

CIVIL PROCEDURES¹

**S. ARTHUR SPIEGEL
SENIOR UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
AT CINCINNATI**

I. PRETRIAL PROCEDURE**A. DISCOVERY CONFERENCE, JOINT DISCOVERY PLAN, AND REQUIRED DISCLOSURE****1. Discovery Conference**

As soon as all counsel are identified, but in any event no later than receipt of notice of the preliminary pretrial conference, all counsel shall agree on a date for the discovery conference required by Fed. R. Civ. P. 26(f).

2. Joint Discovery Plan²

Following the discovery conference, the parties shall file the discovery plan required by Fed. R. Civ. P. 26(f)(3). The plan must include the parties' views and proposals concerning:

(A) what changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made;

(B) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues;

(C) any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced;

(D) any issues about claims of privilege or of protection as trial-preparation materials, including--if the parties agree on a procedure to assert these claims after production--whether to ask the court to include their agreement in an order;

¹ This document and other pretrial procedures and forms are available on the Court's website at www.ohsd.uscourts.gov. Click on Judges, then S. Arthur Spiegel, then Forms and Procedures. Attorneys lacking internet access can contact the case manager.

² Attorneys may access a Joint Discovery Plan form on the Court's website listed above.

(E) what changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed; and

(F) any other orders that the court should issue under Rule 26(c) or under Rule 16(b) and (c).

In addition, the parties must indicate in the Plan whether they consent to the Magistrate Judge.

3. Mandatory Disclosure

Unless otherwise agreed in the discovery plan, the parties shall make the disclosures required by Fed. R. Civ. P. 26(a)(1) within 14 days after the discovery conference.

B. PRELIMINARY PRETRIAL CONFERENCE

The Court will schedule a preliminary pretrial conference to occur within 60 days of the date when all counsel are identified. Generally, this conference will be conducted in person, unless otherwise noted in the pretrial notice. Out-of-town counsel need not be present for preliminary pretrial conferences unless otherwise notified by the Court. A telephone conference can be arranged to include all out-of-town counsel. The Court will establish cut-off dates for motions addressed to the pleadings and for discovery; a tentative date for the final pretrial conference and a tentative date for trial will be set at the conference, or counsel will be notified of dates soon afterward. In addition, the conference will deal with the following matters, wherever applicable:

1. What are the essential facts and legal claims at issue from each party's perspective?

2. What will be involved in discovery and how much time will be required for it?

A discovery cut-off date will be established. This Court's general rule is to permit six months of discovery in most cases.

3. Will there be expert witnesses, and, if so, what dates should be set out for the disclosure of expert witnesses?

The Court's usual practice is to require the disclosure of plaintiff's experts with their reports 30 to 45 days before the defendant is required to disclose experts. (See Fed. R. Civ. P. 26(a)(2)(B) and (C))

4. How many days will it take to try the case?

5. Have there been any settlement discussions?

C. COUNSEL NOT ADMITTED IN THE SOUTHERN DISTRICT

Counsel admitted to practice before the highest court of any state may move to be admitted in the Southern District of Ohio for purposes of appearance in a specific case. Counsel must attach to the motion for admission pro hac vice a Certificate of Good Standing issued by the highest court of any state, and the appropriate filing fees. See S.D. Ohio L.R. 83.3. Permission will be conditional only and may be withdrawn at any time. See Leis v. Flynt, 439 U.S. 438 (1979).

Counsel admitted pro hac vice shall obtain local counsel who is familiar with the procedures in the Southern District of Ohio. Counsel admitted pro hac vice are also expected to familiarize themselves with, and to follow, the Southern District of Ohio Civil Rules, as well as all standing orders of this Court.

The order granting admission pro hac vice is conditioned upon counsel's registration and participation in the court's electronic filing system.

D. DISCOVERY

THIS COURT DOES NOT PERMIT DISCOVERY MOTIONS, i.e., motions to compel or motions for protective order regarding discovery disputes, unless and until counsel first attempt to resolve disputes by extrajudicial means.

A discovery cut-off date will be set at the initial pretrial conference. All discovery matters must be noticed to the other party before the cut-off date. Any discovery problems will be handled by the United States Magistrate, except for extension of the cut-off date, which will be considered by the Court.

