

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEW MEXICO**

**JON DOE,**

**Plaintiff,**

v.

**No. CIV 07-0000 RB/LCS**

**JOHN DOE and BILL ROE,**

**Defendants.**

**STIPULATION FOR FINAL RESOLUTION OF THIS CAUSE**

1. The court finds after a settlement conference was conducted in this cause by the Magistrate Judge, that the parties hereto have agreed that a summary jury trial is an appropriate method for fully resolving all of the issues in this cause. Therefore, this action is designated as one for summary jury trial proceedings.

2. The action shall be in trial readiness when called for Summary Jury Trial. This matter is hereby set for Summary Jury Trial before the Honorable (Judge) on (date) at (time) p.m. in the United States District Courthouse, (address).

3. This action shall be heard before at least a six-member jury, to be selected from the general venire. Counsel will be permitted (number) challenges to the venire – normally one peremptory challenge each. The Court will conduct the voir dire. (*OR, Counsel will be allowed to conduct 15 minutes of voir dire per party. All other voir dire shall be conducted by the court.*) Challenges to the venire, both peremptory and for cause, shall be in accordance with law and the Rules of Civil Procedure.

4. At least ten days prior to the trial, counsel shall submit abbreviated written jury instructions and jury advisory opinions (verdict forms). In addition, counsel shall submit brief memoranda on any novel issue of law or evidence presented. Prior to their submission to the

court, counsel shall confer on the proposed jury instructions and verdict forms in order to reach an agreement as to their use.

5. Unless excused by order of the Court, parties or parties' representatives shall be in attendance at the Summary Jury Trial.

6. Except as hereinafter provided, all evidence (except the videotaped or transcribed depositions of all physicians or other expert witnesses as approved by the court) shall be presented through the attorneys for the parties, who may incorporate arguments on such evidence in their presentations. The depositions of the physicians and others upon whom counsel may agree will be read to or played for the jury. Only evidence that would be admissible at trial upon the merits may be presented. All documents agreed to by counsel, answers to interrogatories and any other exhibits agreed to by the parties shall be automatically admitted into evidence. Other exhibits proffered by the parties shall be admitted into evidence in accordance with the Rules of Evidence. Counsel may only present factual representations supportable by reference to discovery materials, to a sworn (or unsworn) signed statement of a witness, or to a stipulation. Statements, reports, and depositions may be read from but not at undue length. Physical exhibits, including documents, may be exhibited during the presentation and submitted for the jury's consideration. Exhibits prepared exclusively for use at the summary trial shall be shown to opposing counsel at least twenty days prior to commencement of the trial. Exhibits will be returned to counsel after the verdict. A verbatim record of the proceedings will be made by electronic recording device or by court reporter. *(OR, If the parties wish to record the proceedings, they must agree on the recording device and payment method. OR, no recording of the proceedings will be allowed.)* In this case, the Court will allow brief testimony by the parties. *(If no testimony is allowed, delete relevant section from paragraph 7.)*

7. Counsel for Plaintiff shall be limited in her combined opening and closing arguments with an overview of the exhibits to forty-five minutes, with rebuttal of fifteen minutes. Counsel for the Defendant shall be limited to one hour. *(OR, Counsel for each party shall be given a total time of (number) hours for opening, interim, and closing arguments.)* Strict timekeeping will be kept and enforced by the court. Counsel for the plaintiff shall advise opposing counsel of how she will divide her allotted “argument time” at least twenty days prior to the day of the trial. All other counsel will advise plaintiff’s counsel of how he/she will allot his/her time no more than five days after being advised by plaintiff’s counsel. Plaintiff’s counsel will advise the court of the allocation of time by all parties at least five days before trial.

*(Omit this paragraph if no witnesses will testify)* (Number) lay person(s) from each party may testify. The testimony for each lay witness is limited to twenty-five minutes on direct examination, fifteen minutes of cross-examination, and five minutes of re-direct. No re-cross will be permitted. All of these time limits will be strictly enforced. Witnesses will be sworn before testifying. The parties will identify to each other and the court their choice of live witnesses no later than (number) days prior to the date scheduled for the summary trial.

8. Prior to summary trial, counsel shall confer with regard to physical exhibits, including documents and reports and reach such agreement as is possible as to the use of such exhibits. Any disagreement will be brought to the attention of the court at least ten days prior to the summary jury trial.

9. Objections will be received if in the course of a presentation counsel goes beyond the limits of propriety in presenting statements as to evidence or argument thereon.

10. After counsel’s presentations, the jury will be given an abbreviated charge on the applicable law of liability and damages.

11. *(Use this paragraph if your summary jury trial will be dispositive)* Counsel hereby stipulate that a unanimous verdict by the jury will be deemed a final determination on the merits. Upon receipt of the jury's verdict, the parties will execute standard releases, a check in the amount of the verdict will be delivered by the Defendant to Plaintiff's counsel, and this cause shall be dismissed with prejudice. Further, the parties have agreed to "bracket" the verdict of the jury so that in the event the jury's verdict is for the defendants or is less than a pre-agreed upon "floor" amount, plaintiff will still receive the "floor" amount; and in the event the verdict exceeds the "cap", the plaintiff will only receive the "cap" amount all as set forth in the separate agreement of the parties. It is also ordered that the jury will not be told of the "bracketing" of the possible verdicts. The parties have further agreed that no appeal will be taken from the result of the summary jury trial. The amount of any verdict will include costs and attorney fees. The parties and counsel have agreed in writing to the cap and floor amounts in a separate document, and have also agreed that the summary jury trial will be fully dispositive of all of the issues in this case; the original of this document will also be filed with the Court.

*(Use this paragraph if your summary jury trial will be non-dispositive)* The jury may return either a consensus verdict or a special verdict consisting of an anonymous statement of each juror's findings on liability and/or damages (each known as the jury's advisory opinion). The jury will be encouraged to return a consensus verdict. If the jury has not reached a unanimous verdict after forty-five minutes of deliberation, they will be questioned as to whether they can reach a unanimous verdict and if not, then they will be given special anonymous verdict forms. These forms will be prepared by counsel and submitted to the court prior to the summary jury trial. Counsel may stipulate that a consensus verdict by the jury will be deemed a final determination on the merits and that judgment be entered thereon by the Court, or they may

stipulate to any other use of the verdict that will aid in the resolution of the case. Without such a stipulation, the verdict will not be binding on the parties nor may it be referred or alluded to at trial.

12. These rules shall be construed to secure the just, speedy and inexpensive conclusion of the Summary Jury Trial procedure.

13. Final issues concerning the conduct of the Summary Jury Trial, pre-trial motions, the admissibility or propriety of the use of certain exhibits and testimony, and issues concerning voir dire, jury instructions and forms of verdict are hereby set for hearing before the Honorable (judge) on (date/time).

14. This procedure has been fully explained by counsel to the respective parties and counsel affirmatively state and certify that the parties are in agreement as to the use of this procedure to fully dispose of all of the issues in this case and that there will be no appeal from the verdict and judgment entered as a result of its use.

APPROVED AND AGREED TO:

\_\_\_\_\_  
Counsel for Plaintiff

\_\_\_\_\_  
Counsel for Defendant