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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

,
Plaintiff(s),
v.
,
Defendant(s).

No. CV- - -PHX-NVW

**PROPOSED FINAL PRETRIAL
ORDER FOR JURY TRIAL**

The following is the joint Proposed Final Pretrial Order to be considered at the
Final Pretrial Conference set for _____, 201_ at ____ .

TRIAL COUNSEL FOR THE PARTIES

Include mailing addresses, office phone numbers, fax numbers, and email
addresses.

Plaintiff(s):

Defendant(s):

B. STATEMENT OF JURISDICTION

1. Cite the statute(s) which gives this Court jurisdiction. (E.g., Jurisdiction in
this case is based on diversity of citizenship under Title 28 U.S.C. §1332.)

2. State whether jurisdiction is or is not disputed. (If jurisdiction is disputed,
the party contesting jurisdiction shall set forth with specificity the bases for the
objection.)

1 **C. STATEMENT OF CLAIMS AND DEFENSES**

- 2 1. A statement of each claim and each defense for trial.
3 2. A brief statement of the legal basis for each claim and each defense.

4 **D. STIPULATIONS AND UNCONTESTED FACTS AND LAW**

- 5 1. The following material facts are admitted by the parties and require no
6 proof:
7 2. The following material facts, although not admitted, will not be contested at
8 trial by evidence to the contrary:
9 3. The following issues of law are uncontested and stipulated to by the parties:

10 **E. CONTESTED ISSUES OF FACT AND LAW**

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

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

15 Plaintiff Contends: Plaintiff looked both ways before crossing street

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

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

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

21 Plaintiff Contends: . . .

22 Defendant Contends: . . .

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

25 **F. LIST OF WITNESSES**

26 Each party shall separately list the names of witnesses, their addresses, whether
27 they are fact or expert witnesses, and a brief description of the testimony of each witness.

28 The witnesses shall be grouped as follows: (a) witnesses who shall be called at trial;

1 (b) witnesses who may be called at trial; and (c) witnesses who are unlikely to be called
2 at trial. Additionally, the parties shall include the following text in this section of the
3 Proposed Final Pretrial Order: “Each party understands that it is responsible for ensuring
4 that the witnesses it wishes to call to testify are subpoenaed. Each party further
5 understands that any witness a party wishes to call shall be listed on that party’s list of
6 witnesses; the party cannot rely on the witness having been listed or subpoenaed by
7 another party.”

8 **G. LIST OF EXHIBITS**

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

11 a. Plaintiff’s Exhibits:

12 b. Defendant’s Exhibits:

13 2. As to the following exhibits, the parties have reached the following
14 stipulations:

15 a. Plaintiff’s Exhibits:

16 b. Defendant’s Exhibits:

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

19 a. Plaintiff’s Exhibits: (E.g., City Hospital records of Plaintiff from
20 March 6, 1985 through March 22, 1985. Defendant objects for lack of
21 foundation because . . . (the objection must specify why there is a lack of
22 foundation.))

23 b. Defendant’s Exhibits: (E.g., Payroll records of Plaintiff’s employer
24 which evidence payment of Plaintiff’s salary during hospitalization and
25 recovery. Plaintiff objects on grounds of relevance and materiality because
26 . . . (the objection must specify why the exhibit is not relevant or material.))

27 If there are more than 20 exhibits, the parties shall submit their exhibit lists in
28 writing, the day before trial, in a format to be designated by the Court at the Final Pretrial

1 Conference, in Microsoft Word 2010 (.doc) format (or higher) either by email to
2 Wake_Chambers@azd.uscourts.gov or on an IBM-compatible computer disk.

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

6 **H. DEPOSITIONS TO BE OFFERED**

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

14 Any party objecting to the admission in evidence of any portion of a deposition
15 shall identify by page and line number the portion to which objection is made and shall
16 state the grounds of objection specifically.

17 Additional parts of a deposition which a party requests under Fed.R.Civ.P.
18 32(a)(4) to be considered with the part introduced by an opposing party shall be identified
19 by page and number line and shall be highlighted in the requesting party's color.

