

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

)	Case No.
)	
Plaintiff(s),)	Magistrate Judge James S. Gallas
)	
-vs-)	
)	
)	TRIAL ORDER
)	
Defendant(s).)	
)	

1. The above-titled case is scheduled for trial on Monday, _____ at 9:00 a.m. in Courtroom 400, U.S. Courthouse, 2 South Main Street, Akron, Ohio. The parties and their counsel shall report to the Court's Chambers no later than 8:30 a.m. on the first day of trial. Questions concerning this trial date should be directed to Mrs. Jackie Porter, (330) 375-5708.

2. **Final Pretrial**

The Final Pretrial is scheduled for _____ at _____. Lead trial counsel for all parties shall be present and prepared with full authority to discuss settlement of the case. All parties shall attend in person unless counsel has requested and received prior approval from the court for the party to attend by telephone. Parties attending telephonically must be readily available at all times during

the conference. Counsel shall confer with their clients and with each other regarding their final settlement posture within 48 hours of the Final Pretrial.

3. **Pretrial Statement**

No later than _____, each party shall submit a pretrial statement setting forth the following:

- (1) The cognizable claims and defenses;
- (2) A summary of the testimony and evidence that will be offered to prove each claim and defense;
- (3) The applicable law with specific citations to all statutes and case law to support each claim and defense;
- (4) The status of settlement negotiation; and
- (5) The estimated length of a trial.
- (6) **Witnesses.** Each party shall provide opposing counsel and the Court with a list of all witnesses to be called at trial, including potential rebuttal witnesses. A summary of the testimony to be offered each witness shall be included. No witness will be permitted to testify at trial, if his or her name is not provided to opposing counsel at this time, unless the Court determines that the witness is needed to offer rebuttal testimony which could not have been reasonably anticipated prior to trial or that exceptional circumstances warrant amendment of one or both of the witness lists.

Expert witnesses will be bound by the opinions expressed in the reports prepared in accordance with Fed. R. Civ. P. 26(2)(B) and one ought to be permitted to offer new matters at trial.

4. **Trial Briefs**

Two copies of trial briefs shall be filed with the Court no later than . Trial briefs shall include: **a synopsis of the facts** on which counsel relies to prove his or her claim or defense; **full and specific citations** of the statutes, case law and other writings on which counsel depends and relies in this case;¹ **a list of the witnesses** expected to be called by counsel at trial with a brief description of the testimony which counsel expects to elicit from each witness. Upon counsel's request the description of anticipated testimony will be kept confidential. **Counsel are required to exchange trial briefs with opposing counsel.**

5. **Motions in Limine**

Motions in Limine shall be filed with the trial brief. Responses to Motions in Limine shall be filed twenty-four (24) hours before trial.

¹Submit copies of all cases cited that are not reported in LEXIS, West's federal or northeast regional reporters (i.e. not reported in S.Ct. F.2d, F.Supp. or N.E.2d.)

In all cases, trial briefs and Motions in Limine are to be exchanged with opposing counsel by hand delivery or fax.

6. **Joint Stipulation**

Counsel shall prepare and file with the court by _____ a joint stipulation as to undisputed facts for use at trial, and for submission to the jury in the event of a jury trial. The joint stipulation is intended to expedite the fact- finding process at trial. Copies of any documents to which the parties have stipulated should be appended to the stipulation.

7. **Videotape Depositions**

If the court grants a party leave to present videotape depositions as evidence in lieu of live testimony at trial pursuant to Local Rule 39.2, counsel must file with the court a complete written transcript of the videotape deposition prior to its use. Counsel are responsible for providing video equipment for viewing video exhibits or depositions at trial.

8. **Proposed Findings of Fact and Conclusions of Law**

Proposed findings of fact and conclusions of law based on the evidence each party intends to introduce shall be submitted to the court in non-jury cases no later than one week before trial.

9. **Proposed Jury Instructions and Voir Dire Questions**

Proposed jury instructions and proposed voir dire questions shall be filed no later than

- . Proposed jury instructions shall be annotated with citations to legal authority whenever possible.

Generally, the court uses Devitt, Blackmar, Wolff and O'Malley, Federal Jury Practice & Instructions (4th Ed.).

10. **Exhibits and Index of Exhibits**

Two (2) copies of all exhibits, as well as an index of exhibits proposed to be used at trial with a brief description of such exhibits, shall be furnished to the court no later than three (3) working days before trial. There is no need to file the exhibits with the Clerk of Court, rather, they may be delivered directly to the Judge's chambers. The two (2) copies are for the Court's use. The original exhibits should be retained by counsel to be introduced by counsel at trial.

Counsel shall exchange copies of all exhibits and exhibit indexes no later than three (3) working days before the date of trial.

The index shall list the exhibits in the order that they are expected to be introduced at trial.

11. **Exhibits Shall Be Marked Before Trial**

All exhibits shall be marked before trial with official labels, which are available from the clerk upon request. The case number must be noted on the bottom of all labels. The plaintiff shall mark exhibits with numbers and the defendant shall use letters of the alphabet. If there are multiple parties,

numbers or letters shall be used followed by the party's last name, i.e. Exh. A - (Def.) Smith, or Exh. 1 (Pltf.) Doe.

Whenever a multi-page exhibit is used, each page of the exhibit must be separately numbered. For example, if plaintiff's exhibit 1 is a three-page document, the first page should be marked as 1-1, the second page marked as 1-2, and the third page marked as 1-3.

The court strongly recommends that counsel place all exhibit sets in three-ring loose leaf binders/notebooks, with appropriately marked **divider tabs** and a **table of contents** at the front.

12. Non-Jury Cases

In non-jury cases, counsel shall submit in writing what they believe to be the issues in the case no later than three (3) working days before trial.

In all non-jury cases, proposed findings of fact and conclusions of law shall be submitted to the court no later than three (3) working days before trial.

(Counsel are not required to exchange proposed findings of fact and conclusions of law with opposing counsel).

13. Filings of Documents

The within action having been assigned to this Court, it is requested that all motions, responses, stipulations, issue statements, proposed findings of fact and conclusions of law, trial briefs, and any other matters presented to the Court be filed with the Clerk in Akron and not with the Clerk in either

Youngstown or Cleveland. Please do not send materials for filing directly to the Judge's chambers. The

Akron Clerk's Office address is:

**568 Federal Building - U.S. Courthouse
2 South Main Street
Akron, OH 44308**

IT IS SO ORDERED.

James S. Gallas
United States Magistrate Judge