

1 2. The following material facts, although not admitted, will not be contested at
2 trial by evidence to the contrary:

3 3. The following issues of law are uncontested and stipulated to by the parties:

4 **D. CONTESTED ISSUES OF FACT AND LAW**

5 1. The following are the material issues of fact to be tried and decided: (Each
6 issue of fact must be stated separately and in specific terms. Each party's contention must
7 be set forth with respect to each and every issue of fact.)

8 E.g., Issue # 1: Whether Plaintiff used due care.

9 Plaintiff Contends: Plaintiff looked both ways before crossing street

10 Defendant Contends: Plaintiff ran out into the street without looking

11 2. The following are the issues of law to be determined: (Each issue of law
12 must be stated separately in specific terms. Each party's contention must be set forth with
13 respect to each and every issue of law.)

14 E.g., Issue # 1: Whether Plaintiff's suit is barred by the doctrine of laches.

15 Plaintiff Contends: . . .

16 Defendant Contends: . . .

17 Each party shall file a short trial brief on all contested issues of law
18 contemporaneously with the filing of the Proposed Final Pretrial Order.

19 **E. LIST OF WITNESSES**

20 Each party shall separately list the names of witnesses, their addresses, whether they
21 are fact or expert witnesses, and a brief description of the testimony of each witness. The
22 witnesses shall be grouped as follows: (a) witnesses who shall be called at trial; (b)
23 witnesses who may be called at trial; and (c) witnesses who are unlikely to be called at
24 trial. Additionally, the parties shall include the following text in this section of the
25 Proposed Final Pretrial Order: "Each party understands that it is responsible for ensuring
26 that the witnesses it wishes to call to testify are subpoenaed. Each party further understands
27 that any witness a party wishes to call shall be listed on that party's list of witnesses; the
28 party cannot rely on the witness having been listed or subpoenaed by another party."

1 **F. LIST OF EXHIBITS**

2 1. The following exhibits are admissible in evidence and may be marked in
3 evidence by the Clerk:

- 4 a. Plaintiff’s Exhibits:
5 b. Defendant’s Exhibits:

6 2. As to the following exhibits, the parties have reached the following
7 stipulations:

- 8 a. Plaintiff’s Exhibits:
9 b. Defendant’s Exhibits:

10 3. As to the following exhibits, the party against whom the exhibit is to be
11 offered objects to the admission of the exhibit and offers the objection stated below:

- 12 a. Plaintiff’s Exhibits: (E.g., City Hospital records of Plaintiff from
13 March 6, 1985 through March 22, 1985. Defendant objects for lack of
14 foundation because . . . (the objection must specify why there is a lack
15 of foundation.))
16 b. Defendant’s Exhibits: (E.g., Payroll records of Plaintiff’s employer
17 which evidence payment of Plaintiff’s salary during hospitalization
18 and recovery. Plaintiff objects on grounds of relevance and
19 materiality because ... (the objection must specify why the exhibit is
20 not relevant or material.))

21 If there are more than 20 exhibits, the parties shall submit their exhibit lists in writing, five
22 (5) business days before trial, in a format to be designated by the Court at the Final Pretrial
23 Conference, in Microsoft Word format by email to Armida_Herrera@azd.uscourts.gov.

24 4. The parties shall include the following text in this section of the Proposed
25 Final Pretrial Order: “Each party hereby acknowledges by signing this joint Proposed Final
26 Pretrial Order that any objections not specifically raised herein are waived.”

27 ...
28 ...

1 **G. DEPOSITIONS TO BE OFFERED**

2 The parties shall list the depositions that may be used at trial. The portions to be
3 read or submitted at trial shall be identified by page and line number. Additionally, the
4 party offering the deposition shall provide the Court with a copy of the offered deposition
5 testimony. The offering party shall highlight, in color, the portions of the deposition to be
6 offered. If multiple parties are offering the same deposition, only one copy of such
7 deposition shall be provided. Such copy shall contain each party’s highlighting (each party
8 should use a different color).

9 The parties shall include the following text in this section of the joint Proposed Final
10 Pretrial Order: “Each party hereby acknowledges by signing this joint Proposed Final
11 Pretrial Order that any deposition not listed as provided herein will not be allowed, absent
12 good cause.”

13 **H. MOTIONS IN LIMINE (JURY TRIAL)**

14 Motions in limine shall be filed as separate pleadings and responded to in
15 accordance with the instructions contained in the Order Setting Final Pretrial Conference.

