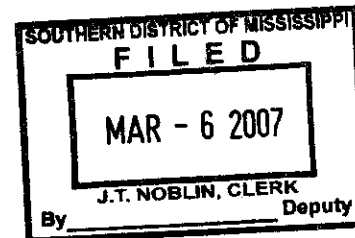


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION



JOHN UNTERSCHINE and  
ANN UNTERSCHINE

PLAINTIFFS

v. CIVIL ACTION NO. 1:06-cv-00104-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

PRETRIAL ORDER

1. Choose [by a  $\checkmark$  mark] one of the following paragraphs, as is appropriate to the action:

A pretrial conference was held

Date: Time:

United States Courthouse at: The Dan M. Russell, Jr. Federal Building,  
2012 15th Street, Courtroom 506  
Gulfport, Mississippi

before the following judicial officer: Senior U. S. District Judge L. T. Senter, Jr.

2. The following counsel appeared:

a. For the Plaintiff:

Name	Address	Telephone
Jack L. Denton, Esq.	Morgan Square 955 Howard Avenue Post Office Box 1204 Biloxi, MS 39533	(228) 374-8722
William C. Walker, Jr., Esq.	299 South 9 <sup>th</sup> Street	(662)

234-  
8074

Suite 100  
Post Office Box 1115  
Oxford, MS 38655

**b. For the Defendant:**

Name	Address	Telephone
H. Benjamin Mullen, Esq.	Post Office Drawer 1529	(228) 762-6631
John A. Banahan, Esq.	Pascagoula, MS 39568-1529	

3. The pleadings are amended to conform with this pretrial order.
4. The following claims, including claims stated in the complaint, have been filed:  
Plaintiff's claim against Defendant for breach of insurance contract and bad faith.
5. The basis for the court's jurisdiction is: 28 U.S.C. § 1332(a) (diversity of citizenship between the parties and an amount in controversy in excess of \$75,000.00 exclusive of interest and costs).
6. There is the following jurisdictional question:  
None.
7. The following motions remain pending:  
Motion to Implement Certain Procedures for Jury Selection  
Motion to Continue  
Motion to Disqualify  
*MOTION FOR CHANGE OF VENUE*
8. The parties submit the following concise summaries of the ultimate facts as claimed by:

By Plaintiff:

1. On August 29, 2005, Hurricane Katrina completely destroyed the  
Untershine's home and personal property located at 748 Sharon Hills

Drive, Biloxi, Mississippi, leaving only a slab, and damaged the Untershine's insured rental dwelling and contents located at 1953 Clearview, Biloxi, Mississippi.

2. The Untershine home and personal property were insured for certain losses under a homeowner's insurance policy issued by State Farm Fire and Casualty, and the rental dwelling and contents were also insured under a rental policy issued by State Farm.
3. The amount of the homeowner's dwelling coverage was \$189,000.00, the dwelling extension was \$18,440.00, and the amount of the contents coverage was \$160,882.00.
4. The value of the homeowner's dwelling, dwelling extension and contents equaled or exceeded the amount of the respective coverage.
5. The Untershine's home and contents were also insured under a flood policy issued by State Farm.
6. The Untershines made an insurance claim for the full dwelling, dwelling extension, and contents coverage under the State Farm homeowner's policy and for full dwelling and contents coverage under the State Farm flood policy.
7. The flood policy paid the Untershines the maximum coverage of \$90,000.00 on the home and \$10,300.00 on the contents coverage.
8. State Farm denied all of the Untershine's homeowner's claim.
9. State Farm initially advised that it would pay nothing on the rental policy, but later agreed to pay for wind damage except for damage to the carpet because it was touched by water; State Farm later agreed to pay for the

carpet damage (in October of 2006) but failed to do so until February of 2007; this failure to pay for the carpet was initially made in reliance upon the invalid "anti-concurrent cause" provision in the policy; the continued delay in paying was without a legitimate or arguable reason and was in bad faith.