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

24 **I. MOTIONS IN LIMINE**

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

27 **J. LIST OF PENDING MOTIONS**

28 List all pending motions.

1 **K. PROCEDURES FOR EXPEDITING TRIAL**

2 The parties shall discuss and report on all available procedures that might be used
3 to expedite trial, including but not limited to (a) presenting stipulated summaries of
4 deposition testimony rather than reading deposition excerpts; (b) editing videotaped
5 depositions to limit the amount of time required for presentation; (c) using summary
6 exhibits in place of voluminous documentary evidence; (d) stipulations on authenticity
7 and foundation; (e) presenting direct expert testimony through summary or written
8 reports; (f) using the courtroom technology to expedite the presentation of evidence. The
9 parties are invited to contact Rebekka Walder, Judge Wake's Courtroom Deputy Clerk, to
10 arrange a time to visit the courtroom and examine its technology. Information about
11 courtroom technology can also be found at www.azd.uscourts.gov under Judges'
12 Information/Courtroom Technology.

13 **L. ESTIMATED LENGTH OF TRIAL**

14 ____ hours for opening statements and closing arguments

15 ____ hours for Plaintiff(s) case, including cross-examination of other parties'
16 witnesses

17 ____ hours for Defendant(s) case, including cross-examination of other parties'
18 witnesses

19 ____ hours for Plaintiff(s) rebuttal

20 ____ TOTAL ESTIMATED TIME

21 **M. JURY DEMAND**

22 If a jury trial has been requested, indicate the appropriate selection:

- 23 **1.** The parties stipulate that the request was timely and properly made;
24 **2.** The Plaintiff/Defendant contends that the request was untimely
25 made because . . . (explain why request was untimely); or
26 **3.** The Plaintiff/Defendant contends that although the request for trial
27 by jury was timely, the request is otherwise improper as a matter of law
28 because . . . (indicate the legal basis for why a jury trial is improper).

1 **N. JOINT STATEMENT OF THE CASE**

2 The parties shall file a joint statement of the case that will be read to the jury and
3 included in the jury questionnaire, if one is used.

4 **O. JOINT PROPOSED VOIR DIRE QUESTIONS**

5 The Court’s proposed voir dire questions are located on the Court’s website at
6 www.azd.uscourts.gov under Judges’ Orders, Forms & Procedures/Judge Wake.
7 Additional questions proposed by the parties shall be drafted in a neutral manner. Initial
8 questions on a subject should call for a “yes” or “no” response.

9 **P. JOINT PROPOSED JURY INSTRUCTIONS**

10 The proposed jury instructions shall be accompanied by citations to legal
11 authority. The instructions shall be in accordance with "Guidelines for Jury Instructions
12 in Civil Cases" found at www.azd.uscourts.gov under Judges’ Orders, Forms &
13 Procedures/Judge Wake.

14 **Q. PROPOSED FORMS OF VERDICT**

15 The proposed forms of verdict shall include any proposed special verdict forms or
16 juror interrogatories.

17 **R. DISAGREEMENTS ABOUT PROPOSED STATEMENTS, VOIR DIRE,
18 INSTRUCTIONS, OR FORMS OF VERDICT**

19 If the parties disagree about any of the proposed statements, voir dire questions,
20 jury instructions, or forms of verdict, the party in favor of the proposal shall set it forth in
21 the joint pleading and the party opposing it shall state the reason for the objection and
22 offer an alternative proposal.

23 **S. FORMAT OF SUBMISSIONS**

24 The joint statement of the case, proposed voir dire questions, proposed jury
25 instructions, and forms of verdict shall be submitted in Word format by email to
26 Wake_Chambers@azd.uscourts.gov.

27 **T. CERTIFICATIONS**

28 The parties shall include the following text in this section of the Proposed Final

1 Order: "The undersigned counsel for each of the parties in this action do hereby certify
2 and acknowledge the following:

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

16 **U. INFORMATION FOR COURT REPORTER**

17 In order to facilitate the creation of an accurate record, please file a "Notice to
18 Court Reporter" one week before trial containing the following information that may be
19 used at trial:

- 20 1. Proper names, including those of witnesses.
- 21 2. Acronyms.
- 22 3. Geographic locations.
- 23 4. Technical (including medical) terms, names or jargon.
- 24 5. Case names and citations.

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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)

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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__.

Neil V. Wake
Senior United States District Judge