IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

         Plaintiff,

                 v.                          Case No.\_\_\_\_\_\_\_\_\_\_\_
                                              Div. No.\_\_\_\_\_\_\_\_
                                              Chap.\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

         Defendant.

PRETRIAL ORDER

[As noted in Local Rule 13, this order should be jointly prepared by counsel for all parties. If agreement cannot be reached on the language for some of the sections, competing language may be included, clearly marked to show by which party the language has been submitted.]

A final pretrial conference was held in this case on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

1. APPEARANCES

[List appearances.]

2. VENUE; JURISDICTION; PROPRIETY OF PARTIES

a. There are no objections to jurisdiction, venue, or propriety of parties.

**OR**

b. [State concisely all objections to jurisdiction, venue, or propriety of parties.]

3. PLAINTIFF'S LEGAL THEORIES

[Give a brief, concise statement of the legal theories relied upon for recovery; where applicable, list the grounds of negligence or breach of contract relied upon. In jury trial cases, please include sufficient facts so that this section of the Pretrial Order may be used as the basis of a jury instruction summarizing your claims under P.I.K. 106.01. Provide a statement of the total damages being sought under each legal theory or claim; separately provide an itemization of the damages.]

4. DEFENDANT'S LEGAL THEORIES

[Give a brief, concise statement of the legal theories relied upon for any defenses, including affirmative defenses. For any counterclaims, list the grounds of negligence of breach of contract relied upon when applicable. In jury trial cases, please include sufficient facts so that this section of the Pretrial Order may be used as the basis of a jury instruction summarizing your claims under P.I.K. 106.01. Provide a statement of the total damages being sought under each legal theory or claim being pursued in a counterclaim; separately provide an itemization of the damages.]

5. STIPULATIONS

[Consider whether stipulations can be entered into that will expedite the presentation at trial. Possible stipulations:

a. The following listed exhibits are considered business records under K.S.A. 60-460(m), but the parties reserve the right to object to the contents of these documents on any other basis, including relevance and hearsay within a document.

b. The following factual matters are undisputed: [Consult summary judgment materials and proposed findings of fact, among other things, for possible stipulations as to matters of fact.]

c. The following legal issues are undisputed: [Example: The law of Kansas applies to all issues in this case.]

d. Copies of exhibits may be used in lieu of originals.

e. The witness exclusion rule will be applied at trial. Witnesses (other than parties) will be excluded from the trial until after their testimony has been completed so that they cannot hear the testimony of other witnesses.

f. The parties have stipulated to the admission of the following exhibits: [List]. ]

6. AMENDMENTS TO PLEADINGS

a. None.

**OR**

b. [Provide a concise statement of any proposed amendments.]

7. ISSUES OF FACT

These are the disputed issues of fact (or mixed questions of fact and law) that must be resolved at trial:

a. [Issue.]

b. [Issue.]

c. [Issue.]

8. ISSUES OF LAW

These are the disputed issues of law that must be resolved by the court:

a. [Issue.]

b. [Issue.]

c. [Issue.]

9. DISCOVERY

a. Discovery has been completed.

**OR**

b. Plaintiff/Defendant/All parties request[s] that discovery be extended to [date]. That request is granted/denied.

10. WITNESSES AND EXHIBITS

a. All exhibits shall be marked by the court reporter or by counsel with exhibit stickers by no later than five days before the trial date. The parties shall exchange copies of exhibits at or before that date.

b. The parties have already filed their final witness lists.

**OR**

b. The parties will exchange and file their final witness lists by no later than [date].

c. Witnesses and exhibits listed by one party may be called or offered by the other party.

d. Witnesses not listed and exhibits not exchanged and marked as required by this order shall not be permitted to testify or to be received in evidence, respectively.

e. Compliance with the provisions of this section of the Pretrial Order shall be required in all cases except by agreement of counsel or upon order of the Court or in proper rebuttal.

11. MOTIONS

a. [List any pending motions.]

b. [List any motions a party intends to file prior to trial.]

12. JURY INSTRUCTIONS

The parties shall confer in an attempt to arrive at an agreed set of jury instructions. The parties are encouraged to submit a single set of proposed instructions, which would include, in separate sections, (a) all instructions agreed upon by all parties, (b) all instructions proposed only by plaintiff, and (c) all instructions proposed only by defendant.

If the parties are unable to submit instructions jointly, then each party should submit proposed jury instructions one week in advance of trial (or as otherwise ordered by the court).

Proposed instructions should provide a brief listing of the applicable authority. When Pattern Instructions for Kansas are modified, that should be noted. Objections to jury instructions should be filed by the beginning of the trial.

Unless otherwise directed by the court, a chambers copy of the proposed instructions should be provided to the judge along with an electronic version of the proposed instructions in either Word or WordPerfect.

13. OTHER

[Identify any significant matters affecting the trial of the case that have not been noted elsewhere.]

14. TRIAL

Trial will be: [to the court] [to a 12-person jury] [to a 6-person jury].

Trial is set for [date] and is expected to take \_\_\_ days.

15. SETTLEMENT PROSPECTS

Settlement prospects are [good] [fair] [poor].

IT IS SO ORDERED and this Pretrial Order shall supersede the pleadings and control the future course of this action unless modified to prevent substantial injustice.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
District Judge