10. The State Farm homeowner's insurance policy covered accidental direct physical loss to the dwelling and dwelling extension, unless excluded, and covered wind storm damage to the personal property, unless excluded.
11. Hurricane Katrina, a windstorm, caused direct physical loss to the dwelling, dwelling extension, and contents.
12. State Farm denied all of the Untershine's homeowner's claim because State Farm said it had determined all the damage was caused by flood, which was excluded.
13. The flood damage for which the flood insurance paid was covered under the flood policy.
14. The greater damage was caused by the wind.
15. Since some of the damage was caused by flood and some by wind, the Untershines are entitled to recover \$92,200.00 under homeowner's dwelling coverage, \$18,440.00 under homeowner's dwelling extension coverage, and \$150,582.00 under homeowner's contents coverage.
16. State Farm's denial of the homeowner's claim was clearly contrary to the insurance policy.
17. State Farm set up and used a procedure which resulted in the denial of all homeowner's claims if there was evidence of surge unless there was,

remaining on the slab, independent windstorm damage to separate portions of the property.

18. State Farm's procedure resulted in no payment under homeowner's coverage in any slab case.
19. State Farm also set up and utilized a procedure to deny homeowner's claims when a flood policy, underwritten by the federal government, could be used to provide some benefits.
20. State Farm compounded its bad faith by relying on the "concurrent cause" language in its policy, clearly contrary to Mississippi law, and by falsely stating that it has not done so.
21. State Farm has continued to this day to refuse to pay any of the homeowner's claim even though State Farm has hired an engineer who admits that at least some of the damage was not caused by flood, State Farm taking the position that it can put the burden of proof as to the separation of water from wind on the insured in spite of the burden being placed upon State Farm to prove the water damage exclusion entitled it to refrain from paying any sum under the homeowner's claim.
22. The Untershines are entitled to recover, in addition to the full amount of their claim (\$261,222.00), punitive damages up to \$5,000,000.00.

By Defendant:

The instant action was filed by the Plaintiffs, Michael and Michelle Williams, on January 10, 2006. The Complaint alleges that Hurricane Katrina caused damages to the Plaintiffs' primary home as well as their rental house; that the Plaintiffs' performed all their duties under the policy; that State Farm's denial is contrary to the facts, policy,

and Mississippi Law and made in bad faith; that State Farm's denial was in bad faith and damaged the Plaintiffs, and entitles them to damages in the amount of the face value of the homeowners policy, \$50,000.00 in emotional damages, and \$5,000,000.00 in punitive damages.

The Plaintiffs did have a flood policy on their primary residence, and the policy limits have been paid on that policy to the Plaintiffs. They did not have a flood policy on the rental house, but the Defendant did pay for wind damage to that structure. The Plaintiffs' homeowners policy with State Farm Fire & Casualty Company provided dwelling limits of \$189,563.00, dwelling extension limits of \$18,956.00, and contents limits of \$160,882.00. The Plaintiffs' rental dwelling policy provided dwelling limits of \$109,174.00, contents limits of \$5,459.00, and loss of rents based on the actual amount thereof.

The Defendant's adjustor, Bucky Collier, inspected both properties owned by the Plaintiffs. His inspection revealed certain wind damage to the rental dwelling which was paid with the exception of some carpeting. This was later paid in February of 2007. Collier determined that the Plaintiffs' primary residence was destroyed by flood/storm surge. Therefore, he paid the Plaintiffs the full amount of their flood policy, \$90,000.00 for the dwelling and \$10,300.00 for the contents. State Farm denied the Plaintiffs' claim under their homeowners policy. State Farm has since sent its expert, Scott Douglass, to the property, and opines that the Plaintiffs' house was totally destroyed by flood/storm surge/wave action. The Plaintiffs contend that wind contributed to the destruction. This is the primary issue for the jury in this case.

