**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF COLORADO**

Civil Action No.:

Plaintiff(s), v.

Defendant(s).

**CIVIL CASE SCHEDULING ORDER IN AN ERISA ACTION**

The parties submit the following scheduling order this case under 29 U.S.C. § 1132(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (“ERISA”).

**1. Jurisdiction.** The parties agree that ERISA governs this case. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. §§ 1132(e)(1) & 1132(f). Venue is proper before the Court pursuant to 28 U.S.C. § 1391(a) & (b) and 29 U.S.C. §1132(e)(2).

**2. Consent.** All parties have \_\_\_ have not consented to the exercise of jurisdiction of a Magistrate Judge.

 **3.** **Scheduling Conference.** The Scheduling Conference may be vacated provided the parties file at least seven (7) days in advance of the Conference a joint motion attaching their proposed ERISA Scheduling Order and requesting the Court vacate the Scheduling Conference.

**4.** **Standard of Review.** *Insert whichever one of the following statements is appropriate.*

* *The parties agree that the Court will decide the case under the**\_\_\_\_\_standard of review.*
* *The parties disagree over the applicable standard of review, but agree that they do not need discovery and they will brief the issues regarding the applicable standard of review in connection with the briefing of the merits.*
* *The parties disagree over the applicable standard of review, and believe that the Court should decide the applicable standard of review before the briefing of the merits. The parties propose the following briefing schedule for the determination of the standard of review:*

*Plaintiff’s Opening Brief on Standard of Review \_\_\_\_\_\_\_*

*Defendant’s Response Brief on Standard of Review \_\_\_\_\_\_\_\_*

*Plaintiff’s Reply Brief on Standard of Review \_\_\_\_\_\_\_*

**5. Discovery*.*** Unless the parties have indicated in section 4 above that they do not need discovery, they may serve discovery requests consistent with the principles that the Tenth Circuit has established in *Murphy v. Deloitte & Touche Group Ins. Plan*, 619 F.3d 1151, 1162 (10th Cir. 2010) (arbitrary and capricious standard of review); *Jewell v. Life Ins. Co. of N. Am.*, 508 F.3d 1303 (10th Cir. 2010), *cert. denied*, 553 U.S. 1079 (2008) (*de* *novo* standard of review). If the parties disagree over the permissibility of any discovery request, they will attempt to resolve the dispute by conferring pursuant to D.C.COLO.LCivR 7.1.A. If the parties cannot resolve their dispute, the parties then will bring the dispute before the Court for resolution. The deadline for submission of any motion regarding discovery is \_\_\_\_\_\_\_\_\_\_, 201\_\_. This provision is not intended to alter any judicial officer’s practice standards regarding the filing of discovery motions.

**6. Settlement.** The parties certify that, as required by Fed. R. Civ. P. 26(f), they have discussed the possibilities for a prompt settlement or resolution of the case by alternate dispute resolution. The Court directs the parties to file a status report concerning settlement five business days prior to the deadline for filing the opening brief on the merits.

 **7.** **Proposed Schedule.--**The parties propose the following schedule in this case:

(a) \_\_\_\_\_\_, 20\_\_ Defendant produces bates stamped administrative record to plaintiff.

(b) \_\_\_\_\_\_, 20\_\_ Discovery cut off.

(c) \_\_\_\_\_\_, 20\_\_ Deadline for motion to supplement the administrative record.

(d) \_\_\_\_\_\_, 20\_\_ Defendant submits copy of the administrative record to the Court.

(e) \_\_\_\_\_\_, 20\_\_ Plaintiff’s opening brief on the merits.

(f) \_\_\_\_\_\_, 20\_\_ Defendant’s response brief on the merits.

(g) \_\_\_\_\_\_, 20\_\_ Plaintiff’s reply brief on the merits.

(h) \_\_\_\_\_\_, 20\_\_ Joint Motion for Determination.

 [*Note: The parties should be prepared to have the case submitted to the Court no later than approximately one year after filing of the action.*]

DATED this \_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

BY THE COURT:

APPROVED.

[Plaintiff’s Counsel] [Defendant’s Counsel]

[Address and Contact Information] [Address and Contact Information]

Attorneys for Plaintiff Attorneys for Defendant

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