Counsel may, by agreement, continue discovery beyond the cut-off date. No supervision or intervention by the Court, such as a Rule 37 proceeding, will occur after the cut-off date without a showing of extreme prejudice, except as to matters which were properly noticed before the cut-off date.

E. MOTIONS & MEMORANDA

1. All Motions

Other than motions required by law to be set for a hearing, with notice given to all counsel, and motions upon which a specific request for a hearing has been made and granted by the Court, all motions shall be submitted without oral argument on the memoranda filed with the Clerk on the schedule set forth in S.D. Ohio L.R. 7.2, unless otherwise ordered.

2. **Limitations on Briefs & Memoranda**

BRIEFS AND/OR MEMORANDA IN SUPPORT OF OR IN OPPOSITION TO ANY MOTION IN THIS COURT SHALL NOT EXCEED TWENTY PAGES WITHOUT FIRST OBTAINING LEAVE OF COURT.

A motion for leave must set forth the reasons that excess pages are required and the number of pages sought.

If leave of Court is granted, counsel must include: (1) a table of contents indicating the main sections of the memorandum, the arguments made in each section, and the pages on which each section and subsection may be found; and (2) a succinct, clear, and accurate summary not to exceed five (5) pages of the principal arguments made and citations to the primary authorities relied upon in the memorandum. All briefs and memoranda shall comply with the formal requirements of S.D. Ohio L.R. 7.2.

In the spirit of compliance with the rules, all briefs and memoranda shall comport with the following:

- Double spaced lines; one inch margins top, bottom, left and right.
- Main body of text a minimum of 12 point font and footnotes in 10 point font.

G. **SETTLEMENT CONFERENCE**

In an effort to encourage settlements, the Court may schedule a settlement conference at any time. Counsel also may request that a conference be scheduled at any time when it appears such a conference would be fruitful.

ATTORNEYS ATTENDING SETTLEMENT CONFERENCES MUST HAVE AVAILABLE, EITHER IN PERSON OR BY TELEPHONE, THEIR CLIENT OR REPRESENTATIVE WITH FULL SETTLEMENT AUTHORITY.

By full settlement authority, the Court means the person or persons attending must have the authority independently to make all necessary financial and settlement decisions.

H. **FINAL PRETRIAL CONFERENCE**

Approximately thirty (30) days prior to the trial date, the Court will hold a Final Pretrial Conference. At least five (5) days prior to such final pretrial, counsel will file a joint pretrial order with the Clerk of Court in the form of the Final Pretrial Order attached as Appendix A hereto. Trial counsel are expected to be present at

final pretrial conferences. No attorney who has not attended the final pretrial conference may act as trial counsel except with the Court's permission.

I. DEADLINES

Parties are reminded that all deadlines set forth in this Order, in the form of the Final Pretrial Order attached as Appendix A, and in any other Order issued by this Court are firm deadlines. The parties shall file all required documents by the dates set forth in these Orders unless prior approval of the Court for filing on a later date has been obtained. The Court can and will impose sanctions, including monetary sanctions, for failure to meet these deadlines.

II. TRIAL PRACTICE

Conduct of counsel during all Court appearances will be governed by the following instructions:

A. COUNSEL TABLES

The plaintiff in all civil cases and the United States Government in criminal cases will occupy the counsel table to the Court's right. Defendants in both civil and criminal cases will occupy the counsel table to the Court's left.

B. COURT SESSIONS

Trials to the Court will usually start at 9:00 a.m. Trials to a jury may start at 9:30 a.m. on the first day and at 9:00 a.m. on all succeeding days. The morning session will continue until approximately 12:15 p.m. There will be a morning recess of approximately 15 minutes at or about 10:30 a.m. The afternoon session will usually end at approximately 5:00 p.m. There will be a recess of 15 minutes at approximately 3:00 p.m.

Counsel and the parties shall be present in the courtroom one half (½) hour before Court convenes every day. The purpose of this requirement is to resolve any problems that may arise during the course of this trial. If counsel need to bring anything to the Court's attention, they should contact the case manager or law clerk so that the Court can resolve the matter before the jury is brought into the courtroom. Counsel should also be readily available for conferences during recesses. Please keep the case manager informed as to where you may be located in case the Court needs to find you quickly.

C. COURTROOM EQUIPMENT

The courtroom has no permanent audio/visual equipment installed. While the Court does have access to a limited amount of portable equipment (a projector,

visualizer, screen and TV/VCR/DVD player), the Court strongly encourages counsel to make arrangements for any equipment that is needed during the course of trial to be brought in from outside sources. Any specific questions should be directed to Kevin Moser, Case Manager, at (513) 564-7623.