**9.** The following facts are established by the pleadings, by stipulation, or by admission:

1. The Plaintiffs purchased a homeowner's insurance policy with State Farm Policy No. 24-07-1561-5, which was in effect the date of Hurricane Katrina with dwelling policy limits of \$189,563.00, a dwelling extension of \$18,956.00, and contents limits of \$160,882.00.
  2. The Plaintiffs' home was destroyed by events during Hurricane Katrina, leaving only a slab.
  3. The Untersshine home and contents were also insured under a flood policy through State Farm.
  4. The Untershines made an insurance claim for their policy limits under each policy.
  5. The flood policy paid the Untershines the maximum coverage of \$90,000.00 on the home and \$10,300.00 on the contents coverage.
  6. State Farm denied all of the homeowner's claim
  7. State Farm denied all of the Untersshine's homeowner's claim because State Farm said it had determined all the damage was caused by flood, which was excluded under the homeowner's policy.
  8. The flood damage for which the flood insurance paid was covered under the flood policy.
10. The following facts are contested:
- By Plaintiff:
- a. whether and, if so, the amount of actual and punitive damages Plaintiff is entitled to recover.

- b. whether the flood damage for which the flood insurance paid was covered under the flood policy.
- c. whether the greater damage was caused by the wind.
- d. since some of the damage was caused by flood and some by wind, whether the Untershines are entitled to recover \$92,200.00 under homeowner's dwelling coverage, \$18,440.00 under homeowner's dwelling extension coverage, and \$150,582.00 under homeowner's contents coverage.
- e. whether State Farm's denial of the homeowner's claim was clearly contrary to the insurance policy.
- f. whether State Farm set up and used a procedure which resulted in the denial of all homeowner's claims if there was evidence of surge unless there was, remaining on the slab, discernible wind damage.
- g. whether State Farm's procedure resulted in no payment under homeowner's coverage in any slab case.
- h. whether State Farm has continued to this day to refuse to pay any of the homeowner's claim even though State Farm has hired an engineer who admits that at least some of the damage was not caused by flood.
- i. whether State Farm compounded its bad faith by relying on the "concurrent cause" language in its policy, clearly contrary to Mississippi law, and by falsely stating that it has not done so.
- j. whether State Farm also set up and utilized a procedure to deny homeowner's claims when a flood policy, underwritten by the federal

government, could be used to provide some benefits.

- k.** whether State Farm has continued to this day to refuse to pay any of the homeowner's claim even though State Farm has hired an engineer who admits that at least some of the damage was not caused by flood, State Farm taking the position that it can put the burden of proof as to the separation of water from wind on the insured in spite of the burden being placed upon State Farm to prove the water damage exclusion entitled it to refrain from paying any sum under the homeowner's claim.
- l.** whether the Untershines are entitled to recover, in addition to the full amount of their claim (\$261, 222.00), punitive damages up to \$5,000,000.00.
- m.** whether State Farm initially advised that it would pay nothing on the rental policy, but later agreed to pay for wind damage except for damage to the carpet because it was touched by water; State Farm later agreed to pay for the carpet damage (in October of 2006) but failed to do so until February of 2007; this failure to pay for the carpet was initially made in reliance upon the invalid "anti-concurrent cause" provision in the policy; the continued delay in paying was without a legitimate or arguable reason and was in bad faith.
- n.** all issues of fact not stipulated to above.
- o.** The value of the homeowner's dwelling, dwelling extension, and contents equaled or exceeded the their respective coverage limits.
- p.** The amount in dispute is the difference between the value of Plaintiffs' dwelling, dwelling extension, and contents on August 29, 2005 and the

amount which has been paid under the flood policy, not to exceed the homeowner policy limits.

- q.** The State Farm homeowner's insurance policy covered accidental direct physical loss to the dwelling and dwelling extension, unless excluded, and covered wind storm damage to the personal property so long as the direct force of wind causes an opening in a roof or wall and the rain, sand, or dust enters through this opening, unless otherwise excluded.
- r.** Hurricane Katrina, a windstorm, caused direct physical loss to the dwelling and contents.

By Defendant:

- a.** Whether the Plaintiffs' home was completely destroyed by wind as claimed by Plaintiffs or water as claimed by the Defendant.
- b.** The extent to which, if any, wind damaged the Plaintiffs' house prior to destruction by water.
- c.** Whether the Plaintiffs' contents were destroyed by a covered peril.
- d.** The value of the Plaintiffs' contents loss destroyed by a covered peril.

**11.** The contested issues of law are as follows:

By Plaintiff: None.

