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[FOR USE IN ADVERSARY PROCEEDINGS AND CONTESTED MATTERS]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

_____ ,)	Case No.
_____ ,)	Chapter
)	
Debtor(s).)	
)	
_____))	
)	
_____ ,)	
_____ ,)	
)	
Plaintiff(s),)	
)	
vs.)	Adversary No. [omit in contested matters]
)	
_____ ,)	
_____ ,)	
)	
Defendant(s).)	
)	
_____))	

FINAL PRETRIAL ORDER

On _____, 20__, a pretrial conference was held in this case at
_____, Kansas, before the Honorable (Judge's Name),

Bankruptcy Judge.

1. APPEARANCES

Counsel present and participating were (name of trial counsel) of (firm name) for the plaintiff, (name of plaintiff) , and (name of trial counsel) of (firm name) for the defendant, (name of defendant).

2. JURISDICTION AND CONSENT TO FINAL ORDER

The parties to this (adversary proceeding) (contested matter) stipulate to the jurisdiction of the Court and consent to the trial and entry of a final order by the Bankruptcy Court.

3. NATURE OF CASE

[Provide a brief, general statement of the nature of the case or matter, specifying applicable statutory references. Concisely identify the parties and their respective positions.]

4. AMENDMENTS TO PLEADINGS

There are no amendments to the pleadings.

(or)

moved to amend his/her/its
to allege . Having heard the arguments of counsel and being fully informed, said motion was (overruled) (sustained).

5. DISPOSITIVE MOTIONS

There are no DISPOSITIVE motions to be filed.

(or)

Dispositive motions have been filed and are pending as follows:

(or)

Dispositive motions are due by _____, 20____. A party has 21 days to file a response to the motion, and the movant then has 14 days to reply. (See D. Kan. LBR 7012.1 and/or 7056.1). At the conclusion of briefing, the matter will go under advisement.

6. STIPULATIONS

The parties stipulate and agree that venue is properly laid in this District, that the United States Bankruptcy Court for the District of Kansas has jurisdiction of the parties and the subject matter and may try the adversary proceeding to final judgment, that all proper, necessary and indispensable parties are parties hereto, and to the following facts:

- 1.
- 2.
- 3.

Unless the parties indicate otherwise, the law governing this case is that of the State of Kansas and the United States Bankruptcy Code.

7. ISSUES AND THEORIES

7.1 Plaintiff's first theory of recovery

A. Elements: To prevail [state theory of recovery, *e.g.*, exception to discharge], plaintiff must prove: [Identify each element of plaintiff's first theory of recovery, *e.g.*, false statement, knowingly made with intent to deceive, etc.]

B. Issues of fact: The following issues of fact must be resolved at trial: [List all issues of fact relevant to the theory of recovery.]

C. Issues of law: The following issues of law must be resolved at trial: [List all issues of

law relevant to the theory of recovery.]

D. Mixed Issues of Fact and Law: The following mixed issues of fact and law must be resolved at trial: [List all mixed issues of fact and law relevant to the theory of recovery.]

7.2 Defendant's defenses (including affirmative defenses):

A. Elements: To prevail on [defense number 1], defendant must prove: [Identify elements.]

B. Issues of fact: The following issues of fact relative to the above elements must be resolved at trial: [All issues of fact relevant to defense number 1.]

C. Issues of law: The following issues of law relative to the above elements must be resolved at trial: [All issues of law relevant to defense number 1.]

D. Mixed issues of fact and law: The following mixed issues of fact and law relative to the above elements must be resolved at trial: [All mixed issues relevant to defense number 1.]

7.3 Counterclaims; cross claims; and third party claims:

[Include elements, issues of fact, issues of law and mixed issues in the format specified above for each and every counter, cross or third-party claim.]

8. RELIEF SOUGHT

[State any non-monetary and monetary relief sought by any party, including amounts, *e.g.*, injunctive relief, determination of dischargeability, allowance of claim, secured status, or similar concept, including an explanation of the basis for the relief. Reference to elements is extremely helpful in this connection.]

9. BRIEF LIST OF CITATIONS

If the parties desire not to file trial briefs, they must include a list of citations supporting

the parties' respective theories. List citations by identifying them with the appropriate issues of law as follows:

Issue of Law

1.

Citation

1.

2.

[The list should be included for each party with respect to each theory.]

10. LIST OF EXHIBITS; REMINDER OF COMPLIANCE

10.1 List of Exhibits

A. Plaintiff's Exhibits

Plaintiff has identified the following exhibits to be offered into evidence at the trial of this case:

	<u>Title of Document</u>	<u>Date</u>	<u>Number of Pages</u>
1.			
2.			
3.			

B. Defendant's Exhibits

Defendant has identified the following exhibits to be offered into evidence at the trial of this case:

	<u>Title of Document</u>	<u>Date</u>	<u>Number of Pages</u>
1.			

2.

3.

10.2 Exchange of Exhibits

At least three (3) full business days prior to trial, or as the Court otherwise directs, each party shall serve upon each opposing party a legible copy of each exhibit the proponent intends to introduce at the time of trial.

10.3 Compliance with LBR 9072.1

Counsel are to comply with D. Kan. LBR 9072.1 and unless the Court directs otherwise, shall deliver to the Court a set of original exhibits, pre-marked with exhibit stickers, for the witness, and two sets of copies of all exhibits for chambers, at least three (3) full business days in advance of trial, together with an exhibit list in a form substantially in compliance with the “Exhibit Sheet” form available on the Court’s website: www.ksb.uscourts.gov/forms. Unless directed otherwise, the exhibit sheet and all exhibits shall be submitted in a three-ring notebook with each exhibit separately tabbed. All multiple-page exhibits must be paginated or bates numbered. All exhibits must be clearly legible. The Court may exclude any exhibit that doesn’t comply with this Pretrial Order or D. Kan. LBR 9072.1.

11. WITNESSES

11.1 Plaintiff’s Witnesses

The names and addresses of witnesses plaintiff intends to call are:

<u>Name</u>	<u>Address</u>
-------------	----------------

1..

2.

3.

11.2 Defendant's Witnesses

The names and addresses of witnesses defendant intends to call are:

<u>Name</u>	<u>Address</u>
-------------	----------------

1.

2.

3.

11.3 Summary of Testimony

Each party shall file with this Order a concise summary of the anticipated testimony of each and every witness and any other evidence the party intends to offer. The Order will be returned if the testimony summaries are not attached.

12. TRIAL

12.1 This case will be set for trial as soon as practicable after either the entry of this Order or a ruling on any dispositive motions.

12.2 Trial will be to the Court/to the jury.

12.3 Estimated time of trial is ____ days.

12.4 Trial will be in [_____,] Kansas or such other place in the District where the case may first be reached for trial.

13. FURTHER PROCEEDINGS AND FILINGS

13.1 Status Conference

A pretrial status conference will be scheduled for _____; or the Court may schedule a status conference before the trial begins.

13.2 Trial Briefs

Each party desiring to submit a trial brief shall comply with the requirements of D. Kan. LBR 9013.1. Trial briefs shall be served and filed no less than three (3) business days in advance of trial. Unless noted below, the Court does not require trial briefs, but finds them helpful, particularly if the parties anticipate that unique or difficult issues will arise during trial.

_____ If checked, the Court requires trial briefs be filed on the schedule set out above.

14. ORDERS OF THE COURT

14.1 Except by consent of the parties or by order of the Court to prevent manifest injustice, exhibits not listed and not described in this Order shall not be admitted into evidence and witnesses not listed and not identified in this Order shall not testify except in proper rebuttal. Either party may offer the testimony of witnesses listed by the other and either party may offer into evidence exhibits listed by the other.

14.2 This Order shall control the subsequent course of this action and shall not be modified except by order of the Court on its own motion or on motion of the parties to prevent manifest injustice.

14.3 The Court finds that this case is at issue, all discovery is complete and that the case will be ready for trial upon entry of this Order and any order(s) resolving any dispositive motions. This Order shall supersede the pleadings filed herein in defining issues for trial to the Court.

14.4 The date of trial will be set by the Court after consultation with the parties and, as such, will be deemed to be agreed to among the parties. Therefore, a trial setting will likely not be continued. Parties seeking continuances are advised to refer to D. Kan. Rule 6.1(b) and to

note that strict compliance is required as this rule has been adopted by this Court.

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APPROVED:

(Name) (Supreme Court No.)
(Firm Name)
(Address)
(Telephone No.)
(Email address)
Attorney(s) for Plaintiff

(Name) (Supreme Court No.)
(Firm Name)
(Address)
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Attorney(s) for Defendant