16 **I. LIST OF PENDING MOTIONS**

17 List all pending motions.

18 **J. PROCEDURES FOR EXPEDITING TRIAL**

19 The parties shall discuss and report on all available procedures that might be used
20 to expedite trial, including but not limited to (a) presenting stipulated summaries of
21 deposition testimony rather than reading deposition excerpts; (b) editing videotaped
22 depositions to limit the amount of time required for presentation; (c) using summary
23 exhibits in place of voluminous documentary evidence; (d) stipulations on authenticity and
24 foundation; (e) presenting direct expert testimony through summary or written reports; and
25 (f) using the courtroom technology to expedite the presentation of evidence. The parties
26 are invited to contact Armida Herrera at 602-322-7630 to arrange a time to visit the
27 courtroom and examine its technology. Information about courtroom technology can also
28

1 be found at www.azd.uscourts.gov under Judges and Courtrooms and Orders, Forms and
2 Procedures.

3 **K. ESTIMATED LENGTH OF TRIAL**

4 ____ hours for opening statements and closing arguments

5 ____ hours for Plaintiff(s) case

6 ____ hours for Defendant(s) case

7 ____ hours for rebuttal

8 **L. JURY DEMAND**

9 State whether a jury trial has or has not been requested. If a jury trial has been
10 requested, indicate the appropriate selection:

- 11 1. The parties stipulate that the request was timely and properly made;
- 12 2. The Plaintiff/Defendant contends that the request was untimely made
13 because . . . (explain why request was untimely); or
- 14 3. The Plaintiff/Defendant contends that although the request for trial by jury
15 was timely, the request is otherwise improper as a matter of law because . . .
16 (indicate the legal basis for why a jury trial is improper).

17 **M. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR**
18 **BENCH TRIALS**

19 Proposed Findings of Fact and Conclusions of Law shall be lodged by each party as
20 a separate pleading in accordance with the instructions contained in the Order Setting Final
21 Pretrial Conference. The parties shall include the following text in this section of the
22 Proposed Final Pretrial Order: “The separately lodged Proposed Findings of Fact and
23 Conclusions of Law are incorporated by reference into this joint Proposed Final Pretrial
24 Order.”

25 . . .

26 . . .

27 . . .

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1 **N. JOINT PROPOSED JURY INSTRUCTIONS, JOINT PROPOSED VOIR**
2 **DIRE QUESTIONS, AND PROPOSED FORMS OF VERDICT FOR JURY**
3 **TRIALS**

4 The joint Proposed Jury Instructions, joint Proposed Voir Dire Questions, and
5 Proposed Forms of Verdict shall be filed in accordance with the instructions contained in
6 the Order Setting Final Pretrial Conference.

7 **O. CERTIFICATIONS**

8 The parties shall include the following text in this section of the Proposed Final
9 Pretrial Order: “The undersigned counsel for each of the parties in this action do hereby
10 certify and acknowledge the following:

- 11 1. All discovery has been completed.
- 12 2. The identity of each witness has been disclosed to opposing counsel.
- 13 3. Each exhibit listed herein: (1) is in existence; (2) is numbered; and (3) has
14 been disclosed and shown to opposing counsel.
- 15 4. The parties have complied in all respects with the mandates of the Court’s
16 Case Management Order and Order Setting Final Pretrial Conference.
- 17 5. The parties have made all of the disclosures required by the Federal Rules of
18 Civil Procedure (unless otherwise previously ordered to the contrary).
- 19 6. The parties acknowledge that once this Proposed Final Pretrial Order has
20 been signed and lodged by the parties, no amendments to this Order can be
21 made without leave of Court.”

22 **P. INFORMATION FOR COURT REPORTER**

23 In order to facilitate the creation of an accurate record, please file a “Notice to Court
24 Reporter” **one week before trial** containing the following information that may be used at
25 trial:

- 26 1. Proper names, including those of witnesses.
- 27 2. Acronyms.
- 28 3. Geographic locations.

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- 4. Technical (including medical) terms, names or jargon.
- 5. Case names and citations.
- 6. Pronunciation of unusual or difficult words or names.

Please also send (or transmit electronically) to the court reporter a copy of the concordance from key depositions.

Attorney for Plaintiff(s)

Attorney for Defendant(s)

Based on the foregoing,

IT IS ORDERED that this Proposed Final Pretrial Order jointly submitted by the parties is hereby **APPROVED** and **ADOPTED** as the official Pretrial Order of this Court.

DATED this ____ day of _____, 20__.

Deborah M. Fine
United States Magistrate Judge