By Defendant:

- a.** Whether the Plaintiffs have the burden under the terms of the policy of insurance of proving that any contents damaged during Hurricane Katrina were damaged as a result of a named peril, namely wind.
- b.** Whether the Plaintiffs have the duty under the terms and conditions of the

policy of insurance to establish the extent of damages claimed under the policy.

- c. Whether each element of Plaintiffs' claim for punitive, exemplary or non-punitive extra contractual damages, including the amount of such damages, must be proven by clear and convincing evidence as required by the Due Process Clause of the Fourteenth Amendment of the United States Constitution and by Article III, Section 14 of the Constitution of the State of Mississippi.
- d. Whether any award of punitive exemplary or non-punitive extra contractual damages assessed against State Farm must have a pre-determined upper limit, either as a maximum multiple of compensatory damages or an absolute maximum amount, to protect State Farm's due process rights as guaranteed by the Fourteenth Amendment of the United States Constitution and by Article III, Section 14 of the Constitution of the State of Mississippi.
- e. Whether any award of punitive, exemplary or non-punitive extra contractual damages assessed against State Farm must have a pre-determined upper limit, either as a maximum multiple of compensatory damages or an absolute maximum amount, to protect State Farm from an excessive award in violation of the excessive fines clause of the Eighth Amendment to the United States Constitution and Article III, Section 28 of the Constitution of the State of Mississippi.
- f. Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm without the

jury being first clearly and uniformly instructed as to the elements required and the amount of verdict appropriate so as to protect State Farm's due process and equal protection rights as guaranteed by the Fourteenth Amendment to the United States Constitution and by Article III, Section 14, of the Constitution of the State of Mississippi.

- g.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm without the jury being first instructed regarding the applicable principles of deterrence and punishment and the necessary relationship between the Plaintiffs' actual damages and punitive damages so as to protect State Farm's due process and equal protection rights as guaranteed by the Fourteenth Amendment to the United States Constitution and by Article III, Section 14 of the Constitution of the State of Mississippi.
- h.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm without first prohibiting the jury from awarding any such damages in whole or in part on the basis of individually discriminatory characteristic, including State Farm's corporate status so as to protect State Farm's due process and equal protection rights as guaranteed by the Fourteenth Amendment to the United States Constitution and by Article III, Section 14 of the Constitution of the State of Mississippi.
- i.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm because the standards for determining liability for such damages as well as the amount

of such damages are vague, imprecise, inconsistent and arbitrary and are not defined with sufficient clarity to give advance notice to State Farm or any other potential defendant of the prohibited conduct or mental state making an award of punitive damages possible.

- j.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm without there being trial and appellate court review on the basis of uniform and objective standards so as to protect State Farm's due process and equal protection rights as guaranteed by the Fourteenth Amendment to the United States Constitution and by Article III, Section 14 of the Constitution of the State of Mississippi.
- k.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm without affording State Farm protections similar to those afforded to criminal defendants including, but not limited to, the protection against unreasonable searches and seizures, double jeopardy, or impermissible multiple punishments and compelled self-incrimination, the right to confront adverse witnesses, the right to compulsory process for favorable witnesses, the right to the effective assistance of counsel and to a unanimous verdict of a twelve-person jury on every element of an award of punitive damages so as to protect State Farm's due process and equal protection rights as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and provided by Article 3, Sections 14, 22, 23, 26 and 31 of the Mississippi Constitution.

- l.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm without requiring a bifurcated trial as to all punitive damages issues so as protect State Farm's due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and Article 3, Section 14 of the Constitution of the State of Mississippi.
- m.** Whether any award of punitive, exemplary or non-punitive extra contractual damages which is based in whole or in part on State Farm's net worth, wealth, or value of assets would deny State Farm's right to equal protection guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article 3 Section 14 of the Mississippi Constitution.
- n.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm which is not rationally proportional to the Plaintiffs' actual compensatory damages as well as criminal sanctions that could be imposed for comparable misconduct.
- o.** Whether any award of punitive, exemplary or non-punitive extra contractual damages may be assessed against State Farm because State Farm clearly had, at a minimum, legitimate and arguable reasons for its conduct and decisions in this case.
- p.** Whether the Plaintiffs may recover any extra-contractual or punitive damages without establishing their right to such damages by clear and convincing evidence.

