-discovery status conference will be held following completion of discovery. At least seven days prior to this post-discovery status conference counsel and unrepresented parties are jointly responsible for filing a proposed Final Scheduling Order (see Exhibit “B”).

Additional status/settlement conferences take place on request of counsel and in all cases prior to the trial date to discuss settlement and/or trial. Chief trial counsel are encouraged to request the assistance of the Court on any matter, as conferences to handle routine problems, such as discovery issues, can be conducted by telephone, provided counsel coordinate and initiate the call.

### **3. Settlement Conferences**

The Court entertains settlement conferences on a regular basis. At least three working days prior to the conference, the parties should submit brief letters to the Court detailing the relative strengths and weaknesses of their case, as well as settlement postures. The letters will not be filed or shared with opposing counsel. Accordingly, candor is expected.

Chief trial counsel and the client with full settlement authority shall attend all settlement conferences, in person. In cases in which there is insurance coverage (or the possibility of insurance coverage), a representative(s) from the carrier(s) shall attend the settlement conference. That carrier representative(s) must have full settlement authority on behalf of the carrier(s) to the full extent of the insurance policy(ies).

Consistent with the Initial Rule 16 Scheduling Conference, at the settlement conference counsel shall be prepared to discuss, in detail, ADR possibilities. The Court may ask the parties to agree to submit the case to final and binding arbitration or trial before a United States Magistrate Judge. Accordingly, chief trial counsel shall speak with their clients about both of these issues prior to attending the conference and be prepared to respond. Mini-trials may be conducted when the parties genuinely believe it will assist settlement.

Finally, at all settlement conferences chief trial counsel shall be prepared to discuss any dispositive motions as well as counsels’ predictions for the amount of time necessary to try the case.

### **4. Extensions and Continuances**

The Court generally is not inclined to grant extensions for the filing of motions or briefs, however, upon the showing of good cause they will usually be granted, provided dilatory practice is not present. Any request for an

extension must take the form of a written motion (accompanied by a proposed order), and the motion must include a statement regarding opposing counsel's position on an extension.

Specific restrictions will be placed on further extensions when the case is not moving at a reasonable pace. Extension for dates regarding appearances before the Court will be granted infrequently.

## **B. Discovery Matters**

### **1. Length of Discovery Period and Extensions**

Generally one hundred twenty (120) days is permitted for discovery unless the parties indicate that a different time frame is needed and the Court approves that time frame. Extensions of time for discovery are permitted for cause shown, provided that the case has been advanced by counsel during the initial period of discovery.

### **2. Expert Witnesses**

Discovery depositions of expert witnesses are nearly always permitted after completion of fact discovery. Expert witness discovery is reciprocal. Expert reports are required in accordance with the Federal Rules of Civil Procedure. Discovery concerning experts shall be completed in a timely manner so as to permit the filing of motions under F.R.E. 104(a) and 702 (*Daubert* motions) sufficiently prior to trial in order to permit hearing by the Court at a time prior to trial so as not to delay trial.

### **3. Deposition Disputes**

For discovery disputes that arise during a deposition, the attorneys together may contact the Court to determine whether the Court wishes to resolve the matter at that time.

### **4. Stay of Discovery**

**The filing of a dispositive motion does not automatically stay discovery.** A stay may be sought by motion, but will only be granted if the right to relief under the dispositive motion is clear or there is some other good reason. In some cases, discovery may be limited to those facts in support of or in opposition to the dispositive motion (*e.g.*, a motion to dismiss on grounds of lack of in personam jurisdiction).

### **5. Limitations on Discovery**

No standard form restrictions on the number of interrogatories or length of depositions are employed beyond those set forth in the Federal Rules of Civil Procedure. However, the parties are expected to use their common sense and

discretion in discovery matters, and the Court will entertain motions to limit discovery when the request propounded is unreasonable.

**6. Rule 11 & Rule 37 Motions/Sanctions**

The Court expects counsel to avoid the necessity for filing of Rule 11 and/or Rule 37 Motions through the exercise of good professional judgment, common courtesy, and civility. However, counsel fees and costs will be awarded in appropriate circumstances. Briefs are required.

**C. Injunctions and Temporary Restraining Orders**

Ex parte contact with the Court should be avoided. Therefore, in an injunction and/or temporary restraining order, the moving party must establish that good faith efforts were made to contact the opposing party or its counsel prior to seeking relief, supported by the F.R.Civ.P. 65(b) Affidavit regarding the same. Otherwise, the Court will not hold a hearing on the matter or issue a temporary restraining order.

The moving papers in support of a motion for a temporary restraining order or preliminary injunction should include affidavit(s) in support of the motion with all relevant agreements attached to the affidavit(s). Any response to the motion for temporary restraining order or preliminary injunction must be accompanied by affidavits(s).

All requests for injunctions and temporary restraining orders are handled as expeditiously as possible, and the Court will, in its discretion, and after review of the pleadings and affidavit(s), determine whether or not to conduct a hearing and, if so, the scope of the testimony.

**D. Patent Cases**

All patent cases before the Court shall follow the Local Patent Rules of Court. These Local Rules can be found at <http://www.pawd.uscourts.gov> under the Local Rules tab.

**E. Trial Procedures**

**1. Scheduling of Cases**

At or before the pretrial conference, a date for trial will be set. There will generally be one or more backup cases scheduled for the same date. Vacation schedules, family conflicts and personal conflicts are accommodated where possible, but counsel must notify the Court of any such conflict as soon as possible. Counsel in backup cases will be provided as much advance notice as possible.

**2. Pretrial Conference**

At the pretrial conference, witness lists, exhibits, motions in limine, jury instructions, voir dire, verdict slips and any other pretrial matters will be discussed, in detail, and generally ruled upon as soon as possible. As such, counsel should be prepared to make all arguments thereon. Any unresolved *Daubert* motions will also be addressed.

In addition, at the pretrial conference, the Court will inform the parties of the number of days each party will be allotted to present testimony and evidence at trial. This Court will issue a Pretrial Order in the format set forth in Exhibit “C” (jury trial case) or Exhibit “D” (non-jury trial case).

**3. Trial Hours/Days**

Court is in trial session Monday through Friday, 9:00 a.m. to 5:00 p.m. with breaks when appropriate. Counsel must be available at 8:30 a.m. (or earlier if necessary to ensure that trial commences on time) to meet with the Court concerning scheduling, trial problems, and to obtain advance rulings on evidentiary or other issues.

**4. Trial Briefs**

Trial briefs are optional, but appreciated. There are no filing date restrictions, but the briefs are much more useful and more likely to be given serious consideration if filed at least ten (10) days before trial.

In bench trials, counsel are required to submit proposed findings of fact and conclusions of law.

**5. Voir Dire**

Judge Gibson generally conducts voir dire in civil cases.

Unless otherwise ordered by the pretrial order, counsel are permitted to file proposed supplemental voir dire questions at least ten (10) days before trial. The Court will include or incorporate proposed supplemental voir dire questions as appropriate. Counsel shall attempt to obtain consent of opposing counsel prior to submission of any such supplemental voir dire. Those supplemental voir dire questions to which counsel have agreed upon shall state (“Consented To By Counsel”).

**6. Note Taking by Jurors**

Jurors are permitted to take notes and are provided with notebook paper to do so.

- 7. Side Bars**  
The Court believes counsel should be considerate of the use of jurors' time. Consequently, side bars are discouraged because they waste the jury's time and unduly extend the length of the trial. Counsel are expected to file motions in limine and supporting briefs regarding any evidentiary matters in a timely manner in accordance with the final pretrial order. Counsel will meet with the Court each day at 8:30 a.m. (or earlier if necessary to ensure that trial commences on time) to raise points of evidence or other issues that would otherwise necessitate a side bar conference. Failure to raise the issue at that time will generally result in a disposition of the in-court objection in the presence of the jury.
- 8. Examination of Witnesses Out of Sequence**  
Where appropriate, witnesses may be examined out of sequence upon request of a party. Witnesses may be examined in any order to which counsel agrees. For example, counsel could agree that expert witnesses for each side will testify immediately after each other.
- 9. Opening Statements and Closing Arguments**  
Up to one hour is allotted to each side for opening statements and closing arguments, depending on the complexity of the case. Normally not more than one-half hour is required for each side.
- 10. Examination of Witnesses or Argument by More Than One Attorney**  
Co-counsel generally are not permitted to split up the examination of a witness or the presentation of an argument.
- 11. Examination of Witnesses Beyond Direct and Cross**  
Re-direct and re-cross examination are permitted on a very limited basis, provided counsel has satisfied the Court that it is necessary.
- 12. Videotaped Testimony**  
The Court has no special procedures regarding videotaped testimony except those set forth in the local rules.
- 13. Reading of Material into the Record**  
Counsel can devise their own methodology for reading material into the record, provided opposing counsel agrees.

**14. Exhibits**

All exhibits must be exchanged and marked in advance of trial. All objections are to be made and ruled upon prior to trial. **Two** copies are to be provided for the Court in binders properly labeled (“Plaintiff’s Exhibits” and “Defendant’s Exhibits”) at least three (3) days in advance of trial, unless otherwise ordered by the Court. If counsel prefer that the jury be given joint exhibit binders during trial, counsel may raise that request at the final pretrial conference.

Voluminous data shall be presented by summary exhibits pursuant to Fed.R.Evid. 1006, and voluminous exhibits shall be redacted to eliminate irrelevant material (which shall remain available for examination by opposing counsel). Where copies of documents are offered, the originals shall be available for examination, unless waived by stipulation.

Counsel are not to take time during trial to exchange exhibits with each other as this will have been accomplished prior to trial. With advance notice and approval of the Court, visual aids and exhibits may be used during opening statements. Exhibits need not be offered into evidence in numeric order.

**In the case of large exhibits**, once a disposition of the case has been reached, counsel are to make arrangements for retrieval of **those** exhibits immediately. Failure to do so may result in the destruction of the exhibits.

**15. Directed Verdict Motions**

The Court’s only requirements for directed verdict motions are set forth in the Federal Rules of Civil Procedure.

**16. Jury Instructions and Verdict Forms**

All parties are required to submit proposed jury instructions and verdict slips at least one (1) week prior to trial, along with computer disk/CD containing the instructions in WordPerfect format. A charging conference will be held, at which time a ruling will be made on each point for charge objected to by a party and a copy of the court’s proposed charge will be provided to counsel. Counsel are required to state objections to the proposed charge at the charging conference and to supply proposed alternate language, together with case authority. Counsel will also be requested to approve the form of the verdict slip at the charging conference.

**17. Proposed Findings of Fact and Conclusions of Law (Non-Jury trial only)**

Plaintiff shall file and serve a courtesy copy, on computer disk/CD formatted in WordPerfect format, of consecutively numbered proposed findings of fact and conclusions of law. Plaintiff’s proposed findings of fact shall address

each contested issue of fact remaining. Each proposed finding of fact shall be supported by clear and explicit reference to the parts of the record relied upon to support it. Each proposed conclusion of law shall be supported by citation to appropriate authority. With the proposed findings of fact and conclusions of law, Plaintiff also shall file and serve a brief in support of judgment integrating the proposed findings of fact with the proposed conclusions of law and demonstrating why the relief requested should be granted. The supporting brief shall not exceed fifteen (15) pages.

