

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

Instructions for Preparing Pretrial Orders
in Civil Cases before Judge James J. Brady

Prior to the deadline set for filing the Pretrial Order (the "PTO"), counsel for the plaintiff(s), with the cooperation and assistance of all other counsel and any unrepresented parties, shall prepare a written PTO for the case. Full cooperation and assistance on behalf of all parties is expected and required for proper preparation of the PTO.

Such preparation requires the parties to: (1) confer to reach agreement on any possible stipulations of fact; (2) eliminate any claims or issues that appear in the pleadings about which there is no longer any controversy; and (3) exchange copies of documents that will be offered in evidence at trial.

If, after reasonable effort, any party cannot obtain the cooperation of another party, the party shall contact chambers (225-389-4030). Counsel for plaintiff(s) shall be responsible for filing the PTO in the record on or before the deadline set for filing the PTO.

The PTO shall contain the following information (an example is attached hereto):

1. The specific statute(s) or other authority upon which federal subject matter JURISDICTION is founded and any jurisdictional questions raised by any party. In diversity cases, the citizenship of each party shall be expressly noted.
2. A list of all PENDING MOTIONS, if any, and specific issues raised therein.

3. A *brief** statement of the PLAINTIFF'S CLAIMS.
4. A *brief** statement of the DEFENDANT'S CLAIMS AND DEFENSES.
5. A *brief** statement of the CLAIMS OF ANY OTHER PARTIES (e.g. counter-claimants, cross-claimants, third party plaintiffs).
6. A list of FACTS ESTABLISHED by pleadings or by stipulation of counsel, which will become a part of the evidentiary record in the case (and which, in jury trials, may be read to the jury by the presiding judge or any party).
7. A list of all EXHIBITS (except documents for impeachment only) to be offered in evidence by all parties. Objections to the AUTHENTICITY of any of the exhibits shall be noted along with the reasons therefore.

Note: Objections, if any, to the ADMISSIBILITY of exhibits need **not** be addressed in the PTO. If there is a **serious legal question** as to admissibility, a motion in limine should be filed on or before the deadline set for filing motions in limine.

All exhibits shall be marked for identification before trial. All in globo exhibits must be Bates stamped for trial.

8. List all "WILL CALL" and "MAY CALL" WITNESSES** for each party, including their names, addresses and a brief statement as to the nature of their expected testimony.

(A) For each expert witness, a statement shall be provided setting forth the QUALIFICATIONS of the witness. In jury cases, the statement shall be in such form that it can be read to the jury at the time when the expert witness takes the stand.

(B) Any OBJECTIONS to the calling, or to the qualifications of, any witness identified on the list shall be noted.

(C) Designate any witnesses that will testify by WRITTEN OR VIDEOTAPE DEPOSITION. The parties shall confer and redact all depositions to eliminate irrelevant and redundant material prior to trial. Only those portions of a deposition which are necessary to a party's case shall be read or played to the jury. Written transcripts (as redacted) for all depositions (written and videotape) shall be provided the courtroom deputy at trial.

9. Any ADDITIONAL MATTERS that may aid in the disposition of the case (including but not limited to the following):

1. Note if bifurcation of issues would be appropriate.

2. Note if this is a case where (contrary to the normal requirements) there remain any disputes as to following: discovery, amendments of pleadings; mis-joinder or non-joinder of parties; correctness of identity of legal entities of the parties; and/or attorney conflicts of interest (e.g. representation of multiple clients with adverse interests). Corresponding objections shall be noted as well. Absent as showing of good cause, such matters will not be revisited.

10. State whether this is a jury or non-jury trial and give the ESTIMATED LENGTH of the trial (specifying the length of time each side requires for presentation of their evidence).

11. State the history of settlement negotiations and whether the parties would like to engage in a settlement conference before a magistrate judge.

12. The PTO must be signed on behalf of all of the parties.

ANY CLAIM NOT SPECIFICALLY LISTED IN THE PTO MAY BE DEEMED WAIVED BY THE PRESIDING JUDGE.

EXCEPT FOR GOOD CAUSE SHOWN, ONLY EXHIBITS AND WITNESSES LISTED IN THE PRETRIAL ORDER, OR PERMITTED TO BE LISTED IN AN AMENDMENT TO THE PRETRIAL ORDER, SHALL BE ADMITTED IN EVIDENCE OR ALLOWED TO TESTIFY.

* Typically, this should be one to five paragraphs in length.

** Will Call witnesses shall be produced or subpoenaed by the party listing them and made available during the trial in order that such witnesses may be available to opposing counsel as witnesses even if not actually called upon to testify by the party so listing them. **This is intended to eliminate the necessity of opposing counsel having to subpoena the same witnesses.** May Call witnesses shall be listed on the pretrial order, but there is no obligation to have May Call witnesses subpoenaed and present for the trial

*** For bench trials, each party must submit proposed Findings of Fact and Conclusions of Law. Findings of Fact should contain a detailed listing of the relevant material facts the party intends to prove in simple narrative form. Conclusions of Law should address the essential elements of each claim under the law.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PAUL PLAINTIFF, ET AL

CIVIL ACTION

VERSUS

NO. 12-000

DANNY DEFENDANT, ET AL.

UNIFORM PRETRIAL ORDER

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a pretrial conference was conducted in this proceeding by the presiding United States District Judge, on the ____ day of _____, 2012.

PRESENT: Appeared as Trial Counsel for Plaintiff(s)

 Appeared as Trial Counsel for Defendant(s)

1. JURISDICTION

This is an action to recover personal injuries as the result of an automobile accident. The Court has subject matter jurisdiction pursuant to 28 USC §1332. The plaintiff is a citizen of the State of Louisiana and individual defendant is a citizen of Mississippi and the corporate defendant is incorporated in the State of Illinois, with its principal place of business there. There is no dispute as to subject matter jurisdiction.

