UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

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#### In re: Case No. xx-xxxxx-LMI

XYZ, INC., Chapter x

Debtor.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

xxxxxxxxxxxxx,

Plaintiff,

v. Adv. No. xx-xxxxx-LMI

xxxxxxxxxxxxxxxx,

Defendant.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

# **ORDER [GRANTING MOTION TO CONTINUE PRETRIAL], SETTING FINAL PRETRIAL CONFERENCE AND TRIAL**

[ONLY USE FOR ADVERSARY PROCEEDINGS]

This matter came on before the Court on for consideration of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx [“xxxxx”], and the Court, having reviewed the file, noting the that the parties have yet to conclude discovery, finding good cause shown and based upon the record, does hereby

ORDER that:

1. The Final Pretrial in this matter is set for **Month Day, Year at Time a/p.m.,** in Courtroom #8, 301 North Miami Avenue, Miami, FL 33128. **NO FURTHER CONTINUANCES WILL BE GRANTED ABSENT EXTRAORDINARY UNFORESEEN CIRCUMSTANCES.**
2. All requirements and deadlines set forth in the Court’s *Order Setting Filing And Disclosure Requirements* are continued to coincide with the new Pretrial Date, unless modified as set forth below.
3. No later than seven (7) days from the date of this Order, all Parties must

a) unless each party has timely filed a statement of consent under Local Rule 9015-1(B), each party requesting a jury trial on any issue in this proceeding shall file with this Court pursuant to Local Rule 5011-1 a motion for withdrawal of the reference of this proceeding (*see paragraph 1(a) of this Court’s Order Setting Filing and Disclosure Requirements for Pretrial and Trial – ECF # \_\_\_)*; and

b) file any objection to the entry of any final order or judgment by this Court on any issue in this proceeding, whether or not designated as “core” under 28 U.S.C. §157(b) (*see paragraph 1(b) of this Court’s Order Setting Filing and Disclosure Requirements for Pretrial and Trial – ECF # \_\_\_)*.

1. All Parties (Plaintiff and Defendant) shall comply with all applicable discovery rules and procedures and conclude discovery by **\_\_\_\_\_\_\_\_\_, 201x.** Any and all depositions of witnesses and parties shall be conducted by mutual agreement as to time and date between the Parties.
2. Any and all motions for summary judgment (or other case dispositive motion) must be filed and served by no later than**\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201x.** Should either party, or both, file and serve a motion for summary judgment (or other case dispositive motion), the moving party shall immediately inform the Court’s Courtroom Deputy and advise to have this matter removed from the trial and pretrial calendar, pending ruling on said motion.
3. By **\_\_\_\_\_\_\_\_\_\_, 201x,** the Parties shall exchange proposed witness lists and exhibits for trial, by and between themselves, so as to allow full discovery. If all Parties agree, the proposed witness lists and the exhibits can be exchanged electronically.
4. By **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201x**, each Party shall exchange between themselves:

a) An exhibit register **CONFORMING TO LOCAL FORM 49** (see attached) with pre-marked exhibits, showing the exhibits, including deposition and/or hearing transcripts, intended to be offered as evidence at the Hearing. The Plaintiff shall mark its exhibits alphabetically, and Defendant shall mark its exhibits numerically. If all Parties agree, the exhibit register and the exhibits can be exchanged electronically. Any objections to any exhibits shall be made in writing and filed and served by no later than **\_\_\_\_\_\_\_\_\_\_\_\_\_, 201x.**

1. One business day prior to trial, each Party shall submit to the Court in chambers:
2. The exhibit register without exhibits, identifying all exhibits, including deposition and/or hearing transcripts, intended to be offered as evidence at the Hearing. The Plaintiff shall mark its exhibits alphabetically, and Defendant shall mark its exhibits numerically.
3. Pursuant to Local Rule 9070-1(B)(2) the parties shall bring a copy of exhibits in electronic Portable Document Format (PDF) and stored on a USB flash drive. **The flash drive shall be labeled to identify the case name and number, date of the hearing, and the party providing the flash drive.** Each individual PDF file shall be limited to a single exhibit of a file size no greater than 10MB and shall contain a unique identification name. The flash drive should be delivered to the Court at least one full business day prior to the hearing.
4. A witness list, identifying the name and address of the witness and a summary of his or her proposed testimony for purposes of the Trial.
5. Any Party wishing to make a written opening statement may submit same as well to the Court (and file and serve same on opposing counsel) prior to the Trial being conducted.

9. On the day of trial, parties shall, in addition to the original exhibit binder for the Court, also bring an extra exhibit binder for the witness box.

10. Parties interested in using the courtroom electronic display system should contact the Courtroom Deputy at least **two business days** prior to the hearing to arrange for assistance from the Court’s IT staff.

11. At the conclusion of the Trial, the Court may, in lieu of final argument, request that each party submit proposed Memorandum Opinion(s) incorporating proposed findings of fact and conclusions of law in Word format to the Court’s chambers via its email address by a date certain (with copies to each side). The proposed findings of fact and conclusions of law shall be set out in individually numbered paragraphs. Each statement of fact shall be supported by a citation to an exhibit admitted or testimony given during the trial. Citations to testimony shall provide page and line numbers referring to the official transcript. Citations to admitted documentary evidence shall include specific page references. If and to the extent any statement of fact in the proposed findings of fact is not supported by a specific reference to documentary evidence admitted or testimony given at the trial, the Court may disregard such statement of fact and the submitting party shall be deemed to have waived the right to rely on such statement of fact for all purposes in this contested matter. Each conclusion of law shall be supported by a citation to the Bankruptcy Code, the Bankruptcy Rules, and any applicable case law.

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Submitted by:

Lawyer X, Esq.

Copies to (via ecf in pdf format):

Plaintiff’s Counsel

Defendant’s Counsel

(Rev. 7-2019)