D. ADDRESSES BY COUNSEL

Counsel will address the Court and the jury in the following manner:

1. Voir dire examination, opening statements and closing arguments will be conducted from the lectern facing the jury.
2. All addresses to the Court will be made from the lectern facing the Court.
3. Counsel shall stand when addressing the Court for any reason.

E. DECORUM

Colloquy or argument between counsel shall not be permitted. All remarks shall be addressed to the Court.

Appearance, mannerisms, or habits that are designed to arouse the sympathy or prejudice of the jury are an impediment to an impartial trial and will not be permitted.

During a trial, counsel shall not exhibit familiarity with witnesses, jurors or opposing counsel and shall avoid the use of first names.

During opening statements and final arguments, all persons at counsel table shall remain seated and be respectful so as not to divert the attention of the Court or the jury.

Do not ask the court reporter to mark testimony. All requests for re-reading of questions or answers shall be addressed to the Court.

F. VOIR DIRE EXAMINATION

Counsel will conduct voir dire examination unless otherwise advised at a pretrial conference. At times, a civil jury may be impaneled by the United States Magistrate in advance of trial. Civil juries will consist of six persons plus one or two alternates.

If the Court conducts voir dire examination, counsel are requested to submit any questions in writing to the Court in advance of trial. Supplemental examination by counsel should be limited to matters peculiarly applicable to the individual juror's qualifications.

Counsel may not repeat in the same or other form of language questions put to the panel by the Court.

Counsel must address questions to the entire panel of prospective jurors. Counsel may question an individual juror only if such juror responds affirmatively to questions put to the entire panel. The Court will limit individual examination to those matters pertinent to the issue at trial.

Challenges for cause will be exercised outside of the presence of the jury at sidebar.

Peremptory challenges will be exercised at the bench, alternately, with the plaintiff exercising the first challenge. The Court will announce those who are excused.

A pass does not count as a challenge. After any round of challenges is complete, those remaining in the box at that time may not be challenged later.

At the conclusion of the peremptory challenges, the Court will indicate the composition of the jury.

G. JURY INSTRUCTIONS & VERDICT FORM

Counsel are required to provide jury instructions to the Court only on the issues of the law applicable to the claims made and on damages. Counsel also shall provide proposed juror interrogatories. The Court will provide general instructions on issues such as credibility, etc.

Five (5) business days before trial, counsel shall (i) electronically file proposed instructions and interrogatories and (ii) email the instructions in Word to Kevin_Moser@ohsd.uscourts.gov. Supplemental requests for instructions during the course of the trial or at the conclusion of the evidence will be granted solely as to those matters that cannot be reasonably anticipated at the time of presentation of the initial set of instructions.

Whether agreed or not agreed, each instruction should be on a separate page identified as “Plaintiff’s (Defendant’s or Joint) Requested Instruction No. _____” and include citations of authority (including the page number for the specific legal proposition for which you are citing the case) at the bottom of each instruction. Counsel must submit an index of their proposed instructions.

In diversity and other cases where Ohio law provides the rules of decision, use of Ohio Jury Instructions (“OJI”) as to all issues of substantive law is generally preferred. Counsel should ensure that substantive instruction from OJI comports with current Ohio law. To the extent that the case is governed by state law other than Ohio law, parties may use an analogous state law treatise and provide the Court with copies of the relevant portions therefrom.

As to all matters governed by federal law, counsel should use:

1. Sixth Circuit case law and pattern instructions;
2. Federal Jury Practice and Instruction by O'Malley, Grenig & Lee; or
3. any pattern jury instructions published by a federal court. Counsel must make certain substantive instructions on federal questions conform to Sixth Circuit case law.

H. EXAMINATION OF WITNESSES

Counsel shall conduct their examination from the lectern adjacent to Plaintiff's counsel's table and the jury box. In advance of trial, counsel will instruct all his witnesses to answer questions with courtesy. Evasive answers, answering a question with a question or disrespect to opposing counsel will not be permitted. Counsel are expected to extend equal courtesy to all witnesses. Counsel will wait until the witness has finished an answer before asking the next question. Multiple questions and repetitious questions will not be permitted. Counsel may not, by any action, inflection or expression indicate disbelief of any witness' answer.