Defendant shall file and serve a courtesy copy, on computer disk/CD formatted in WordPerfect format, of consecutively numbered counter findings of fact and consecutively numbered counter conclusions of law, corresponding to the same numbered findings of fact and conclusions of law proposed by Plaintiff. Each proposed counter finding shall be supported by clear and explicit reference to the parts of the record relied upon to support it. Each proposed counter conclusion shall be supported by citation to appropriate authority. With the proposed counter findings and counter conclusions, Defendant also shall file and serve a brief in support of judgment integrating the counter proposed findings of fact with the counter proposed conclusions of law and demonstrating why the relief requested by Defendant should be granted. The supporting brief shall not exceed fifteen (15) pages.

**18. Offers of Proof**

There should be no requests for offers of proof during trial as the parties will have discussed the witnesses at the 8:30 a.m. conference with the Court.

**19. General Courtroom Rules**

Counsel can conduct the trial in any manner they see fit, provided it is done with courtesy and civility and consistent with the Rules of Professional Conduct.

**20. Courtroom Equipment**

**Counsel are strongly encouraged to familiarize themselves with the courtroom equipment before trial if they plan on using it.**

**F. Jury Deliberations**

**1. Written Jury Instructions**

The jury will be provided with a copy of the jury instructions.

**2. Exhibits in the Jury Room**

Generally, the jury will be given all admitted exhibits for use in deliberations.

- 3. Jury Requests to Read Back Testimony During Deliberations**  
Requests to read back testimony during deliberations generally will be denied.
- 4. Jury Questions**  
All written questions submitted by the jury are read to counsel. Counsel and the Court will meet to discuss and hopefully agree on a reply. In most cases, the jury will then be summoned to the courtroom where a verbal reply will be read. A written reply is also provided where appropriate.
- 5. Availability of Counsel During Jury Deliberations**  
Trial counsel need not remain in the courtroom area, but must be available by telephone so that they can promptly return to the courthouse upon being contacted by the Court.
- 6. Interviewing the Jury**  
Interviewing of jurors post-verdict is discouraged, but the jury is told that each juror may decide himself or herself whether to be interviewed.

#### **IV. CRIMINAL CASES**

- A. Motions**  
Motions for extension of time to file pretrial motions are generally granted, especially if there is a significant amount of discovery material, the case involves a wiretap or a complex factual situation. Appropriate language excluding delays from the operation of the Speedy Trial Act should be included in the proposed order accompanying the motion. (See Exhibit “E”).
- B. Pretrial Conferences**  
A status conference is scheduled in each case well in advance of trial.
- C. Guilty Pleas**  
There are no special rules regarding guilty pleas and no deadlines for accepting or rejecting a plea arrangement. Counsel are encouraged to explore a plea arrangement as early as possible to avoid tying up trial time. The Court follows a written colloquy for entry of the plea.
- D. Voir Dire**  
Judge Gibson conducts the voir dire in criminal cases.

Unless otherwise ordered by the pretrial order, counsel are permitted to file proposed supplemental voir dire questions at least ten (10) days before trial. The Court will

include or incorporate proposed supplemental voir dire questions as appropriate. Counsel shall attempt to obtain consent of opposing counsel prior to submission of any such supplemental voir dire. Those supplemental voir dire questions to which counsel have agreed upon shall state (“Consented To By Counsel”).

**E. Trial**

Counsel may decide when or if they will present an opening statement. Defense counsel may not open both before and after the prosecution.

Side bars are disfavored and will not be permitted if it is to decide an issue that could have been decided before or after trial.

Unless otherwise scheduled in the pretrial order, motions in limine are to be filed, together with supporting brief, at least two (2) weeks in advance of trial. Responses to the motions are to be filed one (1) week in advance of trial.

Transcripts of tape recorded conversations are permissible.

The government is encouraged to turn over Jencks Act material as early as possible, and generally no later than four days before trial.

All Brady/Giglio material within the possession or control of the government or its agents should be disclosed at least two weeks before trial, and the government is under a continuous obligation to disclose such material to the defense.

Special interrogatories to the jury will be submitted upon request of counsel in appropriate cases.

A copy of the jury instructions will be provided to the jury.

Unless otherwise ordered, counsel are required to submit proposed jury instructions at least ten (10) days prior to trial, along with a computer disk/CD containing the instructions in WordPerfect format. A charging conference will be held, at which time a ruling will be made on each point for charge and a copy of the court’s proposed charge will be supplied to counsel. Counsel are required to state objections to the proposed charge at the charging conference and to supply the alternate language, together with case authority.

**F. Objections to Pre-sentence Investigation Report**

Objections to the pre-sentence investigation report must be submitted by counsel well in advance of the sentencing hearing if counsel expect to receive tentative findings and conclusions from the Court. Counsel should refer to the Local Rules of Criminal Procedure for guidance.

Generally, Tentative Findings and Conclusions Concerning Disputed Facts or Factors will be provided to counsel in advance of the sentencing hearing.

The parties will be notified in advance and provided with reasons in cases when a downward or an upward departure is contemplated.

**V. BANKRUPTCY APPEALS (TO THE DISTRICT COURT)**

**A. Filing and Scheduling**

Briefs are to be filed within thirty (30) days by the appellant and thirty (30) days thereafter by the appellee.

**B. Oral Argument**

Oral argument is not generally scheduled, but may be granted upon request.

