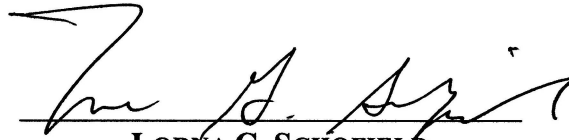


testified at his deposition that he did not receive the form. This conflicting evidence gives rise to a triable issue of fact. *See Hirsch v. Citibank, N.A.*, 542 Fed. App'x 35, 37-38 (2d Cir. 2013) (summary order) (vacating district court's denial of a motion to compel where the district court did not conduct a trial to determine whether plaintiff received the arbitration agreement at issue); *cf. Martin v. Citibank, N.A.*, 883 N.Y.S.2d 483, 484-85 (1st Dep't 2009) (holding that summary judgment was not appropriate where factual issue existed as to whether plaintiff received all of the pages of the agreement at issue). It is hereby

ORDERED that the parties shall be ready to proceed to trial commencing on **October 13, 2021, at 2:00 p.m.** The parties shall submit a joint final pretrial order in accordance with the Court's Individual Rules by **October 5, 2021**. The parties shall confer and submit a joint, if possible, letter by **September 1, 2021**, setting forth their proposal for a remote or in-person trial.

Dated: August 30, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE