

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**PRETRIAL ORDER INSTRUCTIONS IN CIVIL MATTERS BEFORE CHIEF  
JUDGE BRIAN A. JACKSON**

- I. **Final Pretrial Conference.** Pursuant to Federal Rule of Civil Procedure 16(e), the Court shall set a final pretrial conference.
  
- II. **Meeting and Disclosure Prior to Final Pretrial Conference.** Prior to the Final Pretrial Conference, counsel who will try the case shall meet and confer with respect to:
  - A. Jurisdiction;
  - B. Propriety of parties; correctness of identity of legal entities; necessity for appointment of guardian, administrator, executor or other fiduciary, and validity of appointment if already made; correctness of designation of party as partnership, corporation or individual d/b/a trade name;
  - C. Questions of misjoinder or nonjoinder of parties;
  - D. Settlement of the matter;
  - E. Preparation and exchange of pretrial disclosures, pursuant to Federal Rule of Civil Procedure 26(a)(3);
  - F. Clarifying and narrowing contested issues of law and fact for trial;
  - G. Any pending motions requiring determination in advance of trial; and
  - H. Preparation of the proposed Pretrial Order.

It shall be the duty of counsel for plaintiff to initiate the meeting. It shall be the duty of all counsel to respond to counsel for plaintiff and fully cooperate with and assist counsel for plaintiff in the preparation of the proposed Pretrial Order.

If, after reasonable effort, any counsel is unable to obtain the cooperation of other counsel, the party shall promptly inform the Court, in writing.

- III. Pretrial Order.** The parties shall jointly submit a proposed Pretrial Order. The parties' joint Pretrial Order must be filed by the deadline set out in the Court's Scheduling Order. No extensions of time shall be granted, absent good cause shown.

The Pretrial Order shall contain the following information:

- A. Nature of the Action. A brief description of the parties, the basis of the Court's jurisdiction, whether the Court's jurisdiction is disputed, and the substance of the claims and defenses that remain to be decided.

If the jurisdiction of the Court is disputed, the parties shall provide proper authorities to support their respective contentions.

In diversity matters or matters requiring a jurisdictional amount in controversy, the Pretrial Order shall contain either a joint stipulation that the required jurisdictional amount has been met or a brief statement regarding whether such amount could be awarded.

- B. Abandoned Claims. A list of claims or defenses that have been abandoned by any party.
- C. Relief Sought. A detailed statement of all relief claimed, particularly itemizing all elements of damages claimed, as well as witnesses, documents, or other evidentiary material to be presented concerning the amount of damages. Such statement shall also include an itemized statement of special damages, if any.
- D. Discovery. A statement that each part has completed discovery, including the depositions of expert witnesses. If the parties have not completed discovery, the parties shall state what discovery remains to be completed. Absent good cause shown, no further discovery shall be permitted beyond the discovery deadlines set by the Court.
- E. Motions. A statement of any pending motions or matters that must be resolved before trial, including motions in limine and *Daubert* motions.
- F. Undisputed Facts. A comprehensive joint stipulation of all uncontested facts, which will become a part of the evidentiary record in the matter without the necessity of supporting testimony or exhibits (and which, in jury trials, may be read to the jury by the Court).

If the admissibility of any uncontested fact is challenged, the party challenging the admissibility of the uncontested fact and the basis of the party's challenge shall be included following the uncontested fact.

- G. Disputed Issues of Fact. A plain and concise list of the issues of fact that are contested and remain to be litigated at trial.
- H. Disputed Legal Issues. Without extended legal argument, a plain and concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and case law.
- I. Exhibits. A list of the exhibits, including documents, summaries, charts, diagrams, and other items, to be introduced and/or offered into evidence at trial, with a brief statement following each, describing the substance or purpose of the exhibit. Such list shall also include any demonstrative aids, evidence, or experiments to be introduced and/or offered into evidence at trial. Such list shall not include exhibits likely to be introduced or offered into evidence solely for impeachment purposes or on rebuttal.

Duplicative exhibits shall not be admitted into evidence.

In matters where some or all of the parties' exhibits overlap, the parties shall submit a joint exhibit list, and a brief statement describing the substance or purpose of each exhibit.

The parties shall stipulate to the authenticity of exhibits, whenever possible. Following each exhibit, the parties shall indicate whether or not the parties have stipulated to the authenticity of such exhibit. Where the parties have failed to stipulate to the authenticity of an exhibit, the parties shall state the specific reasons for their failure do so.

To the extent any party objects to an exhibit, or portions thereof, that party must include a plain and concise statement of each objection following each exhibit.

All exhibits shall be pre-marked for identification and Bates stamped prior to trial. The parties shall be prepared to submit to the Court a copy of each exhibit (the "Bench Book") on a date set by the Court during the Pretrial Conference.

No party shall be permitted to introduce and/or offer into evidence any exhibit in its case and chief that is not listed in the parties' jointly submitted Pretrial Order, absent good cause shown.

- J. Witnesses. A list of the names and addresses of the witnesses likely to be called at trial, together with a brief statement following each, describing the substance of the testimony to be given. Such list shall not include those witnesses who are likely to be called solely for impeachment purposes or on rebuttal.