2. MOTIONS

There are no pending motions. The defendant will file a Motion in Limine to exclude certain photographs from evidence at trial on the basis that they are unnecessarily gruesome and unlikely to assist the jury in resolving any disputed

issues of fact.

3. PLAINTIFF'S CLAIMS

The plaintiff claims that he was seriously injured in an automobile accident in Baton Rouge, Louisiana, on October 19, 2010, and that the accident was caused by the negligence and fault of the defendant driver who ran into the rear of the plaintiff's automobile after he had stopped for a red light. The plaintiff also contends that his injuries in the accident required a long period of hospitalization and made it impossible for him to return to his regular employment as a truck driver for six months, all of which resulted in significant loss of income and out-of-pocket medical and hospital expenses.

4. DEFENDANT'S CLAIMS AND DEFENSES

The defendant denies that he was negligent or otherwise at fault for the occurrence of the accident for which the plaintiff has filed suit. Defendant asserts contributory negligence. Defendant also claims that the plaintiff had serious health problems for many years prior to the accident and that these problems were not caused or aggravated by any injuries he sustained in the accident.

5. CLAIMS OF OTHER PARTIES

None.

6. ESTABLISHED FACTS

- (1) The plaintiff and defendant were involved in an automobile accident in Baton Rouge, Louisiana, on October 19, 2010.
- (2) The plaintiff was hospitalized in the Baton Rouge General Hospital from October 19, 1996 to November 30, 2010.

- (3) The plaintiff incurred medical and hospital expenses of \$63,480 from October 19, 2010 to March 30, 2011.

7. EXHIBITS

- (a) The plaintiff will offer the following exhibits at trial:

Exhibit No. 1: Diagram of accident scene;

Exhibit No. 2: Four (4) photographs of accident scene;

Exhibit No. 3: Hospital records from Baton Rouge General Hospital from October 19, 2010 to November 30, 2010;

Exhibit No. 4: Four (4) photographs of injuries to plaintiff's left arm and leg;

Exhibit No. 5: Medical and hospital bills totaling \$63,480.

- (b) The defendant will offer the following exhibits at trial:

Exhibit No. 1: Three (3) enlarged photographs of accident scene;

Exhibit No. 2: Scene model of accident scene and automobiles;

Exhibit No. 3: Plaintiff's hospital records from Ascension General Hospital from March 1, 2011 to March 30, 2011.

The parties agree that all listed exhibits are authentic, except for defendant's Exhibit No. 2 to which plaintiff objects because it does not correctly depict the scene of the accident.

8. WITNESSES

- (a) Plaintiff's Will-Call Witnesses:

- (1) Paul Plaintiff
125 Mulberry Street
Baton Rouge, Louisiana

Plaintiff will testify about the accident and his injuries.

- (2) Paulette Plaintiff
125 Mulberry Street
Baton Rouge, Louisiana

Plaintiff's wife will testify about her husband's injuries.

- (3) Walter Witness
128 Mulberry Street
Baton Rouge, Louisiana

This is an eyewitness who will testify about the accident.

- (4) Dr. Tom Terry
350 Medical Plaza
Baton Rouge, Louisiana

The plaintiff's treating physician will testify about his injuries.

- (5) Edwin Employer
ABC Manufacturing
150 Industrial Boulevard
Baton Rouge, Louisiana

The plaintiff's employer will testify about his lost wages.

- (6) Danny Defendant
140 Elm Street
Baton Rouge, Louisiana

The defendant will testify about how the accident occurred under cross-examination.

(b) Plaintiff's May-Call Witnesses:

- (1) Virginia Smith
165 Sharp Road
Baton Rouge, Louisiana 70815

Plaintiff's neighbor may testify about plaintiff's activities

prior to and after the accident.

Objections to calling or to qualifications of plaintiff's witnesses: None.

(c) Defendant's Witnesses:

- (1) Danny Defendant
125 Mulberry Street
Baton Rouge, Louisiana

Defendant will testify about the accident.

- (2) Paul Plaintiff
125 Mulberry Street
Baton Rouge, Louisiana

Plaintiff will testify about the accident and his injuries under cross-examination.

- (3) William Witness
130 Mulberry Street
Baton Rouge, Louisiana

This is an eyewitness and will testify about the accident.

- (4) Dr. John Smith
Ascension General Hospital
299 Worley Road
Baton Rouge, Louisiana

The plaintiff's former treating physical will testify about his health prior to and after the accident by VIDEOTAPE DEPOSITION, which has been redacted by the parties.

- (5) Sgt. Tom Trooper
Baton Rouge Police Department
Baton Rouge, Louisiana

Sgt. Trooper will testify about his investigation of the accident.

Objections to calling or to qualifications of defendants's witnesses: None.

9. ADDITIONAL MATTERS

1. The parties agree that bifurcation of damages would be appropriate in this case.

2. The correct name of defendant corporation is XYZ, Inc. and the parties agree that the pleadings should be amended to reflect this.

10. TYPE AND LENGTH OF TRIAL

1. This matter is designated as a **jury** trial.

2. The parties estimate the case can be tried in one day. Plaintiff's presentation of evidence will require 1 day (or you may denote hours). Defendant's presentation of evidence will require 4 hours.

11. POSSIBILITY OF SETTLEMENT

The parties have considered the possibility of settlement. The parties would like to engage in a settlement conference before the magistrate judge.

EXAMPLE

DATE

ATTORNEY FOR PLAINTIFF

DATE

ATTORNEY FOR DEFENDANT