

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

X, : NO. \_\_\_\_\_  
 :  
 Plaintiff, :  
 :  
 v. :  
 :  
 :  
 Y, :  
 :  
 Defendants. :

**FINAL PRETRIAL ORDER**

(A final pretrial order following this form must be jointly prepared and submitted by counsel to the Clerk of this Court at least three (3) days prior to the date of the final pretrial conference.)

This action came before the Court at a final pretrial conference held on the day of at M., pursuant to Rule 16, Federal Rules of Civil Procedure.

I. APPEARANCES:

For Plaintiff(s):

For Defendant(s):

II. NATURE OF ACTION AND JURISDICTION:

B. This is an action for

C. The jurisdiction of the Court is invoked under Title United States Code, Section

D. The jurisdiction of the Court is disputed.

III. TRIAL INFORMATION:

A. The established length of trial is days.

- B. (1) Trial to has been set for  
(Date):

AGREED STATEMENTS AND LISTS:

A. General Nature of the Claims of the Parties

- (1) PLAINTIFF CLAIMS: (suggested type of  
simple language).

"Plaintiff asserts in Count 1 a right of  
recovery for defendant(s) negligence as  
follows:"

"Plaintiff asserts in Count 2 a right of  
recovery for defendant(s) wanton and  
willful misconduct as follows:"

"Plaintiff asserts in Count 3 a right to  
punitive damages and attorney fees for  
the following reasons:"

- (2) DEFENDANT CLAIMS: (suggested type of  
simple language)

"Defendant denies liability as asserted  
in Counts for the following reasons:"

"Defendant as an affirmative defense  
asserts that plaintiff was contributorily  
negligent as follows:

"Defendant as an affirmative defense  
asserts that plaintiff's claims are  
barred by the Statute of Limitations for  
the following reasons:

B. Uncontroverted Facts

Suggested Language:

"The following facts are established by  
admissions in the pleadings or by  
stipulations of counsel" (set forth and  
number uncontroverted or uncontested  
facts.)

C. Issues of Fact and Law

Suggested Language:

- A. CONTESTED ISSUES OF FACT: "The contested issues of fact remaining for decision are: (list)"
- B. CONTESTED ISSUES OF LAW: "The contested issues of law in addition to those implicit in the foregoing issues of fact, are: (set forth) OR: There are no special issues of law reserved other than those implicit in the foregoing issues of fact."

D. Witnesses

Suggested Language:

- (1) "Plaintiff will call or will have available for testimony at trial those witnesses listed on Appendix A hereof."
- (2) "DEFENDANT will call or will have available for testimony at trial those witnesses listed on Appendix A hereof."
- (3) "\_\_\_\_\_ will call or will have available for testimony at trial those witnesses listed on Appendix C hereof."
- (4) "The parties reserve the right to call without prior notice to opposing counsel refutation witnesses whose testimony could not reasonably be anticipated."

INSTRUCTIONS:

- (1) Leave to call additional witnesses may be granted by the Court in unusual situations. Counsel seeking such leave must file a Motion to Add Witnesses and serve a copy upon opposing counsel with names, addresses, and an offer of proof of such witness; testimony at least five (5) days prior to trial.
- (2) The order in which witnesses are listed

will be deemed the order in which such witnesses will be called unless counsel presents a revised order of witnesses' appearance at least 48 hours in advance of such appearances.

Leave to call witnesses out of order for reasons that could not reasonably be anticipated will be freely granted.

E. Expert Witnesses

Suggested Language:

"Parties are limited to the following number of expert witnesses, including treating physicians, whose names have been disclosed to the other side:"

Plaintiff(s) \_\_\_\_\_ Defendant(s) \_\_\_\_\_

F. Exhibits

The parties will offer as exhibits those items listed herein as follows:

- (1) Joint Exhibits - Appendix E (use Roman numerals).
- (2) Plaintiff Exhibits - Appendix F (use Arabic numerals)
- (3) Defendant Exhibits - Appendix G (use letters)
- (4) third-Party Exhibits - Appendix H (use letters prefixed by initial of party)

INSTRUCTIONS:

The above exhibits will be deposited with the Clerk of the Court at least ten (10) days prior to trial. Exhibit markers obtainable from Kevin Moser, Courtroom Deputy Clerk, should be affixed to the upper right corner.

See Section II(A) of instructions entitled "Trial Practices: Preparation of Exhibits."

Suggested Language:

"Testimony of the following witnesses will be offered by deposition/video tapes;" OR

"No testimony will be offered by deposition/video tape."

INSTRUCTIONS:

Depositions must be filed by the time of final pretrial conference with the portions to be read noted therein. An opportunity will be given to opposing counsel to read any omitted portion. Counsel will be notified at trial of rulings on all objections.