Counsel will indicate to the Court that he has completed examination of a witness. Only the Court will advise opposing counsel to proceed.

Counsel will stand when making an objection. No explanation of the objection may be made unless counsel are called to a bench conference.

When a party has more than one attorney, only one may conduct the direct or cross-examination of a given witness.

Counsel shall not approach a witness without asking the permission of the Court. When permission is granted for the purpose of working with an exhibit, counsel should resume the examination from the lectern when finished with the exhibit. In most cases, the courtroom deputy will place exhibits before the witness.

The judiciary's privacy policy restricts the publication of certain personal data in documents filed with the court. The policy requires limiting Social Security and financial account numbers to the last four digits, using only initials for the names of minor children, and limiting dates of birth to the year. However, if such information is elicited during testimony or other court proceedings, it will become available to the public when the official transcript is filed at the courthouse unless, and until, it is redacted. The better practice is for you to avoid introducing this information into the record in the first place. Please take this into account when questioning witnesses or making other statements in court. If a restricted item is mentioned in court, you may ask to have it stricken from the record or partially reacted to conform to the privacy policy by following the procedures set forth in the Judicial Conference policy on electronic availability of transcripts of court proceedings, or the court may do so on its own motion. The policy is located at

www.ohsd.uscourts.gov (Forms–Electronic Availability of Transcripts).

I. OBJECTIONS

Counsel will stand when making an objection and will make the objection directly and only to the Court.

When objecting, state only that you are objecting and if requested by the Court state the grounds. Objections shall not be used for the purpose of making speeches, repeating testimony, or attempting to guide a witness or influence the jury.

Argument upon an objection will not be heard unless permission is given or argument is requested by the Court. Either counsel may request a bench conference.

J. EXHIBITS

COUNSEL ARE REQUIRED TO LIST ALL EXHIBITS IN THE FINAL PRETRIAL ORDER.

The following procedure will be followed: All exhibits will be assembled in 3-ring binders. An index to the exhibits shall be in the front of each binder. If the parties have agreed upon joint exhibits, the parties shall submit a joint exhibit binder consistent with these instructions. Exhibits shall be marked as listed in the Joint Proposed Final Pretrial Order, with each exhibit bearing an exhibit sticker and with the same exhibit designation on a tab extended beyond the binder on the right-hand side. Each page of a multi-page exhibit shall be numbered with a distinctive number (e.g., as applied by a BATES numbering machine).

All such documents, photographs and other matter will be assembled in binders with each exhibit bearing a numbered exhibit sticker and the same number on a tab extending beyond the binder on either the bottom or right side thereof. Joint exhibits will bear Roman numerals; plaintiff exhibits, Arabic numbers; and defendant exhibits, letters. Third-party exhibits may be numbered with an identifying letter prefix. Where defendant exhibits exceed 52, defense counsel will promptly advise opposing counsel. In such event, both sides will identify exhibits by number, using alternate three-digit sets; i.e., plaintiff, 100-199, 300-399, 500-599, etc.; defendant, 200-299, 400-499, 600-699, etc.

Each counsel will deposit an **original and two copies of complete sets of his or her exhibits and all joint exhibits** with the Court's Case Manager, not later than the close of business five (5) business days prior to trial.

If any sketches, models, diagrams, etc. will be used during trial or in argument, they must be exhibited to opposing counsel not later than the day before trial. Demonstrative evidence prepared solely for the purpose of final argument shall be displayed to opposing counsel at the earliest possible time, but in no event later

than one-half hour before the commencement of the arguments.

Exhibits deposited with the Court's Case Manager and appropriately marked may be used by any party at trial.

Each party should offer its exhibits into evidence as they are sought to be used at trial. An exhibit to be examined or displayed to the jury must be offered and admitted prior to examination or display. The admissibility of all exhibits referred to during trial and offered by the parties will be ruled upon by the Court at the time that they are identified. Either side may offer any marked exhibit regardless of which party marked it.

Placing a document on the visualizer is the equivalent of handing a document to the jury. Therefore, no exhibit may be placed on the visualizer unless previously admitted or agreed to by the parties.

In formulating a question to a witness dealing with an exhibit, counsel shall specify the exhibit number or designation so that the record will be clear.

