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5. The individual names, addresses, and telephone numbers of the lead counsel for all parties are as follows:

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6. A brief description, including style and case number, of any pending, related litigation is as follows:

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7. Attached hereto as Attachment “A” and made a part of this order by reference is an outline of plaintiff’s case which should contain the following:

- (a) A succinct factual statement of the plaintiff’s cause of action. This statement should not be argumentative and should not recite evidence.
- (b) Under a separate heading, plaintiff shall list all relevant bankruptcy rules and statutes as well as any other rules, regulations, statutes, ordinances, and illustrative case law relied upon by plaintiff.
- (c) A separate statement for each item of damage claimed containing a brief description of the item of damage, the dollar amount claimed, and citation to the law, rule, regulation or any decision authorizing recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

8. Attached hereto as Attachment “B” and made a part of this order by reference is an outline of defendant’s case which should contain the following:

- (a) A succinct factual statement as to all defenses (general, special, and affirmative). This statement should not be argumentative and should not recite evidence.
- (b) A separate listing of all relevant bankruptcy rules and statutes as well as any other rules, regulations, statutes, ordinances, and illustrative case law creating a defense relied upon by defendant.
- (c) A separate statement for each item of damage claimed in a counterclaim which shall contain a brief description of the item of damage, the dollar

amount claimed, and citation to the law, rule or any decision authorizing recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

9. Attached hereto as Attachment "C" and made a part of this order by reference is any objection by defendant to the outline of plaintiff's case.
10. Attached hereto as Attachment "D" and made a part of this order by reference is any objection by plaintiff to the outline of defendant's case.
11. Attached hereto as Attachment "E" and made a part of this order by reference is the parties' list of all undisputed matters of fact.
12. A statement of the legal issues to be tried is as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
13. Attached hereto as Attachment "F-1" for plaintiff, "F-2" for defendant, and "F-3" for all other parties, and made a part of this order by reference is a list, prepared by each party, of all witnesses (and their addresses) each party will have present at the trial and those each party may have present at the trial, including impeachment and rebuttal witnesses whose use can or should have been reasonably anticipated. A representation that a witness will be called may be relied upon by other parties unless notice to the contrary is given ten days prior to trial to permit other parties to subpoena the witness or obtain testimony of the witness by other means. Witnesses not included on the witness list will not be permitted to testify.
14. Documentary and Physical Evidence:
  - (a) Attached hereto as Attachment "G-1" for plaintiff, "G-2" for defendant, and "G-3" for all other parties, and made a part of this order by reference is a typed, serially numbered list (beginning with 1, but with no alphabetical or numerical subpart) of each party's documentary and physical evidence. Adequate space must be left on the left margin of each list for Bankruptcy Court stamping purposes. Exhibits should be described with particularity; e.g., "Exhibit 1: 1/1/87 \$25,000 Note", not "Exhibit 6A: Note." A courtesy copy of each party's list shall be submitted for use by the Judge. Learned treatises which counsel expect to use at trial shall not be admitted as exhibits, but must be separately listed on the party's exhibit list.
  - (b) Prior to trial, counsel shall affix stickers numbered to correspond with the party's exhibit list to each exhibit. Plaintiff shall use yellow stickers; defendant shall use blue stickers; and white stickers shall be used on joint

exhibits. The surname of a party must be shown on the numbered sticker when there are either multiple plaintiffs or multiple defendants.

- (c) Specific objections to another party's exhibits must be typed on a separate page and shall be attached to the exhibit list of the party against whom the objections are raised. Objections as to authenticity, privilege, competency, and, to the extent possible, relevancy of the exhibits shall be included. Any listed document to which an objection is not raised shall be deemed to have been stipulated as to authenticity by the parties, and such documents will be admitted at trial without further proof of authenticity.
- (d) State any objections to the use at trial of copies of documentary evidence.
- (e) Documents and physical exhibits may not be submitted by counsel after filing the pre-trial order, except upon consent of all parties or by permission of the court. Exhibits so admitted must comply with Paragraph 14 herein (i.e., must be numbered, inspected by counsel, and marked with stickers prior to trial).
- (f) Counsel shall familiarize themselves with all exhibits (and the numbering thereof) prior to trial. Counsel will not be afforded time during trial to examine exhibits that are or should have been listed herein.

15. (a) A list of all persons whose testimony by deposition will be offered by plaintiff, designation of the portions of each person's deposition which will be introduced, and all objections by opposing parties to any portions of said deposition are as follows:

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- (b) A list of all persons whose testimony by deposition will be offered by defendant, designation of the portions of each person's deposition which will be introduced, and all objections by opposing parties to any portions of said deposition are as follows:

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- (c) A list of any other persons whose testimony by deposition will be offered by parties other than the plaintiff or the defendant, designation of the portions of each person's deposition which will be introduced, and all objections thereto are as follows:

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16. Attached hereto as Attachment "H" and made a part of this order by reference are any trial briefs that counsel may wish to file concerning citations to legal authority or evidentiary questions and other legal issues. Limitations, if any, regarding the format and length of trial briefs are matters of individual practice which shall be established by each judge.
17. Third-party claimants, cross-claimants and those asserting counterclaims shall furnish the same information with respect to their claims; however, duplication of matters already covered is not required.
18. Counsel are directed to submit a statement of proposed Findings of Fact and Conclusions of Law no later than the opening of trial.
19. A statement of the date(s) on which counsel met personally to discuss settlement, whether the court has discussed settlement with counsel, and the likelihood of settlement of the case prior to trial is as follows:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
20. Plaintiff's counsel estimates \_\_\_\_\_ (hours) (days) to present plaintiff's case; defendant's counsel estimates \_\_\_\_\_ (hours) (days) to present the defense. Estimates by other parties \_\_\_\_\_ (hours) (days). Total estimated trial time: \_\_\_\_\_ (hours) (days).
21. The parties do \_\_\_\_\_ do not \_\_\_\_\_ request a pre-trial conference prior to trial.

IT IS HEREBY ORDERED that the above constitutes the pre-trial order for the above-captioned case ( \_\_\_\_\_ ) submitted by stipulation of the parties or ( \_\_\_\_\_ ) approved by the court after conference with the parties.

IT IS FURTHER ORDERED that the foregoing, including the attachments thereto, constitutes the pre-trial order in the above case and that it supersedes the pleadings which are hereby amended to conform hereto and that this pre-trial order shall not be amended except by order of the court to prevent manifest injustice.

IT IS SO ORDERED.

At Atlanta, Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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UNITED STATES BANKRUPTCY COURT

Each of the undersigned counsel for the parties hereby consents to entry of the foregoing pre-trial order, which has been prepared in accordance with the form pre-trial order adopted by this court.

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Counsel for Plaintiff

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Counsel for Defendant

## PRE-TRIAL ORDER INSTRUCTIONS

### EXHIBIT A

Pursuant to BLR 730-1, NDGa., the proposed consolidated pre-trial order shall cover the following matters:

1. A statement of any pending motions or other matters.
2. A statement that, unless otherwise noted, discovery has been completed. Counsel will not be permitted to file any further motions to compel discovery. Provided there is no resulting delay in readiness for trial, depositions for the preservation of evidence and for use at trial will be permitted.
3. A statement as to the correctness of the names of the parties and their capacity and as to any issue of misjoinder or non-joinder of parties.
4. A statement as to any question of the Bankruptcy court's jurisdiction and the statutory basis of jurisdiction.
5. The individual names, addresses, and telephone numbers of lead counsel for all parties.
6. A brief description, including style and case number, of any pending, related litigation.
7. An outline of plaintiff's case which should contain the following:
  - (a) A succinct factual statement of the plaintiff's cause of action. This statement should not be argumentative and should not recite evidence.
  - (b) A separate listing of all relevant bankruptcy rules and statutes as well as any other rules, regulations, statutes, ordinances, and illustrative case law relied upon by plaintiff.
  - (c) A separate statement for each item of damage claimed containing a brief description of the item of damage, the dollar amount claimed, and citation to the law, rule regulation or any decision authorizing recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.
8. An outline of defendant's case which should contain the following:
  - (a) A succinct factual statement as to all defenses (general, special, and affirmative). This statement should not be argumentative and should not recite evidence.

- (b) A separate listing of all relevant bankruptcy rules and statutes as well as any other rules, regulations, statutes, ordinances, and illustrative case law creating a defense relied upon by defendant.
  - (c) A separate statement for each item of damage claimed in a counterclaim which shall contain a brief description of the item of damage, the dollar amount claimed, and citation to the law, rule, regulation or any decision authorizing recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.
- 9. Any objection by defendant to the outline of plaintiff's case.
- 10. Any objection by plaintiff to the outline of defendant's case.
- 11. A listing of stipulated facts. It is the duty of counsel to cooperate fully with each other to identify all undisputed facts. A refusal to do so may result in the imposition of sanctions upon the non-cooperating counsel.
- 12. A statement of the legal issues to be tried.
- 13. A separate listing for each party of all witnesses (and their addresses) each party will have present at the trial and those each party may have present at the trial, including impeachment and rebuttal witnesses whose use can or should have been reasonably anticipated. A representation that a witness will be called may be relied upon by other parties unless notice to the contrary is given ten days prior to trial to permit other parties to subpoena the witness or obtain testimony of the witness by other means. Witnesses not included on the witness list will not be permitted to testify.
- 14. Documentary and Physical Evidence:
  - (a) A separate, typed, serially numbered listing (beginning with 1, but with no alphabetical or numerical subparts) of each party's documentary and physical evidence. Adequate space must be left of the left margin of each list for Bankruptcy Court stamping purposes. Exhibits should be described with particularity: e.g., "Exhibit 1: 1/1/87 \$25,000 Note"; not "Exhibit 6A: Note." A courtesy copy of each party's list shall be submitted for use by the judge. Learned treatises which counsel expect to use at trial shall not be admitted as exhibits, but must be separately listed on the party's exhibit list.
  - (b) Prior to trial, counsel shall affix stickers numbered to correspond with the party's exhibit list to each exhibit. Plaintiff shall use yellow stickers; defendant shall use blue stickers; and the white stickers shall be used on joint exhibits. The surname of a party must be shown on the numbered sticker when there are either multiple plaintiffs or multiple defendants.

- (c) Specific objections to another party's exhibits must be typed on a separate page and shall be attached to the exhibit list of the party against whom the objections are raised. Objections as to authenticity, privilege, competency, and, to the extent possible, relevancy of the exhibits shall be included. Any listed document to which an objection is not raised shall be deemed to have been stipulated as to authenticity by the parties, and such documents will be admitted at trial without further proof of authenticity.
  - (d) State any objections to the use at trial of copies of documentary evidence.
  - (e) Documents and physical exhibits may not be submitted by counsel after filing the pre-trial order, except upon consent of all parties or by permission of the court. Exhibits so admitted must comply with Paragraph 14 herein (i.e., must be numbered, inspected by counsel, and marked with stickers prior to trial).
  - (f) Counsel shall familiarize themselves with all exhibits (and the numbering thereof) prior to trial. Counsel will not be afforded time during trial to examine exhibits that are or should have been listed herein.
15. A listing of all persons whose testimony at trial will be given by deposition and designation of the portions of each person's deposition which will be introduced. Objections not filed by the date on which the case is first scheduled for trial shall be deemed waived or abandoned. Extraneous and unnecessary matters, including non-essential colloquy of counsel, shall not be permitted to be read into evidence.
  16. Any trial briefs which counsel may wish to file containing citations to legal authority on evidentiary questions and other legal issues. Limitations, if any, regarding the format and length of trial briefs is a matter of individual practice which shall be established by each judge.
  17. Third-party claimants, cross-claimants and those asserting counterclaims shall furnish the same information with respect to their claims; however, duplication of matters already covered is not required.
  18. Counsel are directed to submit a statement of proposed Findings of Fact and Conclusions of Law no later than the opening of trial.
  19. A statement of the date(s) on which counsel met personally to discuss settlement, whether the court has discussed settlement with counsel, and the likelihood of settlement of the case at this time.
  20. A statement of each party's estimate of the time required to present that party's evidence and an estimate of the total trial time.

21. Any request for a pre-trial conference prior to trial.
22. The following paragraph shall be included at the close of each proposed pre-trial order above the signature line for the Bankruptcy Judge:

IT IS HEREBY ORDERED that the above constitutes the pre-trial order for the above-captioned case (\_\_\_\_\_) submitted by stipulation of the parties or (\_\_\_\_\_) approved by the court after conference with the parties.

IT IS FURTHER ORDERED that the foregoing, including the attachments thereto, constitutes the pre-trial order in the above case and that it supersedes the pleadings which are hereby amended to conform hereto and that this pre-trial order shall not be amended except by order of the court to prevent manifest injustice.

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

23. The signatures of lead counsel for each party shall appear on the last page below the Bankruptcy Judge's signature.