See Section II(C) of Instructions entitled "Trial Practices: Depositions"

G. Discovery

Suggested Language:

"Discovery has been completed." OR

"The following provisions have been made for discovery.

H. Pending Motions

Suggested Language:

"The following motions are pending at this time."

"There are not pending motions at this time."

I. Miscellaneous Orders

INSTRUCTIONS:

Set forth any orders not properly includable elsewhere.

IV. MODIFICATION

Suggested Language:

"This final pretrial order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel, or on motion of the Court."

V. SETTLEMENT EFFORTS

Suggested Language

"The parties have made a good faith effort to negotiate a settlement," OR  
"\_\_\_\_\_."

VI. A. TRIAL TO A JURY

Proposed Instructions -  
Suggested Language:

"The parties have made a good faith effort to negotiate a settlement," OR  
"\_\_\_\_\_"

"The parties will submit proposed Jury Instructions at least three days prior to trial."

See Section II(B) of these instructions, entitled "Trial Practices - Jury Instructions."

B. TRIAL TO THE COURT

Proposed Findings of Fact and Conclusions of Law -

"The parties submit herewith those Findings of Fact and Conclusions of Law that respective counsel believes the Court should make."

See section II(F) of Instructions, entitled "Trial Practices - Proposed Findings of Fact and Conclusions of Law."

\_\_\_\_\_  
S. Arthur Spiegel  
United States Senior District Judge

\_\_\_\_\_  
Counsel for Plaintiff(s)

\_\_\_\_\_  
Counsel for Defendant(s)

\_\_\_\_\_  
Counsel for

APPENDIX A

PLAINTIFF WITNESSES

NAME

ADDRESS

SYNOPSIS OF TESTIMONY

APPENDIX B

DEFENDANT WITNESSES

NAME

ADDRESS

SYNOPSIS OF TESTIMONY

APPENDIX C

THIRD PARTY WITNESSES

NAME

ADDRESS

SYNOPSIS OF TESTIMONY

The following is intended to qualify your witnesses as experts. It may be read to the jury in the form given, and, if so, the Court reserves the right to remove extraneous or repetitious material.

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

PRESENT TITLE \_\_\_\_\_

DUTIES \_\_\_\_\_

\_\_\_\_\_

EDUCATION AND DEGREES \_\_\_\_\_

\_\_\_\_\_

TEACHING EXPERIENCE \_\_\_\_\_

\_\_\_\_\_

JOB EXPERIENCE \_\_\_\_\_

\_\_\_\_\_

ASSOCIATIONS & SOCIETIES \_\_\_\_\_

\_\_\_\_\_

PUBLICATIONS \_\_\_\_\_

\_\_\_\_\_

HONORS \_\_\_\_\_

OTHER PERTINENT INFORMATION \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

APPENDIX E

JOINT EXHIBITS OF PLAINTIFF AND DEFENDANT  
(Use Roman numerals)

<u>NUMBER</u>	<u>DESCRIPTIONS</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>PROFFERED</u>
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APPENDIX F

EXHIBIT OF PLAINTIFF  
(Use Arabic numerals)

<u>NUMBER</u>	<u>DESCRIPTIONS</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>PROFFERED</u>
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APPENDIX G

EXHIBIT OF DEFENDANT  
(Use letters)

<u>NUMBER</u>	<u>DESCRIPTIONS</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>PROFFERED</u>
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APPENDIX H

EXHIBIT OF \_\_\_\_\_  
(Use letters prefixed by initial of party)

<u>NUMBER</u>	<u>DESCRIPTIONS</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>PROFFERED</u>
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DISCLOSURE OF CORPORATE AFFILIATIONS  
AND FINANCIAL INTEREST

Pursuant to 28 U.S.C. § 455, the Court requests that each party make the following disclosure:

- 1) Is said party a subsidiary or affiliate of a publicly owned corporation?

(Check Once)  Yes  No

If the answer is YES, list below the identity of the parent corporation or affiliate and the relationship between it and the names party;

- 2) Is there a publicly owned corporation, not a party to the litigation, that has a financial interest in the outcome?

(Check One)  Yes  No

If the answer is YES, list the identity of such corporation and the nature of the financial interest.

\_\_\_\_\_  
(Party)

By: \_\_\_\_\_ Date: \_\_\_\_\_

28 U.S.C. § 455. Disqualification of Justice, Judge, Magistrate or Referee in Bankruptcy.

- (a) Any justice, judge, magistrate, or referee in bankruptcy of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. He shall also disqualify himself in the following circumstances:

\* \* \* \*

- (4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or is a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

\* \* \* \*

- (e) No justice, judge, magistrate, or referee in bankruptcy shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.