**C. Other General Practice/Procedures**

Briefing schedules and other deadlines imposed by the Federal Rules of Bankruptcy Procedure will be modified where appropriate on the request of the party.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

	)		
	)		
v.	)	<b>Plaintiff(s),</b>	<b>CIVIL ACTION NO. 3:20__-__</b>
	)		
	)		<b>JUDGE KIM R. GIBSON</b>
	)		
	)		
	)	<b>Defendant(s).)</b>	

**INITIAL SCHEDULING ORDER**

NOW, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, **IT IS HEREBY ORDERED** that the above-captioned civil action is placed under Rule 16.1 of the Local Rules of the United States District Court for the Western District of Pennsylvania for pretrial proceedings and all provisions of the Rule will be strictly enforced.

**IT IS FURTHER ORDERED** that counsel shall confer with their clients prior to the Post-Discovery Status Conference, or any other status conference, in order to obtain authority for the purpose of participating in settlement negotiations to be conducted by the Court. Counsel are encouraged to appear with their principals at all such conferences, or instruct the principals to be available by telephone to facilitate the amicable resolution of all litigation.

**IT IS FURTHER ORDERED** that compliance with the provisions of Local Rule 16.1.2.A. shall be completed as follows:

**A. Initial Case Management Plan**

- (1) This case is designated as a Track One action as that term is defined in Local Rule 16.1.3.

(2) The parties shall move to amend the pleadings or add new parties by

\_\_\_\_\_.

(3) The parties shall make the required disclosures identified in Rule 26(a)(1)(A)(B)(C) and (D) on or before

\_\_\_\_\_.

The parties are reminded that under the rule a party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures.

(4) Modifications of the times for, and extent of, any disclosures under Fed.R.Civ.P. 26(a) and 26(e)(1) shall be made by

\_\_\_\_\_.

(5) The following limits on the scope of discovery shall apply

\_\_\_\_\_.

(6) The parties shall complete all fact discovery by

\_\_\_\_\_.

All interrogatories, notices of deposition, requests for admissions and requests for production shall be served within sufficient time to allow responses to be completed and filed prior to the close of discovery.

(7) The parties shall complete all expert discovery by

\_\_\_\_\_.

The parties shall make their disclosure of experts required by Rule 26(a)(2) by \_\_\_\_\_.

The depositions of all experts shall be completed by

\_\_\_\_\_.

- (8) The parties shall designate this case for arbitration, mediation, appointment of a special master, or other special procedure, if appropriate, by

\_\_\_\_\_.

- (9) A Post-Discovery Status Conference is scheduled for

\_\_\_\_\_.

**(a date no later than thirty (30) days after the close of discovery).**

The parties shall be prepared to discuss settlement and the possibility of using a method of alternative dispute resolution. Seven days prior to the date of the Post-Discovery Status Conference, counsel and unrepresented parties are jointly responsible for submitting to the Court a proposed Final Scheduling Order that includes: (1) dates by which dispositive motions should be filed and responded to; (2) dates by which the parties' pretrial statements should be filed; (3) dates by which motions *in limine* should be filed and responded to; (4) dates by which *Daubert* motions should be filed and responded to; (5) dates on which argument on *Daubert* motions and motions in limine shall be heard; (6) date for the final pretrial conference; and (7) trial dates. *See* Exhibit "B" of Judge Gibson's Practice and Procedures.

- (10) The parties shall file any dispositive motions that are appropriate prior to the close of discovery on or before

\_\_\_\_\_.

The nonmoving party's response to any such motion is due on

\_\_\_\_\_.

Deadlines for dispositive motions that are only appropriate after the close of discovery will be set at the Post-Discovery Status Conference. Failure to file a

dispositive motion before the close of discovery will not act as a waiver of any right to file an appropriate motion after the close of discovery.

(11) Other appropriate matters.

**B. Motion Practice**

**(1) Motions Not Requiring Briefs**

No brief is required by either movant or respondent unless otherwise directed by the Court with respect to the following motions:

- (a) For extension of time for the performance of an act required or allowed to be done;
- (b) To continue a Post-Discovery Status Conference;
- (c) To amend the pleadings;
- (d) To file supplemental pleadings;
- (e) For a substitution of parties; and
- (f) To compel discovery.

Any of the above-motions not requiring briefs shall be accompanied by a proposed order stating the relief requested by said motion. All other motions and responses thereto, must be accompanied by a brief. The Clerk shall not accept for filing any motion, application or objection requiring a brief not accompanied by such brief without permission of the Court. Briefs in support of a motion and briefs in opposition to a motion shall be limited to twenty-five (25) pages excluding tables.

**C. Procedure Governing Discovery Disputes**

The Federal Rules of Civil Procedure allow for liberal discovery. In the absence of a privilege, relevancy is the test for determining whether material is discoverable. Fed.R.Civ.P. 26(b)(1). This rule is construed broadly and includes “any matter that bears

on, or that reasonably could lead to other matters that could bear on, any issue that is or may be in the case.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

Discovery is not limited to the issues raised only in the pleadings, but rather is designed to define and clarify the issues. *Id.* at 351. Nor is discovery objectionable on the ground that the information sought would be inadmissible at trial, so long as the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Additionally, should it be determined that, given the needs of the case, compliance with a discovery request would be burdensome or expensive, this will not necessarily be grounds for nonproduction, but it will impact on the Court’s decision as to who must bear the cost of production.