- q.** Whether the Plaintiffs may recover any extra contractual or punitive damages without establishing their right to such damages beyond a reasonable doubt.
  - r.** Whether each element of Plaintiffs' claim for punitive, exemplary or non-punitive extra-contractual damages must be shown beyond a reasonable doubt as required under the Fourteenth Amendment to the United States Constitution and under Article III, Section 14 of the Constitution of the State of Mississippi.
  - s.** Whether the Plaintiffs are entitled to punitive, exemplary, or extra-contractual damages pursuant to Miss. Code Ann. §11-1-65.
  - t.** Whether or not in a bifurcated trial with issue of liability and damages under the contract being phase 1 and punitive damages, if any, being phase 2 there should be no evidence in the first phase introduced as to how or why the company made a decision to deny the claim, including the wind water claim handling protocol or any other particular document used or reason for denial in the first phase, those issues being deferred until phase 2 on punitive damages, if any.
- 12.** The following is a list and brief description of all exhibits (except exhibits to be used for impeachment purposes only) to be offered in evidence by the parties. Each exhibit has been marked for identification and examined by counsel.
- A.** To be Offered by the Plaintiff:

    - P-1 The Insurance Policy and Declaration Page
    - P-2 The Denial Letters of September 30, 2005 and December 12, 2005
    - P-3 The Claim File

- P-4 Contents Claim
- P-5 James T. Slider Report with Exhibits
- P-6 Slider Resume
- P-7 The Wind/Water Protocol
- P-8 Number 75-20 Claim Practices: Water Damage Losses
- P-9 Number 75-104 Claim Practices: Claim Interpretation-Losses Not Insured
- P-10 First Four Pages of Annual Statement
- P-11 CD Containing Photographs
- P-12 Rental Insurance Policy
- P-13 Explanation of Benefits re Rental Dwelling Policy
- P-14 Value Summary
- P-15 Damage Summary for Hurricane

Plaintiff reserves the right to introduce into evidence any exhibits listed by Defendant.

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity and/or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specific ground(s) for the objection(s).

Exhibits Objected to by the Defendant:

The Defendant objects to Exhibit P-5 because it is hearsay.

Defendant objects to Plaintiff's exhibits P-7 through P-10, on the grounds that the aforementioned exhibits are irrelevant in phase 1 of the trial and the probative value is substantially outweighed by the danger of unfair prejudice. Also there is not evidence

from which the issue of punitive damages should be submitted to the jury to justify introduction of these exhibits.

- B.** To be offered by the Defendant, State Farm Fire & Casualty Company:
- D-1 State Farm Insurance Homeowners Policy Number 24-07-1561-5.
  - D-2 State Farm Insurance Rental Dwelling Policy Number 99-087927-0.
  - D-3 State Farm Claim File.
  - D-4 Color photographs from Claim File.
  - D-5 FEMA Flood Recovery Map showing elevation of Plaintiffs' property.
  - D-6 FEMA Flood Recovery Map showing surge/flood level measurements at location of Plaintiffs' property.
  - D-7 Expert Report of Scott Douglass with Exhibits

Defendant reserves the right to introduce into evidence any exhibits listed by Plaintiffs.

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity and/or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specific ground(s) for the objection(s).

Exhibits Objected to by the Plaintiff:

- D-7 Hearsay

- 13.** The following is a list and brief description of charts, graphs, models, schematic diagrams, and similar objects which will be used in opening statements or closing arguments, but which will not be offered in evidence:

a. By Plaintiff:

Objections, if any, to use of the preceding objects are as follows:

Enlargements of any Exhibits listed.

By Defendant:

b. By Defendant:

Enlargements of any Exhibits listed.

Objections, if any, to use of the preceding objects are as follows:

By Plaintiff:

See objections to Exhibits.

If any other objects are to be used by any party, such objects will be submitted to opposing counsel at least three days prior to trial. If there is then any objection to use of the objects, the dispute will be submitted to the court at least one day prior to trial.

