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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

,) CV-____-____-PHX-NVW
Plaintiff(s),)
v.) **PROPOSED FINAL PRETRIAL**
) **ORDER FOR BENCH TRIAL**
,)
Defendant(s).)
_____)

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

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

4 **C. 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 **D. 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.

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1 **E. LIST OF WITNESSES**

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

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

12 **F. LIST OF EXHIBITS**

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

15 **a.** Plaintiff's Exhibits:

16 **b.** Defendant's Exhibits:

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

19 **a.** Plaintiff's Exhibits:

20 **b.** Defendant's Exhibits:

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

23 **a.** Plaintiff's Exhibits: (E.g., City Hospital records of Plaintiff from
24 March 6, 1985 through March 22, 1985. Defendant objects for lack of
25 foundation because . . . (the objection must specify why there is a lack of
26 foundation.))
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1 b. Defendant's Exhibits: (E.g., Payroll records of Plaintiff's employer
2 which evidence payment of Plaintiff's salary during hospitalization and
3 recovery. Plaintiff objects on grounds of relevance and materiality because
4 ...(the objection must specify why the exhibit is not relevant or material.))
5

6 If there are more than 20 exhibits, the parties shall submit their exhibit lists in
7 writing, the day before trial, in a format to be designated by the Court at the Final Pretrial
8 Conference, in Microsoft Word 2010 (.doc) format (or higher) either by email to
9 Wake_Chambers@azd.uscourts.gov or on an IBM-compatible computer disk.

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

13 **G. DEPOSITIONS TO BE OFFERED**

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

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

24 The parties shall include the following text in this section of the joint Proposed
25 Final Pretrial Order: "Each party hereby acknowledges by signing this joint Proposed
26 Final Pretrial Order that any deposition not listed as provided herein will not be allowed,
27 absent good cause."
28

1 **H. LIST OF PENDING MOTIONS**

2 List all pending motions.

3 **I. PROCEDURES FOR EXPEDITING TRIAL**

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

15 **J. ESTIMATED LENGTH OF TRIAL**

16 ____ hours for opening statements and closing arguments

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

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

21 ____ hours for Plaintiff(s) rebuttal

22 ____ TOTAL ESTIMATED TIME

23 **K. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR**
24 **BENCH TRIALS**

25 Proposed Findings of Fact and Conclusions of Law shall be lodged by each party
26 as a separate pleading. They shall be submitted in Microsoft Word 2010 (.doc) format
27 (or higher) either by email to Wake_Chambers@azd.uscourts.gov or on an

1 IBM-compatible computer disk. The parties shall include the following text in this section
2 of the Proposed Final Pretrial Order: "The separately lodged Proposed Findings of Fact
3 and Conclusions of Law are incorporated by reference into this joint Proposed Final
4 Pretrial Order."

5 **L. CERTIFICATIONS**

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

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

23 **M. INFORMATION FOR COURT REPORTER**

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

- 27 1. Proper names, including those of witnesses.

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- 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)

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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
United States District Judge