In accordance with Local Rule 7.1.C., in the event a dispute arises over a discovery request, all counsel are required to confer in good faith in an effort to resolve the issue without court intervention. It shall be the obligation of the attorney for the party seeking court intervention to initiate such conferences and to do so promptly. Refusal to confer in good faith may subject counsel to sanctions, such as the imposition of costs, including the attorney’s fees of opposing counsel, under Fed.R. Civ.P. 37(a)(4).

In the event, however, that the parties to this action are unable to informally resolve a discovery dispute and court intervention is sought, the movant shall file a Motion to Compel Discovery (or Protective Order if such is the case). Attached to the motion shall be a proposed Order of Court in which the moving party shall set forth, in specific detail, its proposal for completely resolving the discovery dispute. Within five (5) working days after receipt of the motion, the respondent, either singularly or in conjunction, shall file a written response. Attached to the response shall be respondent’s proposed Order of Court.

The Court will sign, without modification, the one proposed Order of Court which,

in the judgment of the Court, is most reasonable under the circumstances.

**BY THE COURT:**

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**KIM R. GIBSON  
UNITED STATES DISTRICT JUDGE**

**cc: All Counsel of Record**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

_____	)		
	)		
	)	<b>Plaintiff(s),</b>	<b>CIVIL ACTION NO. 3:20__-__</b>
	)		
v.	)		
	)		<b>JUDGE KIM R. GIBSON</b>
	)		
_____	)		
	)		
	)	<b>Defendant(s).)</b>	

**FINAL SCHEDULING ORDER**

NOW, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, **IT IS HEREBY ORDERED** that compliance with the provisions of Local Rule 16.1.2.B. shall be completed as follows:

**A. Final Case Management Plan**

(1) The parties shall file motions for summary judgment, if appropriate, on or before

\_\_\_\_\_.

The nonmoving party's response to the motion for summary judgment is due on

\_\_\_\_\_.

No further briefing is allowed without leave of court.

(2) Plaintiff(s) pretrial narrative statement shall comply with Local Rule 16.1.4.A.

and shall be filed by

\_\_\_\_\_.

Defendant(s) pretrial narrative statement shall comply with Local Rule 16.1.4.B. and

shall be filed by

\_\_\_\_\_.

Counsel shall specify the material facts to be proved at trial. Proof of material facts not specified, may be excluded at trial upon objection or by the Court *sua sponte*. ANY EXHIBIT WHICH HAS NOT BEEN IDENTIFIED BY COUNSEL IN THE PRETRIAL NARRATIVE STATEMENT, EXCEPT AN EXHIBIT TO BE USED SOLELY FOR IMPEACHMENT PURPOSES, SHALL NOT BE ADMITTED AS EVIDENCE, UNLESS THE PARTIES OTHERWISE AGREE OR THE COURT ORDERS OTHERWISE. The parties shall not amend or supplement their pretrial statements without leave of court.

- (3) The parties shall file any motions *in limine*, proposed points for charge and proposed voir dire no later than

\_\_\_\_\_.

The nonmoving party's response to any motion *in limine* shall be due no later than

\_\_\_\_\_.

NO MOTIONS *IN LIMINE* WILL BE ENTERTAINED BY THE COURT PRIOR TO

\_\_\_\_\_.

- (4) The Court will conduct a pretrial conference on

\_\_\_\_\_,

at \_\_\_\_\_ a.m. / p.m. IMPORTANT INFORMATION REGARDING ATTORNEYS' RESPONSIBILITIES AT THE PRETRIAL CONFERENCE APPEARS IN SECTION (C) OF THIS ORDER.

- (5) The case shall presumptively be called for trial on

\_\_\_\_\_,

at \_\_\_\_\_ a.m. / p.m. THE ABSENCE OF ANY WITNESS SHALL NOT BE SUFFICIENT CAUSE TO DELAY THE TRIAL.

(6) Other appropriate matters.

**B. Motion Practice**

**(1) Motions Not Requiring Briefs**

No brief is required by either movant or respondent unless otherwise directed by the Court with respect to the following motions:

- (a) For extension of time for the performance of an act required or allowed to be done;
- (b) To continue a pretrial conference, hearing, or the trial of an action;
- (c) To amend pleadings;
- (d) To file supplemental pleadings; and
- (e) For a substitution of parties.

Any of the above-motions not requiring briefs shall be accompanied by a proposed order stating the relief requested by said motion. All other motions and responses thereto, must be accompanied by a brief. The Clerk shall not accept for filing any motion, application or objection requiring a brief not accompanied by such brief without permission of the Court. Briefs in support of a motion and briefs in opposition to a motion shall be limited to twenty-five (25) pages excluding tables.

**(2) Summary Judgment Motions**

The brief in support of a motion for summary judgment shall be accompanied by a separately filed document entitled “Concise Statement of Undisputed Material Facts” in accordance with Local Rule of Court 56.B. The statement shall contain a concise itemization of material facts that the movant contends are not in dispute. The facts shall be numbered and appear in a form similar to plaintiff’s complaint. At the conclusion of each fact, movant shall refer, with particularity, to those portions of the record upon which movant relies.

The brief in opposition to a motion for summary judgment shall be accompanied by a separately filed document entitled “Response to Movant’s Concise Statement of Undisputed Material Facts” in accordance with Local Rule of Court 56.C. The response shall answer each of the numbered averments of fact set forth in the movant’s statement and shall state whether each of the movant’s averments of fact are “admitted” or “disputed.” If disputed, the respondent shall state a concise counter- statement of the matter disputed. At the conclusion of each counter-statement, respondent shall refer, with particularity, to those portions of the record upon which respondent relies.

For example:

“5) Admitted.

6) Disputed. On the contrary . . . . See Plaintiff’s deposition of November 1, 1992, at Page 7, lines 12-14.”

