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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

,)	No. CV-__-_____ PHX/PCT-DGC
	Plaintiff(s),)	PROPOSED FINAL PRETRIAL ORDER
	v.)	
	,)	
	Defendant(s).)	

The following is the joint Proposed Final Pretrial Order to be considered at the Final Pretrial Conference set for _____, **2009** 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:

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 must
12 be stated separately in specific terms. Each party's contention must be set forth with respect
13 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 **E. LIST OF WITNESSES**

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

27 **F. LIST OF EXHIBITS**

28 1. The following exhibits are admissible in evidence and may be marked in

1 evidence by the Clerk:

2 a. Plaintiff's Exhibits:

3 b. Defendant's Exhibits:

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

6 a. Plaintiff's Exhibits:

7 b. Defendant's Exhibits:

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

10 a. Plaintiff's Exhibits: (E.g., City Hospital records of Plaintiff from March
11 6, 1985 through March 22, 1985. Defendant objects for lack of foundation
12 because . . . (the objection must specify why there is a lack of foundation.))

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

17 If there are more than 20 exhibits, the parties shall submit their exhibit lists in writing, five
18 days before trial, in a format to be designated by the Court at the Final Pretrial Conference,
19 in WordPerfect® 9.0 format either by email to Nancy_Outley@azd.uscourts.gov or on an
20 IBM-compatible computer disk.

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

24 **G. DEPOSITIONS TO BE OFFERED**

25 The parties shall list the depositions that may be used at trial. The portions to be read
26 or submitted at trial shall be identified by page and line number. Additionally, the party
27 offering the deposition shall provide the Court with a copy of the offered deposition
28 testimony. The offering party shall highlight, in color, the portions of the deposition to be

1 offered. If multiple parties are offering the same deposition, only one copy of such
2 deposition shall be provided. Such copy shall contain each party's highlighting (each party
3 should use a different color).

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

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

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

11 **I. LIST OF PENDING MOTIONS**

12 List all pending motions.

13 **J. PROCEDURES FOR EXPEDITING TRIAL**

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

24 **K. ESTIMATED LENGTH OF TRIAL**

25 ____ hours for opening statements and closing arguments

26 ____ hours for Plaintiff(s) case

27 ____ hours for Defendant(s) case

28 ____ hours for rebuttal

1 **L. JURY DEMAND**

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

- 4 1. The parties stipulate that the request was timely and properly made;
5 2. The Plaintiff/Defendant contends that the request was untimely
6 made because . . . (explain why request was untimely); or
7 3. The Plaintiff/Defendant contends that although the request for trial
8 by jury was timely, the request is otherwise improper as a matter of law
9 because . . . (indicate the legal basis for why a jury trial is improper).

10 **M. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR**
11 **BENCH TRIALS**

12 Proposed Findings of Fact and Conclusions of Law shall be lodged by each party as
13 a separate pleading in accordance with the instructions contained in the Order Setting Final
14 Pretrial Conference. The parties shall include the following text in this section of the
15 Proposed Final Pretrial Order: “The separately lodged Proposed Findings of Fact and
16 Conclusions of Law are incorporated by reference into this joint Proposed Final Pretrial
17 Order.”

18 **N. JOINT PROPOSED JURY INSTRUCTIONS, JOINT PROPOSED VOIR DIRE**
19 **QUESTIONS, AND PROPOSED FORMS OF VERDICT FOR JURY TRIALS**

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

23 **O. CERTIFICATIONS**

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

- 27 1. All discovery has been completed.
28 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)

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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."

P. 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.

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 _____, 2009.

David G. Campbell
United States District Judge