Exhibits which are produced for the first time during trial, as in the case of exhibits used for impeachment, shall be tendered to the Court's Case Manager for marking and then copies should be provided to opposing counsel, the Court and the Court's law clerk.

K. DEPOSITIONS

Counsel shall submit to each other their deposition designations at least ten (10) business days before trial. Counsel will confer and attempt to resolve objections by agreement. If any objections remain, counsel shall jointly prepare a list of objections identifying the page number and line(s) of the deposition where the objection will be found and stating in one sentence the grounds for the objection. This procedure applies to both written and videotape depositions. Videotape or DVD depositions which contain objections must be accompanied by a full or, if agreed, partial transcript. The jointly prepared deposition designations list of objections and grounds for these objections must be filed with the Court no later than five (5) business days prior to the commencement of trial.

Counsel are responsible for editing any videotaped or DVD testimony consistent with the Court's ruling on any objections.

N. TRIAL BRIEFS

Trial briefs are optional. If you decide to file a trial brief, it may be filed any time before trial. All briefs shall comply with S.D. Ohio Civ. R. 5.1, with citations and references conforming to S.D. Ohio Civ. R. 7.2(b). Counsel should use their trial briefs to instruct the Court in advance of trial in any area of law upon which counsel will rely at trial. Therefore, the briefs should contain arguments, with citations to legal authority, in support of any evidentiary or other legal questions

which may reasonably be anticipated to arise at trial.

O. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

In trials to the Court only, counsel will, in addition to the joint final pretrial order, separately filed at the time of the final pretrial conference those findings of fact and conclusions of law which each counsel believes the Court should make. This submission may be combined with a pretrial brief. Post-trial briefs will be limited to specific questions assigned by the Court during or after trial. The Court may permit counsel to file supplemental findings of fact and conclusions of law following the trial.

In all events, proposed findings of fact shall cite the particular witness(es) and physical evidence upon which each proposed finding is based; likewise, proposed conclusions of law will cite the most recent Sixth Circuit and state court decisions upon which counsel is relying.

P. MOTIONS IN LIMINE

Motions in Limine must be filed and served not later than ten (10) business days before trial. Responses to the motion(s) shall be filed five (5) business days before trial.

Q. STIPULATIONS

Stipulations shall be set forth in a pleading captioned “Stipulations” and must be signed by all counsel. Stipulations can be filed at any time prior to or during trial.

PRE-SUMMATION CONFERENCE

It is the policy of the Court to hold a conference with counsel in chambers, on the record, prior to summation for the following purposes:

(a) The Court will have prepared a complete jury charge which will be discussed in detail with counsel. Objections will be made at this time, and changes may be made at the Court's discretion. Counsel will know, before summations, the final composition of the charge. Counsel's attention is directed to Rule 51 of the Federal Rules of Civil Procedure.

(b) Counsel and the Court will determine the length of summation to the jury. Plaintiff's counsel and the United States Attorney must use at least half of the allotted time in opening summation.

R. SUMMARY OF DEADLINES

1. Proposed Findings of Fact and Conclusions of Law (Bench Trial): At the final pretrial conference.

2. Motions in Limine: 10 business days before trial
3. Jury Instructions/Interrogatories/Verdict Forms: 5 business days before trial
4. Joint Deposition Designations and Objections: 5 business days before trial
5. Responses to Motions in Limine: 5 business days before trial
6. Exhibits: 5 business days before trial
7. Witness Lists: 3 business days before trial

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

_____	:	
Plaintiff(s),	:	NO. _____
	:	
	:	
v.	:	Senior Judge S. Arthur Spiegel
	:	
	:	FINAL PRETRIAL ORDER (required to
_____	:	be submitted at least five (5) business days
Defendant(s).	:	prior to the Final Pretrial Conference)
	:	

This action came before the Court at a final pretrial conference held on _____, 20__, at ___ a.m./p.m., pursuant to Rule 16, Federal Rules of Civil Procedure.

I. APPEARANCES:

For Plaintiff:

For Defendant:

II. NATURE OF ACTION AND JURISDICTION:

A. This is an action for

- B. The jurisdiction of the Court is invoked under Title ___, United States Code, Section ___.
- C. The jurisdiction of the Court (is/is not) disputed.

III. TRIAL INFORMATION:

- A. The estimated length of trial is ___ days.
- B. Trial to (the Court/a jury) has been set for _____, 20_, pursuant to the General Order on Trial Assignment.