All material facts set forth in the Movant’s Concise Statement of Undisputed Material Facts shall be deemed admitted for the purpose of summary judgment unless specifically controverted as set forth herein.

All parties shall attach to their Concise Statement of Undisputed Material Facts and any Response thereto, copies of the documents or portions of the record that support their respective positions.

**(3) Motions *in Limine***

Prior to filing a motion *in limine*, counsel shall confer and consult so as to ensure that a genuine dispute exists with respect to the subject matter of the motion *in limine*. **A motion *in limine* must be accompanied by a certificate from the moving counsel of record certifying that he has conferred and consulted with adverse counsel with respect to each matter set forth in the motion and that the parties are unable to resolve their**

**differences.** The certificate shall set forth the exact time and place of the conference and consultation. If the required certificate cannot be furnished, counsel for movant shall furnish an alternative certificate stating that opposing counsel has refused to so meet and confer, or to sign the required certificate, or stating such other facts and circumstances supporting the absence of the required certificate and movant's efforts to obtain compliance by opposing counsel.

**C. Pretrial Conference**

At the pretrial conference, ATTORNEYS MUST BE PREPARED TO DO EACH OF THE FOLLOWING:

- (1) **Indicate** on the record whether the exhibits of any other party are agreed to or objected to, and offer the reason(s) for any such objection.
- (2) If any legal issues remain undecided, **present** the proper motions, along with a brief.
- (3) **Estimate** the number of days required for trial.
- (4) **Identify** the witnesses that are to testify at trial.
- (5) **Identify** any depositions or any portion thereof to be read into evidence. A party intending to use a discovery deposition in its case-in-chief shall: (a) identify the deposition by the name of the deponent and date of his or her deposition; and (b) designate to the Court and to the opposing party the pages and lines that will be offered at trial. Opposing counsel shall counter-designate those lines and pages of the same deposition that will be offered at trial. Objections to the admissibility of any portion thereof to be read into evidence shall be identified at the pretrial conference. Objections to the admissibility of any portion shall be submitted to the Court at the conference.

This order does not include video taped qualifications of experts.

- (6) **Identify** known or anticipated evidentiary issues.
- (7) **Inquire** of their authority to settle and have their clients present or available by telephone. The judge shall inquire whether counsel have discussed settlement. Such record shall be made of the conference as the Court orders. Failure to fully disclose in the pretrial narrative statement, or at the pretrial conference, the substance of evidence proposed to be offered at trial will result in the exclusion of that evidence at trial, unless the parties otherwise agree or the Court orders otherwise. The only exception shall be evidence used for impeachment purposes.

**BY THE COURT:**

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**KIM R. GIBSON**  
**UNITED STATES DISTRICT JUDGE**

**cc: All Counsel of Record**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

	)		
	)		
	)	<b>Plaintiff(s),</b>	<b>CIVIL ACTION NO. 3:20__-__</b>
	)		
v.	)		
	)		<b>JUDGE KIM R. GIBSON</b>
	)		
	)		
	)	<b>Defendant(s).)</b>	

**PRETRIAL ORDER (JURY TRIAL)**

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Court **HEREBY ORDERS** as follows:

**A. Final Pretrial Orders**

**1. Jury Selection & Trial**

The trial is set for \_\_\_\_\_, 20\_\_\_\_, with jury selection occurring on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_.m., Courtroom A, Penn Traffic Building, 319 Washington Street, Johnstown, PA 15901.

**2. Exchange of Witness Lists and Exhibits**

**a.** Plaintiff shall serve and submit to the Court its list of trial witnesses, listing separately the witnesses it will call and the witnesses it may call if needed (other than purely for impeachment). For each witness listed, Plaintiff shall provide an offer of proof explaining the substance of the testimony of the witness. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Plaintiff's witness list and offers of proof shall be due one (1) month before trial.

b. Defendant shall serve and submit to the Court its list of trial witnesses, listing separately the witnesses it will call and the witnesses it may call if needed (other than purely for impeachment). For each witness listed Defendant shall provide an offer of proof explaining the substance of the testimony of the witness. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Defendant's witness list and offers of proof shall be due three (3) weeks before trial.

c. **All exhibits must be exchanged and marked in advance of trial**

Two copies are to be provided for the Court in binders properly labeled ("Plaintiff's Exhibits" and "Defendant's Exhibits") at least three (3) days in advance of trial, unless otherwise ordered by the Court. If counsel prefer that the jury be given joint exhibit binders during trial, counsel may raise that request at the final pretrial conference.

d. Voluminous data shall be presented by summary exhibits pursuant to Fed.R.Evid. 1006, and voluminous exhibits shall be redacted to eliminate irrelevant material (which shall remain available for examination by opposing counsel). Where copies of documents are offered, the originals shall be available for examination, unless waived by stipulation.

3. **Designation of Discovery Excerpts to be Offered at Trial**

The parties shall submit designation of excerpts from depositions, interrogatory answers, and responses to requests for admission to be offered at trial (other than for impeachment) at least two (2) weeks before trial.

4. **Motions**

The parties shall file all motions in limine, including motions under Fed.R.Evid.

104(a) and motions to limit or sever issues, together with supporting briefs or memoranda of law at least three (3) weeks before trial. Responses shall be filed at least two (2) weeks before trial. All briefs supporting or opposing such motions are limited to five (5) pages.