14. The following is a list of witnesses Plaintiff anticipates calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge prior to commencement of trial. The listing of a WILL CALL witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

May testify live:

<u>Name</u>	<u>√ Will Call</u>	<u>√ May Call</u>	<u>Fact/Liability Expert Damages</u>	<u>Residence Address &amp; Tel. No.</u>	<u>Business Address &amp; Tel. No.</u>
John Untershine	√		Fact/Liab Damages		
Ann Untershine			√ Fact/Liab Damages		
Terry Blalock		√	Fact/Liab Damages		
Tim Slider		√	Expert/Liab Damages		720 East Park Blvd Ste 110 Plano, TX 75074 214-563-1149
Ryan Murphy		√	Fact/Liab Damages		
State Farm Corp. Rep. At Trial		√	Fact/Liab Damages		

Plaintiff reserves the right to call any witness listed by any other party.

May testify by deposition:

<u>Name</u>	<u>√ Will Call</u>	<u>√ May Call</u>	<u>Fact/Liability Expert Damages</u>	<u>Residence Address &amp; Tel. No.</u>	<u>Business Address &amp; Tel. No.</u>
Terry Blalock * State Farm 30(b)(6)		√	Fact/Liab Damages		
Ryan Murphy * State Farm 30(b)(6)		√	Fact/Liab Damages		

\*portions of depositions may be used

State whether the entire deposition, or only portions, will be used. Counsel shall confer, no later than twenty days before the commencement of trial, to resolve all controversies concerning all depositions (videotaped or otherwise). All controversies not resolved by the parties shall be submitted to the trial judge not later than ten days prior to trial. All objections not submitted within that time are

waived.

15. The following is a list of witnesses Defendant anticipates calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge prior to commencement of trial. The listing of a WILL CALL witness constitutes a professional representation, upon which opposing counsel may rely; that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

May testify live:

<u>Name</u>	<input checked="" type="checkbox"/> <u>Will Call</u>	<input checked="" type="checkbox"/> <u>May Call</u>	<u>Fact/Liability Expert Damages</u>	<u>Residence Address &amp; Tel. No.</u>	<u>Business Address &amp; Tel. No.</u>
Ryan Murphy 30(b)(6)		<input checked="" type="checkbox"/>	Fact/Liability		
Bucky Collier		<input checked="" type="checkbox"/>	Fact/Liability		
Scott Douglass		<input checked="" type="checkbox"/>	Expert		850 Cherry Ct. Fairhope, AL 36532 251.460.7437

Defendant reserves the right to call any witnesses listed by the Plaintiff.

May testify by deposition:

<u>Name</u>	<input checked="" type="checkbox"/> <u>Will Call</u>	<input checked="" type="checkbox"/> <u>May Call</u>	<u>Fact/Liability Expert Damages</u>	<u>Business Address &amp; Tel. No.</u>
Terry Blalock 30(b)(6)		<input checked="" type="checkbox"/>	Fact/Liability	

\*portions of depositions may be used

State whether the entire deposition, or only portions, will be used. Counsel shall confer, no later than twenty days before the commencement of trial, to resolve all controversies concerning all depositions (videotaped or otherwise). All

controversies not resolved by the parties shall be submitted to the trial judge not later than ten days prior to trial. All objections not submitted within that time are waived.

16. This  is  is not a jury case.
17. Counsel suggest the following additional matters to aid in the disposition of this civil action: None.
18. Counsel estimates the length of the trial will be 3 days.
19. As stated in paragraph 1, this pretrial order has been formulated (a) at a pretrial conference before the United States District Court Judge, notice of which was duly served on all parties, and at which the parties attended as is stated above, or (b) the final pretrial conference having been dispensed with by the Magistrate Judge, as a result of conferences between the parties. Reasonable opportunity has been afforded for corrections or additions prior to signing. This order will control the course of the trial, as provided by Rule 16, Federal Rules of Civil Procedure, and it may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.

ORDERED, this the 22<sup>nd</sup> day of February, 2007.

  
UNITED STATES DISTRICT JUDGE

  
ATTORNEY FOR PLAINTIFFS

  
\_\_\_\_\_  
ATTORNEY FOR PLAINTIFFS

  
\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT