IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

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| ,  Plaintiff,  vs.  ,  Defendant. | No.  final pretrial statement  BENCH trial |
|  |  |

The following is the joint Proposed Final Pretrial Statement to be considered at the Final Pretrial Conference set for **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, at \_\_\_\_** .

**A. 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.)

**C.**  **STIPULATIONS AND UNCONTESTED FACTS AND LAW**

1.The following material facts are admitted by the parties and require no proof:

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

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

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

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

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

Plaintiff Contends:

Defendant Contends:

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

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

Plaintiff Contends: . . .

Defendant Contends: . . .

**E.**  **LIST OF WITNESSES**

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

**F. LIST OF EXHIBITS**

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

a. Plaintiff’s Exhibits:

b. Defendant’s Exhibits:

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

a. Plaintiff’s Exhibits:

b. Defendant’s Exhibits:

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

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

b. Defendant’s Exhibits: (E.g., Payroll records of Plaintiff’s employer which evidence payment of Plaintiff’s salary during hospitalization and recovery. Plaintiff objects on grounds of relevance and materiality because ...

(the objection must specify why the exhibit is not relevant or material.))

If there are more than 20 exhibits, the parties shall submit their exhibit lists in writing, five days before trial, in a format to be designated by the Court at the Final Pretrial Conference, in Word or WordPerfect format either by email to [Yvonne\_Gano@azd.uscourts.gov](mailto:Yvonne_Gano@azd.uscourts.gov) or on an IBM-compatible computer disk.

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

**G. DEPOSITIONS TO BE OFFERED**

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

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

**H. MOTIONS IN LIMINE**

No motions in limine shall be filed as this is a trial to the bench.

**I. LIST OF PENDING MOTIONS**

List all pending motions.

**J. PROCEDURES FOR EXPEDITING TRIAL**

The parties shall discuss and report on all available procedures that might be used to expedite trial, including but not limited to (a) presenting stipulated summaries of deposition testimony rather than reading deposition excerpts; (b) editing videotaped depositions to limit the amount of time required for presentation; (c) using summary exhibits in place of voluminous documentary evidence; (d) stipulations on authenticity and foundation; (e) presenting direct expert testimony through summary or written reports; (f) using the courtroom technology to expedite the presentation of evidence. The parties are invited to contact Nancy Outley at 602-322-7645 to arrange a time to visit the courtroom and examine its technology. Information about courtroom technology can also be found at [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under Judges and Courtrooms and Orders, Forms and Procedures.

**K. CERTIFICATIONS**

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

1.All discovery has been completed.

2.The identity of each witness has been disclosed to opposing counsel.

3.Each exhibit listed herein: (1) is in existence; (2) is numbered; and (3) has been disclosed and shown to opposing counsel.

4.The parties have complied in all respects with the mandates of the Court’s Rule 16 Scheduling Order and Order Setting Final Pretrial Conference.

5.The parties have made all of the disclosures required by the Federal Rules of Civil Procedure (unless otherwise previously ordered to the contrary).

6.The parties acknowledge that once this Proposed Final Pretrial Order has been signed and lodged by the parties, no amendments to this Order can be made without leave of Court."

**L. INFORMATION FOR COURT REPORTER**

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

1. Proper names, including those of witnesses.

2. Acronyms.

3. Geographic locations.

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.

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Attorney for Plaintiff(s) Attorney for Defendant(s)

Based on the foregoing,

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

DATED this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2009.