

APPENDIX A

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

_____	:	Case No.
	:	
Plaintiff(s),	:	Judge Dlott
	:	
v.	:	
	:	
_____	:	<u>FINAL PRETRIAL ORDER</u>
	:	<u>(REQUIRED FORM)</u>
	:	
Defendant(s).	:	

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.

Or:

A trial assignment will be made by the Court at a future date.

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.

4. Brief joint statement of facts to be read to jury.

B. Pending Motions/Motions in Limine

1. The following Motions, if any, are pending:

Briefly list motions pending and identify which motions must be decided prior to trial.

2. Plaintiff anticipates/does not anticipate filing Motions in Limine.

If filing Motions in Limine, briefly list the motions that are expected to be filed.

3. Defendant anticipates/does not anticipate filing Motions in Limine.

If filing Motions in Limine, briefly list the motions that are expected to be filed.

Motions in Limine must be filed at least twenty one (21) days prior to the commencement of trial.

C. 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.

D. 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.

E. 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:

As to each witness, state the witness's name and role in the dispute and provide a brief synopsis of the witness's testimony.

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

As to each witness, state the witness's name and role in the dispute and provide a brief synopsis of the witness's testimony.

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

As to each witness, state the witness's name and role in the dispute and provide a brief synopsis of the witness's 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.*

F. Opinion (Expert) Witnesses

Suggested language:

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

Plaintiff:

List all opinion witnesses plaintiff intends to call at trial.

Defendant:

List all opinion witnesses defendant intends to call at trial.

Counsel have attached a resume of each opinion witness's qualifications as Appendix A herein.

G. Exhibits

The exhibit list should be prepared prior to the Final Pretrial Conference and set forth in the Final Pretrial Order. Exhibit markers should be attached to all exhibits at the time they are shown to opposing counsel during the preparation of the pretrial order. Exhibit markers should be attached to the lower right-hand corner whenever possible.

Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the Final Pretrial Order, with the exception of exhibits to be used solely for the purpose of impeachment.

Exhibit lists should be attached as appendices to the Final Pretrial Order as follows:

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

H. 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, and state the method of presentation. If none, so state.

I. 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.

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 in Microsoft Word format to dlott_chambers@ohsd.uscourts.gov at least twenty one (21) days prior to the commencement of trial. In addition, all of the above shall be electronically filed with the Clerk's Office at least twenty one (21) days prior to the commencement of trial. There is reserved to counsel the right to submit supplemental requests for instructions during trial, or at the conclusion of the evidence, but only on matters that cannot be reasonably anticipated.

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. A request for special instructions must be filed with the Clerk's Office, prior to presentation to the Court.

Fourteen (14) days before trial, counsel shall file objections to proposed instructions/interrogatories/verdict forms. All objections shall include citation to

authority (including the page number for the specific legal proposition for which you are citing the case). Failure to assert any foreseeable objection at this time may constitute waiver of that objection.

VII. SETTLEMENT EFFORTS

Set forth circumstances surrounding the parties' efforts to negotiate a settlement.

VIII. 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.

IX. WORD FORMAT

This proposed Final Pretrial Order shall be emailed in Word format to dlott_chambers@ohsd.uscourts.gov at least seven (7) days prior to the Final Pretrial Conference. It should not be filed with the Clerk's Office.

X. ADDITIONAL ACTION TAKEN

Suggested language: The foregoing stipulations and statements were amended at the Final Pretrial Conference as follows:

IT IS SO ORDERED.

Judge Susan J. Dlott
United States District Court

Date

Counsel for Plaintiff

Counsel for Defendant