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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

,
Plaintiff,
v.
,
Defendant.

No.
**PROPOSED FINAL PRETRIAL
ORDER FOR TRIAL TO THE
COURT**

The following is the joint Proposed Final Pretrial Order to be considered at the Final Pretrial Conference set for _____, 20__ 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.)

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

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

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

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

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

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

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

12 Plaintiff Contends: Plaintiff looked both ways before crossing street

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

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

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

18 Plaintiff Contends: . . .

19 Defendant Contends: . . .

20 Each party shall file trial brief, limited to 10 pages, on all contested issues of law
21 contemporaneously with the filing of the Proposed Final Pretrial Order.

22 **E. LIST OF WITNESSES**

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

25 The witnesses shall be grouped as follows: (a) witnesses who shall be called at trial;
26 (b) witnesses who may be called at trial; and (c) witnesses who are unlikely to be called
27 at trial. Additionally, the parties shall include the following text in this section of
28 the Proposed Final Pretrial Order: "Each party understands that it is responsible for

1 ensuring that the witnesses it wishes to call to testify are subpoenaed. Each party further
2 understands that any witness a party wishes to call shall be listed on that party's list of
3 witnesses; the party cannot rely on the witness having been listed or subpoenaed by
4 another party."

5 **F. LIST OF EXHIBITS**

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

8 a. Plaintiff's Exhibits:

9 b. Defendant's Exhibits:

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

12 a. Plaintiff's Exhibits:

13 b. Defendant's Exhibits:

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

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

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

24 If there are more than 20 exhibits, the parties shall submit their exhibit lists in writing, the
25 day before trial, in a format to be designated by the Court at the Final Pretrial
26 Conference, in Word format either by email to Rayes_Chambers@azd.uscourts.gov or on
27 an IBM-compatible computer disk.

28

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

4 **G. DEPOSITIONS TO BE OFFERED**

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

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

15 Additional parts of a deposition which a party requests under Fed.R.Civ.P.
16 32(a)(4) to be considered with the part introduced by an opposing party shall be identified
17 by page and number line and shall be highlighted in the requesting party's color.

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

22 **H. LIST OF PENDING MOTIONS**

23 List all pending motions.

24 **I. PROCEDURES FOR EXPEDITING TRIAL**

25 The parties shall discuss and report on all available procedures that might be used
26 to expedite trial, including but not limited to (a) presenting stipulated summaries of
27 deposition testimony rather than reading deposition excerpts; (b) editing videotaped
28 depositions to limit the amount of time required for presentation; (c) using summary

1 exhibits in place of voluminous documentary evidence; (d) stipulations on authenticity
2 and foundation; (e) presenting direct expert testimony through summary or written
3 reports; (f) using the courtroom technology to expedite the presentation of evidence. The
4 parties are invited to contact Michele Morgan, Judge Rayes’s Courtroom Deputy Clerk,
5 to arrange a time to visit the courtroom and examine its technology. Information about
6 courtroom technology can also be found at www.azd.uscourts.gov under Judges’
7 Information.

8 **J. ESTIMATED LENGTH OF TRIAL**

9 _____ hours for opening statements and closing arguments

10 _____ hours for Plaintiff(s) case, including cross-examination of other parties’
11 witnesses

12 _____ hours for Defendant(s) case, including cross-examination of other parties’
13 witnesses

14 _____ hours for Plaintiff(s) rebuttal

15 _____ TOTAL ESTIMATED TIME

16 **K. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

17 Each party shall separately submit proposed findings of fact and conclusions of
18 law.

19 **L. CERTIFICATIONS**

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

- 23 1. All discovery has been completed.
- 24 2. The identity of each witness has been disclosed to opposing counsel.
- 25 3. Each exhibit listed herein: (1) is in existence; and (2) has been
26 disclosed and shown to opposing counsel.

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- 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."

M. 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.

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,

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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 _____, 2014.

Douglas L. Rayes
United States District Judge