To the extent any party objects to a witness, that party must include a plain and concise statement of each objection following each witness.

No party shall be permitted to call any witness in its case and chief who is not listed in the parties' jointly submitted Pretrial Order, absent good cause shown.

- K. Expert Witness Stipulation. A comprehensive joint stipulation setting forth the qualifications of each expert witness, which will become a part of the evidentiary record in the matter without the necessity of supporting testimony or exhibits (and which, in jury trials, may be read to the jury by the Court).

Duplicative expert witness testimony shall not be permitted.

To the extent any party objects to an expert witness, or challenges his or her qualifications, that party must include a plain and concise statement of each objection and/or challenge following each expert witness. Such objection or challenge shall refer to the corresponding motion in limine or *Daubert* motion.

All motions in limine and *Daubert* motions, and oppositions thereto, shall be submitted by the deadlines set out in the Court's Scheduling Order.

No party shall be permitted to call any expert witness in its case and chief who is not listed in the parties' jointly submitted Pretrial Order, absent good cause shown.

- L. Depositions. A list of all depositions, or portions thereof, that are likely to be introduced and/or offered into evidence and/or read into evidence.

To the extent any party objects to a deposition, or portion thereof, that party must include a plain and concise statement of each objection following each deposition.

The parties shall be prepared to submit to the Court a copy of all relevant portions of the deposition transcript.

All irrelevant and redundant deposition material, including all colloquies between counsel, shall be eliminated when the deposition is read at trial.

If a video deposition is proposed, opposing counsel must be so advised sufficiently before trial and any relevant deadlines to permit any objections to be made and ruled on by the Court before trial, and to allow objectionable material to be edited out of the video before trial.

No party shall be permitted to introduce and/or offer into evidence any deposition in its case and chief that is not listed in the parties' jointly submitted Proposed Pretrial Order, absent good cause shown.

- M. Disputed Evidentiary Issues. A concise list of each disputed evidentiary issue, citing supporting statutes and/or case law and referring to the corresponding motion in limine or *Daubert* motion.

All motions in limine and *Daubert* motions, and oppositions thereto, shall be submitted by the deadlines set out in the Court's Scheduling Order.

- N. Proposed Voir Dire Questions, Jury Instructions, and Verdict Forms. The parties shall meet, confer, and jointly submit proposed voir dire questions, jury instructions, and a verdict form by the deadlines set out in the Court's Scheduling Order.<sup>1</sup>

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<sup>1</sup> In cases in which Louisiana law provides the rule of law, use of Louisiana Civil Jury Instructions (Vol. 18, Louisiana Civil Law Treatise Series) is required, if applicable. As to all other cases, and issues of substantive law where Louisiana law does not control, the following pattern jury instructions shall be used in the following order (e.g., an instruction from (b) shall be used only if no such instruction exists in (a)):

- (a) the United States Court of Appeals for the Fifth Circuit pattern jury instructions; or
- (b) any pattern jury instructions published by a federal court (the parties should ensure that substantive instructions on federal questions conform to Fifth Circuit case law).

Requests to supplement the jury instructions during the trial or at the conclusion of the evidence shall not be granted, absent good cause shown.

- O. Trial Briefs. In non-jury trials only, the parties shall be required to submit proposed findings of fact and conclusions of law on a date set by the Court during the Pretrial Conference.
- P. Trial. An estimate of the total number of days needed for trial. Such statement must also indicate whether the trial will be a jury or non-Jury trial. The parties shall also recommend the number of jurors to be selected at the commencement of the trial (for jury trials only).
- Q. Bifurcation, Separate Trial of Issues. A statement regarding whether the parties agree or disagree that the issues of liability and damages should or should not be bifurcated for trial. On motion of any party or by order of the Court, bifurcation may be ordered in either a jury or a non-jury trial.
- R. Consent to Proceed Before a United States Magistrate Judge. A statement regarding whether the parties consent to the reassignment of this case to a United States Magistrate Judge, who may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, pursuant to 28 U.S.C. § 636(c).
- S. Settlement. A statement summarizing the history and status of settlement negotiations. Such statement shall indicate whether further negotiations are ongoing and likely to be productive.

#### **IV. Binding Effect of the Pretrial Order**

- A. The Pretrial Order Shall Not be Amended Without Leave of Court. The parties' jointly submitted proposed Pretrial Order will control the course of the trial and shall not be amended, except by consent of the parties and with leave of Court, or by order of the Court to prevent manifest injustice.
- B. Joint Pretrial Statement. The Pretrial Order shall recite, directly above the parties' signature lines, the following:

*The foregoing admissions, having been made by the parties, and the parties having specified the foregoing issues of fact and law that remain to be litigated, this Pretrial Order shall supplement the pleadings and govern the course of the trial in this matter, unless modified to prevent manifest injustice.*

**IT IS SO ORDERED.**

Baton Rouge, Louisiana this 11th day of June, 2014.

A handwritten signature in blue ink, reading "Brian A. Jackson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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**BRIAN A. JACKSON, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**