**5. Proposed Jury Instructions & Verdict Slips**

All parties are required to submit proposed jury instructions and verdict slips at least one week prior to trial, along with computer disk/CD containing the instructions in Work Perfect format. A charging conference will be held, at which time a ruling will be made on each point for charge objected to by a party and a copy of the Court's proposed charge will be provided to counsel. Counsel are required to state objections to the proposed charge at the charging conference and to supply proposed alternate language, together with case authority. Counsel will also be requested to approve the form of the verdict slip at the charging conference.

**6. Proposed Voir Dire**

Counsel are permitted to file proposed supplemental voir dire questions at least ten (10) days before trial. The Court will include or incorporate proposed supplemental voir dire questions as appropriate.

**7. Joint Stipulations**

The parties shall file joint stipulations at least ten (10) days before trial. All possible stipulations shall be made as to:

- a. Facts;
- b. Issues to be decided;
- c. The authenticity and admissibility of exhibits;
- d. Expert qualifications and reports;

- e. Deposition testimony to be read into the record; and
- f. A brief statement of the claims and defenses to be read to the jury to introduce the trial.

Counsel shall meet at a mutually convenient time and place to produce the joint stipulation in time for filing as ordered.

**8. Final Pretrial Conference**

A final pretrial conference may be held at least one (1) week before trial at the Court's discretion.

**9. Courtesy Copies**

Courtesy copies of all items required to be filed and served pursuant to this order shall be delivered to chambers forthwith.

**B. Trial Procedure**

**1. Hours**

Court is in trial session, unless otherwise ordered by the Court, Monday through Friday, 9:00 a.m. to 5:00 p.m. with breaks where appropriate. All counsel are expected to be in their seats and ready to commence at the appointed times.

**2. Exhibits**

Because counsel will have previously marked and exchanged all exhibits and provided a copy to the Court, it will not be necessary during the trial to show exhibits to opposing counsel prior to using them.

**3. Approaching the Witness**

It will not be necessary for counsel to request permission to approach a witness.

**4. Opening Statements and Closing Arguments**

Up to one hour is permitted to each side for opening statements and closing

arguments, depending on the complexity of the case. Normally, not more than one-half hour is required for each side. Counsel may use exhibits or charts in opening statements provided that the same have been provided to opposing counsel beforehand and either agreement was reached or the Court has ruled upon the matter.

#### **5. Side Bar Conferences**

The Court believes that counsel should be considerate of the jurors' time. Consequently, side bar conferences are highly disfavored because they waste the jury's time and unduly extend the length of the trial. Counsel will meet with the Court at 8:30 a. m. each day (or earlier if necessary to ensure that trial commences on time) to raise points of evidence or other issues that would otherwise necessitate a side bar conference. Failure to raise the issue at that time will generally result in a disposition of the in-court objection in the presence of the jury. If necessary, counsel and the Court may amplify their objections and rulings on the record after the jury has been excused for a break, for lunch or for the day.

In addition, it is expected that counsel will anticipate evidentiary issues requiring lengthy argument and will take up such matters out of the presence of the jury. The Court will be available at 8:30 a.m. each morning to address such issues. It is the responsibility of counsel to notify other counsel of the need for a conference at 8:30 a.m. and all other counsel will be expected to be there at the appointed time for argument. **THE COURT WILL NOT DELAY THE PROCEEDINGS TO RESPOND TO LAST MINUTE REQUESTS FOR CONFERENCES TO DISCUSS MATTERS WHICH, IN THE EXERCISE OF REASONABLE DILIGENCE, COULD HAVE BEEN HEARD AT THE MORNING CONFERENCE.**

**6. Witness List**

Prior to the commencement of the trial, counsel shall provide opposing counsel with a complete witness list, and shall provide opposing counsel throughout the trial with the actual list of the next day's witness by 5:30 p.m. in the order they are expected to be called. The same procedure will be employed by both sides at the end of each trial day. Counsel should be sure that they have adequate witnesses to fill the time allotted each day.

**7. Note Taking**

The jury shall be permitted to take notes.

**8. Jury Questions During Deliberations**

During deliberations all written questions submitted by the jury are read to counsel by Judge Gibson. Counsel and the Court will meet to discuss and hopefully agree on a reply. The jury is then summoned to the Courtroom in most cases and the verbal reply is given to them. A written reply is provided where appropriate.

**9. Jury Instructions**

A copy of the jury instructions shall be provided to the jury for use during its deliberations.

**10. Jury Access to Exhibits**

Unless otherwise advised by counsel, it will be assumed that all admitted exhibits will be sent out with the jury.

**BY THE COURT:**

**cc: All Counsel of Record**

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**KIM R. GIBSON  
UNITED STATES DISTRICT JUDGE**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

_____	)		
	)		
<b>Plaintiff,</b>	)	<b>CIVIL ACTION NO. 3:20</b>	<b>__ - __</b>
	)		
<b>v.</b>	)	<b>JUDGE KIM R. GIBSON</b>	
	)		
_____	)		
	)		
<b>Defendant.</b>	)		

**PRETRIAL ORDER (NON-JURY TRIAL)**

**NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, the Court **HEREBY ORDERS**  
as follows:

**1. Trial**

Trial of the above captioned matter is set for \_\_\_\_\_, 20 \_\_, at  
\_\_\_\_\_ .m., Courtroom A, Penn Traffic Building, 319 Washington Street,  
Johnstown, PA 15901.