IV. AGREED STATEMENTS AND LISTS:

A. General Nature of the Claims of the Parties

1. Plaintiff Claims:

Set out brief summary without detail; an itemized statement of special damages should be included.

2. Defendant Claims:

Set out brief summary without detail.

3. All other parties' claims:

Same type of statement where third parties are involved.

B. Uncontroverted Facts

Suggested language:

The following facts are established by admissions in the pleadings or by stipulations of counsel:

Set out uncontroverted or uncontested facts.

C. Contested Issues of Fact and Law

Suggested language:

1. Contested Issues of Fact: The contested issues of fact remaining for decision are:

Set out a brief statement of the remaining contested issues of fact.

2. Contested Issues of Law: The contested issues of law in addition to those implicit in the foregoing issues of fact, are:

Set out a brief statement of the remaining contested issues of law.

Or: There are no special issues of law reserved other than those implicit in the foregoing issues of fact.

D. Witnesses

Suggested language:

1. In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call, or will have available at the trial:

Provide a brief individualized synopsis of each witness' testimony.

2. In the absence of reasonable notice to opposing counsel to the contrary, defendant will call, or will have available at the trial:

Provide a brief individualized synopsis of each witness' testimony.

3. In the absence of reasonable notice to opposing counsel to the contrary, _____ will call:

Provide a brief individualized synopsis of each witness' testimony. (Use for third parties, if any).

4. There is reserved to each of the parties the right to call such rebuttal witnesses as may be necessary, without prior notice thereof to the other party.

Note: *Only witnesses listed in the Pretrial Order or identified in accordance with paragraph 4 above will be permitted to testify at the trial, except witnesses called solely for purpose of impeachment or for good cause shown.*

E. Expert Witnesses

Suggested language:

Parties are limited to the following number of expert witnesses, whose names have been disclosed to the other side.

Plaintiff:

List all expert witnesses plaintiff intends to call at trial.

Defendant:

List all expert witnesses defendant intends to call at trial.

Counsel have attached a resume of each expert's qualifications as Appendix A hereto.

F. Exhibits

Exhibit lists should be attached as appendices hereto as follows:

Appendix A Joint Exhibits
Appendix B Plaintiff Exhibits
Appendix C Defendant Exhibits
Appendix D Third-Party Exhibits

Exhibits must be deposited with the Court at least ten (10) days prior to trial. Exhibit markers may be obtained from Kevin Moser, Case Manager, and should be affixed to the upper right-hand corner.

G. Depositions

Suggested language:

Testimony of the following witnesses will be offered by deposition/videotape:

List all witnesses whose testimony will be offered by deposition or videotape. If none, so state.

Depositions must be filed by the time of the final pretrial conference, with the portion 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.

H. Completion of Discovery

Except for good cause, all discovery shall be completed before the Final Pretrial Order is signed by the Court. If discovery has not been completed, the proposed pretrial order shall state what discovery is yet to be done by each side, when it is scheduled, when it will be completed, and whether any problems, such as objections or motions, are likely with respect to the uncompleted discovery.

Suggested language:

Discovery has been completed.

Or: Discovery is to be completed by _____, 20__.

Or: Further discovery is limited to _____.

Or: The following provisions were made for discovery:

Specify all such provisions.

I. Pending Motions

Specify all such motions. If there are none, so state.

J. Miscellaneous Orders

Set forth any orders not properly includable elsewhere.

V. MODIFICATION

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.

VI. JURY INSTRUCTIONS

Jury instructions, including interrogatories, special verdict forms, and an index of the jury instructions shall be submitted by email to Kevin_Moser@ohsd.uscourts.gov and filed in the Clerk's Office at least five (5) business days prior to the commencement of trial.

Each instruction should be on a separate page identified as "Plaintiff's (Defendant's) Requested Instruction No. ___." All instructions must contain a citation of authority (including the page number for the specific legal proposition for which you are citing the case) upon which counsel relies.

VII. TRIAL TO THE COURT

Proposed Findings of Fact & Conclusions of Law: Contemporaneously with the submission of this proposed Final Pretrial Order, the parties separately shall file those Findings of Fact and Conclusions of Law that each counsel believes the Court should make.

IT IS SO ORDERED.

S. ARTHUR SPIEGEL
Senior United States District Judge

Counsel for Plaintiff

Counsel for Defendant