

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

Plaintiff(s)

vs.

Case Number: _____

District Judge _____

Defendant(s).

FINAL PRETRIAL ORDER

(A proposed final pretrial order following this form must be jointly prepared and filed not later than the date set forth in the Preliminary Pretrial Conference Order.)

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

I. APPEARANCES:

For Plaintiff(s):

For Defendant(s):

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 subject matter jurisdiction of the Court (is) (is not) disputed. [If disputed,
state by which party and on what basis.]

III. TRIAL INFORMATION:

A. The estimated length of trial is _____ days.

B. Trial to _____ has been set for _____.

IV. 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 defendants' negligence as follows:

"Plaintiff asserts in Count 2 a right of recovery for defendants' 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:

(3) ALL OTHER PARTIES' CLAIMS

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:

(1) "CONTESTED ISSUES OF FACT: The contested issues of fact remaining for decision are: (list)"

(2) "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."

If the parties are unable to agree on what the contested issues of fact or law are, their respective contentions as to what the issues are shall be set forth separately and clearly labeled.

D. Witnesses

Suggested Language:

(1) "Plaintiff will call or will have available for testimony at trial those witnesses listed in Appendix A hereof."

(2) "Defendant will call or will have available for testimony at trial those Witnesses listed on Appendix B 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 rebuttal witnesses whose testimony could not reasonably be anticipated without prior notice to opposing counsel."

INSTRUCTIONS:

(1) A brief one or two sentence synopsis of the witnesses' testimony must be given -- i.e., "Will testify to pain and suffering," "Will testify to lost profits, *etc.*"

(2) Leave to call additional witnesses may be granted by the Court in unusual situations on motion with names, addresses, and an offer of proof of such witness' testimony within twenty-four hours after the need to call such witness becomes known.

(3) The witnesses need not be called in the order listed, but the witnesses to be called on the succeeding day shall be disclosed to opposing counsel not later than the end of trial each day, unless otherwise ordered.

E. Expert Witnesses

Suggested Language:

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

Plaintiff (a) Defendant(s)

F. Exhibits

The parties will offer as exhibits those items listed herein and numbered with Arabic numerals as follows:

(1) Joint Exhibits -- Appendix D (marked "JX ____")

(2) Plaintiff Exhibits Appendix E (marked "PX ____")

(3) Defendant Exhibits Appendix F (marked "DX ____")

(4) Third-Party Exhibits -- appendix G (use Arabic numerals prefixed by initial of party.

INSTRUCTIONS:

The above exhibits will be deposited with the Court's Deputy Clerk not later than 4:00 p.m. on the third working day prior to trial.

See General Order Number One section on preparation of exhibits.

G. Depositions

Suggested Language:

"Testimony of the following witnesses will be offered by deposition (read or videorecorded)"; OR

"No testimony will be offered by deposition"

INSTRUCTIONS:

See General Order Number One section on depositions

H. Discovery

Suggested Language:

"Discovery has been completed" OR

"The following provisions have been made for discovery."

See General Order Number One section on discovery

I. Pending Motions

Suggested Language:

"The following motions are pending at this time" OR

"There are no pending motions at this time."

J. Miscellaneous orders

INSTRUCTIONS: Set forth any orders not properly includable elsewhere.

V. 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."

VI. SETTLEMENT EFFORTS

Suggested Language:

"The parties have made a good faith effort to negotiate a settlement," or otherwise described the status of settlement negotiations.

VII. TRIAL TO A JURY

PROPOSED INSTRUCTIONS ---

Suggested Language:

"The parties have submitted proposed jury instructions as required by General Order Number One."

See General Order Number One section on jury instruction.

Counsel for Plaintiff(s)

Counsel for Defendant(s)

Approved following Final Pretrial Conference:

or

United States District Judge
United States Magistrate Judge