**2. Exchange of Witness Lists and Exhibits**

**a.** Plaintiff shall serve and submit to the Court its list of trial witnesses, listing separately the witnesses it will call and the witnesses it may call if needed (other than purely for impeachment). For each witness listed, Plaintiff shall provide an offer of proof explaining the substance of the testimony of the witness. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Plaintiff's witness list and offers of proof shall be due one (1) month before trial.

b. Defendant shall serve and submit to the Court its list of trial witnesses, listing separately the witnesses it will call and the witnesses it may call if needed (other than purely for impeachment). For each witness listed Defendant shall provide an offer of proof explaining the substance of the testimony of the witness. The offers of proof shall be no more than one (1) double-spaced page with twelve (12) point font. Defendant's witness list and offers of proof shall be due three (3) weeks before trial.

c. **All exhibits must be exchanged and marked in advance of trial**

Two copies are to be provided for the Court in binders properly labeled ("Plaintiff's Exhibits" and "Defendant's Exhibits") at least three (3) days in advance of trial, unless otherwise ordered by the Court.

d. Voluminous data shall be presented by summary exhibits pursuant to Fed.R.Evid. 1006, and voluminous exhibits shall be redacted to eliminate irrelevant material (which shall remain available for examination by opposing counsel). Where copies of documents are offered, the originals shall be available for examination, unless waived by stipulation.

3. **Designation of Discovery Excerpts to be Offered at Trial**

The parties shall submit designation of excerpts from depositions, interrogatory answers, and responses to requests for admission to be offered at trial (other than for impeachment) at least two (2) weeks before trial.

4. **Motions**

The parties shall file all motions in limine, including motions under Fed.R.Evid. 104(a) and motions to limit or sever issues, together with supporting briefs or memoranda of law at least three (3) weeks before trial. Responses shall be filed at

least two (2) weeks before trial. All briefs supporting or opposing such motions are limited to five (5) pages.

**5. Proposed Findings of Fact and Conclusions of Law**

- a.** On or before \_\_\_\_\_, 20 \_\_, Plaintiff shall file and serve a courtesy copy, on computer disk/CD formatted in Word Perfect format, of consecutively numbered proposed findings of fact and conclusions of law. Plaintiff's proposed findings of fact shall address each contested issue of fact remaining. Each proposed finding of fact shall be supported by clear and explicit reference to the parts of the record relied upon to support it. Each proposed conclusion of law shall be supported by citation to appropriate authority. With the proposed findings of fact and conclusions of law, Plaintiff also shall file and serve a brief in support of judgment integrating the proposed findings of fact with the proposed conclusions of law and demonstrating why the relief requested should be granted. The supporting brief shall not exceed fifteen (15) pages.
- b.** On or before \_\_\_\_\_, 20 \_\_, Defendant shall file and serve a courtesy copy, on computer disk/CD formatted in Word Perfect format, of consecutively numbered counter-findings of fact and consecutively numbered counter-conclusions of law, corresponding to the same numbered findings of fact and conclusions of law proposed by Plaintiff. Each proposed counter finding shall be supported by clear and explicit reference to the parts of the record relied upon to support it. Each proposed counter-conclusion shall be supported by citation to appropriate authority. With the proposed counter-findings and counter-conclusions, Defendant also shall file and serve a brief

in support of judgment integrating the counter-proposed findings of fact with the counter-proposed conclusions of law and demonstrating why the relief requested by defendant should be granted. The supporting brief shall not exceed fifteen (15) pages.

- c. Counsel shall specify in the proposed findings or proposed counter-findings all facts to be proved at trial. Proof of facts not specified may be excluded upon objection or by the Court *sua sponte*.

**6. Joint Stipulations**

In addition to the above proposed findings of fact and conclusions of law, the parties shall file consecutively numbered joint stipulations at least ten (10) days before trial.

All possible stipulations shall be made as to:

- a. Facts;
- b. Issues to be decided;
- c. The authenticity and admissibility of exhibits;
- d. Expert qualifications and reports; and
- e. Deposition testimony to be read into the record.

Counsel shall meet at a mutually convenient time and place to produce the joint stipulation in time for filing as ordered.

**7. Final Pretrial Conference**

A final pretrial conference may be held at least one (1) week before trial at the Court's discretion.

**8. Courtesy Copies**

Courtesy copies of all items required to be filed and served pursuant to this order shall be delivered to chambers on a computer disk/CD formatted in Word Perfect

format.

**BY THE COURT:**

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**KIM R. GIBSON  
UNITED STATES DISTRICT JUDGE**

**cc: All Counsel of Record**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
v.	)	<b>CRIMINAL NO. 3:20 __ - __</b>
	)	
_____ ,	)	<b>JUDGE KIM R. GIBSON</b>
	)	
<b>Defendant.</b>	)	

**ORDER**

**NOW**, this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, this matter coming before the Court on the Defendant’s Motion for Extension of Time to File Pretrial Motions, pursuant to L.Cr.R. 12(B), **IT IS HEREBY ORDERED** that Defendant’s motion is GRANTED.

**IT IS FURTHER ORDERED** that the extension of time from \_\_\_\_\_, 20 \_\_, to \_\_\_\_\_, 20 \_\_, caused by this continuance be deemed excludable delay under the Speedy Trial Act 18 U.S.C. §3161 *et seq.* Specifically, the Court finds that the ends of justice served by granting this continuance outweigh the best interest of the public and the Defendant to a Speedy Trial, 18 U.S.C. §3161(h)(7)(A), since, for the reasons stated in Defendant’s motion, the failure to grant such continuance would reasonably deny counsel for the Defendant reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. §3161(h)(7)(B)(iv).

**IT IS FURTHER ORDERED** that any pretrial motions referred to in Local Criminal Rule 12.1 are due on or before \_\_\_\_\_, 20\_\_.

**BY THE COURT:**

\_\_\_\_\_  
**KIM R. GIBSON**  
**UNITED STATES DISTRICT JUDGE**

**cc: All Counsel of Record**

**Exhibit “E”**