

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA
COMMERCIAL DIVISION**

PRESIDING JUSTICE: DEBORAH H. KARALUNAS

CENTRAL NEW YORK REGIONAL
TRANSPORTATION AUTHORITY

Plaintiff(s),

-v-
NORMAL COMMUNICATIONS, LLC,
GROWTH MARKETING GROUP OF NY, LLC,
and ARNOLD H. ROTHSCHILD Defendant(s).

REVISED
**PRELIMINARY CONFERENCE
STIPULATION AND ORDER**

Index No. 2014EF391
RJI No. 33-14-1275

[All items on the form must be completed unless inapplicable.]

(1) **Pertinent Dates:**

- (a) Date of Commencement: 2/2/14
(b) Date of Joinder: Issue has not been joined. Defendants have requested that Plaintiff consent to an extension of time until 5/16/14 to serve an answer
(c) RJI Date: 4/4/14
counterclaims.

(2) **Nature of Case:**

- (a) Plaintiff's Claims: The lawsuit arises out of a transit advertising contract between Plaintiff and Defendant. Plaintiff claims that Defendant is liable for conversation, constructive trust, breach of fiduciary duty, breach of contract, unjust enrichment, etc.
(b) Amount Demanded: \$1,080,399.00 plus penalties, interest and attorney's fees
(c) Defendant's Defenses and Claims: The defenses are laches, unjust enrichment, inadequate contract formation, ultra vires conduct by Centro-acting in a purely commercial capacity, lack of privity with Rothschild and Growth and failure to state a cause of action. Counter-Claims are unjust enrichment caused by detrimental reliance, tortious interference with business.
(d) Amount Demanded: \$3,050,784.00

(3) **Attorney's Consultation:**

The parties consulted on May 2 and 12, 2014, in a good faith effort to reach agreement on the issues identified in Uniform Commercial Division Rule 8. Agreement was reached as follows:

- (a) Resolution of case _____
- (b) Discovery _____
- (c) ADR _____
- (d) E-discovery _____
- (e) Confidentiality and privilege _____
- (f) Designation of experts _____

(4) **Early Disposition:**

(a) This case is appropriate for early disposition by:

- ADR (provide type and timing) July, 2014 - Defendants propose mediation
- Limited issue discovery in aid of early dispositive motion/settlement July, 2014
- Dispositive motion will be filed on or before _____
- Other _____

(b) This case is not appropriate for early disposition because Plaintiff is a public authority accountable to the People of the State of NY and requires full disclosure before settlement can be considered.

It is hereby STIPULATED and ORDERED that disclosure shall proceed as follows:

- (5) **Insurance Coverage** shall be furnished on or before N/A
- (6) **Bill of Particulars:** Demand for a bill of particulars shall be served on or before N/A
- (7) **Interrogatories** shall be served on or before July 9, 2014

(8) **Depositions:** Choose (a) or (b)

(a) Deponent	Date & Time	Place
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(b) The parties shall set a schedule for depositions. Depositions of all parties shall be completed on or before October 15, 2015. Depositions of all non-party witnesses are to be completed on or before December 15, 2015.

(9) **Expert Disclosure:**

(a) Plaintiff(s) shall serve expert disclosure on or before May 4, 2015 (no later than 30 days after the filing of the trial note of issue).

(b) Defendant(s) shall serve expert disclosure on or before July 4, 2015 (no later than 60 days after the filing of the trial note of issue).

Note: Expert disclosure provided after these dates without good cause will be precluded from use at trial.

(10) **Other Disclosure:**

(a) Names and addresses of all witnesses, statements and photographs shall be exchanged by all parties on or before June 14, 2014.

(b) Demands for discovery and inspection shall be served on or before July 9, 2014.

(c) Demands for admissions shall be served on or before May 4, 2015.

(d) Other (specify) N/A.

(11) **Confidentiality/Non-Disclosure Agreement:**

(a) _____ anticipates the need for a Confidentiality/Non-Disclosure Agreement as to the following: N/A.

Note: In the event that a Confidentiality/Non-Disclosure Agreement is required, the party seeking confidentiality shall promptly prepare and circulate a proposed agreement. The failure to promptly prepare and circulate a proposed agreement may result in a waiver of any claim of confidentiality. See 22 NYCRR § 216.1.

(12) **End Date for All Disclosure:** April 4, 2015.

Note: On consent parties may modify the specific dates set forth in this discovery stipulation and order provided that all discovery is completed by the discovery cut-off date.

(13) **Impleader** shall be completed on or before July 9, 2015.

(14) **Motions - Generally:**

(a) Plaintiff(s) intends to make the following motions Summary Judgment.

(b) Defendant(s) intends to make the following motions Summary Judgment.

Note: **Form of Papers**

- The notice of motion or order to show cause shall include a statement of the precise relief sought.
- All dispositive motions must include a copy of the pleadings.
- Exhibit tabs are required.
- If a document to be annexed to an affidavit or affirmation is voluminous and only discrete portions are relevant to the motion, counsel shall attach only the pertinent excerpts and submit the full exhibit separately.
- Memoranda of law shall not exceed 25 pages in length; reply memoranda of law shall not exceed 10 pages in length.
- Sur-replies and post-argument submissions are not allowed without advance express permission of the Court.

(15) **Summary Judgment and Other Dispositive Motions:**

- (a) All dispositive motion(s) (including a motion to dismiss or a motion for summary judgment) shall be made no later than the **30th day after filing of the trial note of issue**.
- (b) Upon any motion for summary judgment, other than a motion for summary judgment in lieu of a complaint, there shall be annexed to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried.
- (c) Papers opposing a motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party and, if necessary, additional numbered paragraphs containing a separate short and concise statement of the material facts as to which that party contends that there exists a genuine issue to be tried.

- (d) Each numbered paragraph in the statement of material facts required to be served by the moving party will be deemed admitted for purposes of the motion unless specifically controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.
 - (e) Each statement of material fact by the movant or opponent, including each statement controverting any statement of material fact, must be followed by citation to evidence submitted in support of or in opposition to the motion.
- (16) **Settlement Conference** will be held on _____ (to be set by the Part Clerk).
- (17) **Trial Note of Issue:** Plaintiff(s) shall file a note of issue/certificate of readiness on or before April 4, 2015.

Note: Trial note of issue must be filed within 12 months of date of filing RJI for a standard case or within 15 months of filing RJI for a complex case.

- (18) **Trial:**
- (a) Plaintiff(s) anticipates that the trial of this action will take 6.5 days.
 - (b) Defendant(s) anticipates that the trial of this action will take 6.5 days.
 - (c) A pretrial conference will be held on _____ (to be set by Part Clerk).
 - (d) The trial of this action will commence on _____.

Note: All pre-trial filings and submissions required by Uniform Commercial Division Rules 27, 28, 29, 31 and 32 (including motions *in limine*, indexed exhibit binder, witness list, identification of deposition testimony (with transcripts), pretrial memorandum, request to charge (with reference to PJI numbers or specific case citations) and jury verdict sheet) shall be filed and exchanged with opposing counsel at least five (5) days before the final pretrial conference.

Failure to comply with any of these deadlines, rules or directives may result in the imposition of costs or sanctions or other action authorized by law.

DATED: May 13, 2014


Attorney for Plaintiff(s)

Attorney for Defendant(s)

Attorney for Defendant(s)

SO ORDERED: / /

Hon. Deborah H. Karalunas, JSC