The Business Court of Texas,
First Division 1B

XXXX, Plaintiff,	§	
	§	
v.	§	Cause No. XX-BC01B-XXX
	§	
YYYY, Defendant	§	
	§	

SCHEDULING CONFERENCE REPORT, DISCOVERY CONTROL PLAN, AND SCHEDULING ORDER

Pursuant to Texas Rules of Civil Procedure and Texas Business Court Local Rules, this order controls this case's discovery, deadlines, and settings. The parties may later modify all dates except the trial date, pre-trial conference setting, and dispositive motions deadline by filing a Rule 11 agreement and submitting an Amended Scheduling Conference Report and Scheduling Order.

1. Applicable Law	The parties agree that _____'s substantivate law governs this case. Otherwise, the parties contend that:
2. Venue (Jury Trials) **Venue: _____**	The parties [agree/disagree] that venue for a jury trial, if applicable, is proper in the county it would be proper under Civil Practice and Remedies Code Ch. 15. Or the parties agree to venue in this specified county. Government Code §§ 25A.006(a), 25A.015.
3. Modifications to Discovery Control Plan or Discovery Limits	The Rule 190.3 discovery limits apply except as follows (mark "NC" if there is no change): _____ Hours per side for oral depositions (TRCP 190.3(2), 190.4(b), 190.5) _____ Additional hours per side for expert depositions (TRCP 190.3(2), 190.4(b), 190.5) _____ Permitted interrogatories per party (TRCP 190.3(3), 190.4(b), 190.5) _____ Other:

4. Electronically Stored Information	The parties have discussed proposed ESI production plans and agree to the preliminary exchanges stated in an accompanying Preliminary ESI exchange Plan and Order signed by counsel or a non-represented party. Clawback agreements shall be in place for all parties to allow for the retrieval of inadvertently disclosed attorney-client privileged or work product documents. If the cost of collecting any ESI presents an unreasonable cost for the producing party because the data us not readily accessible and the parties cannot agree on handling the cost, the court will decide whether cost sharing or cost shifting is appropriate.
5. Trial Setting **Date: _____** **Time: _____**	[The parties/Plaintiff/Defendant desire:] _____ Non-Jury _____ Jury Selecting a non-jury trial waives that party's jury rights. If jury: a party must pay the jury fee at least ninety days before the trial setting or the right to a jury will be deemed waived and the case will proceed to non-jury trial. Resetting the trial setting does not alter any expired deadline in this order. Parties must confer with the Court Manager to request a scheduling conference and an available trial date, which must be approximately one year after the scheduling conference.

6. Joinder **Date: _____**	No parties may be joined after this date except upon motion showing good cause. This deadline does not alter the requirements of TRCP 38. Any new party joined before this deadline or thereafter by order of the Court must be served a copy of this Order by the party moving for joinder.
7. Early Identification of Legal Issues **Date: _____**	By this date, the parties are encouraged to advise the court of any specific legal issues that they believe the court can decide as a matter of law pursuant to TEX. R. CIV. P. 166(g), (p). Parties are encouraged to identify such issues at the earliest possible opportunity. The court prefers joint submissions but does not require them. *See* Whitehill Guidelines.
8. Amended Pleadings (Causes of Action) **Date: _____**	Pleadings asserting new claims for affirmative relief must be filed and served by this date.
9. Amended Pleadings (Affirmative Defenses) **Date: _____**	Pleadings asserting new affirmative defenses must be filed and served by this date.
10. Fact Discovery **Date: _____**	Fact discovery closes on this date.

11. Expert Designation by Parties with Burden of Proof **Date: _____**	Unless previously disclosed, expert designations by parties with the burden of proof on the issue are due no later than this date. The parties must identify any agreed modifications to TRCP expert disclosure and report requirements.
12. Responsive Experts **Date: _____**	Unless previously disclosed, expert designations for responsive experts are due no later than this date. The parties must identify any agreed changes to TRCP expert disclosure and report rules.
13. Rebuttal Experts **Date: _____**	Any rebuttal expert designations are due no later than this date.
14. Expert Discovery Closure **Date: _____**	Expert discovery closes on this date.

15. Mediation/ ADR **Date: _____**	Mediation is required. The parties and their attorneys must participate in mediation on or before this date. The Court encourages the parties to select their mediator. Parties may select a mediator by agreement or ask the Court to appoint a mediator if the parties cannot agree as to a mediator. The parties must report to the Court their selection (or inability to agree or request for the Court to appoint a mediator) at least thirty days before this date. The Court welcomes the parties to explore other ADR forms instead of or in addition to mediation.
16. Dispositive Motions **Date: _____**	Except as otherwise provided by statute or rule, dispositive motions must be filed by this date. This date should permit the Court to decide these motions before the pre-trial conference.
17. Expert Motions **Date: _____**	Any objection or motion to exclude or limit expert testimony must be filed no later than the dispositive motion deadline. Party filing such motion must promptly contact the Court Manager and obtain a setting for that motion.

18. Pre-trial Conference **Date: _____** **Time: _____**	The pre-trial conference will be no less than fourteen days before the trial date. At least seven days before the pretrial conference, the parties must meet and confer on these items: witness lists, exhibit lists, demonstrative exhibits, deposition designations, motions in limine, and proposed jury charges or findings and conclusions. The parties must email to the Court at least three days before the pretrial conference a proposed joint pre-trial order. The Court's pre-trial order template is on the Court's website. All agreed, pre-marked exhibits, all deposition designations to be offered on direct examination and cross-designation, and proposed jury charges or findings and conclusions in Word format must be provided to the Court at the same time as the parties submit the proposed pre-trial order. At the pre-trial conference, the parties must be prepared to argue evidentiary objections, motions in limine, and other issues the parties identify in their proposed joint pre-trial order. The parties must request the pre-trial conference setting from the Court Manager.

19. Proposed Orders	Moving parties must email the Court a corresponding proposed order when that party files its motion. Responding parties must email the Court a corresponding proposed order when it files its response. All proposed orders emailed to the Court must be in Word format.

SIGNED ON: _____

_____
Bill Whitehill
BUSINESS COURT JUDGE

AGREED:

[Add Signature Blocks]