

Civil Bench Trial Order/Courtroom Instructions

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

)	CASE NO.
)	
)	
PLAINTIFF(S),)	JUDGE PETER C. ECONOMUS
)	
v.)	
)	
)	TRIAL ORDER
)	
)	
DEFENDANT(S))	

This case is set for trial without a jury on _____, 199_. 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.

The dispositive motion deadline is _____.

The Final Pretrial is scheduled for _____ at _____.m. 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 a party to attend telephonically. Parties attending telephonically must be readily available at all times during the conference.

SCHEDULE

1. The following shall be accomplished **THREE (3) DAYS PRIOR TO THE FINAL PRETRIAL CONFERENCE:**

a. TRIAL BRIEF

Each party shall submit a trial brief 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) proposed findings of fact and conclusions of law;
- (5) stipulations of facts, if any;
- (6) a list of contested and uncontested facts;
- (7) the status of settlement negotiations;
- (8) the estimated length of the trial; and
- (9) motions *in limine* shall be filed with the trial brief; responses to motions *in limine* shall be filed twenty-four (24) hours before the final pretrial conference.

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

b. 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 by 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 their reports prepared in accordance with Fed. R. of Civ. P. 26(2)(B) and will not be permitted to offer new matters at trial.

c. DEPOSITION TESTIMONY

Whenever depositions (videotape or written) are to be used at trial, counsel shall submit an index of objections to the proposed testimony along with a statement as to the basis of the objection and reference to the specific rule of evidence upon which counsel relies. The proponent shall respond with a statement giving the reasons for admissibility.

Counsel shall consult in an effort to resolve any objections raised. Where objections have been raised and not resolved, those objections shall be noted in the margin of the index.

d. EXHIBITS

The parties shall exchange and file an index of exhibits along with a brief description of such exhibits in accordance with LR 39.1. If a party against whom an exhibit is being offered objects to the same, the procedure set forth in subsection c. above applies. Exhibits which have not been provided as required by this paragraph will not be received at trial.

2. CONTINUANCES

No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by all moving parties and their lead counsel of record, and showing the consent of all other counsel or, if objected to, with the movant's certification of efforts to obtain such consent.

The Court will not consider any motion for a continuance due to a conflict of trial assignment dates unless a copy of the conflicting assignment is attached. The motion shall be filed within fifteen (15) days of counsel becoming aware of the conflict and not less than thirty (30) days prior to trial.

3. COURTROOM CONDUCT AND PROCEDURE

- a. The Trial shall be conducted from 9:00 a.m. to 4:00 p.m., Monday through Friday.
- b. When appearing in this Court, all counsel (including, where the context applies, all persons at counsel table) shall abide by the following:
 1. Stand as Court is opened, recessed or adjourned.
 2. Stand when the jury enters or retires from the courtroom.
 3. Stand when addressing the Court. When making an objection, state the legal basis only. If a response is necessary, be brief, without making a speech. If it is **critical** to the case that counsel be heard in more detail, a bench conference may be called to explain the basis for an objection. Otherwise, bench conferences will not be permitted

4. Stand at the lectern while examining any witness; except that counsel may approach the witness for purposes of handling or tendering exhibits.
5. Stand at the lectern while making opening statements or closing arguments.
6. Address all remarks to the Court, not to opposing counsel.
7. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
8. Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names.
9. Only one attorney for each party shall examine or cross examine each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross examination.
10. Prior to testifying, counsel shall place before the witness all exhibits to which he or she will testify; and, at the same time, copies of said exhibits shall be handed to opposing counsel.
11. Diagrams or exhibits should be drawn or marked by the witness before taking the stand.
12. Any witness testifying at the time of recess or adjournment must be back on the witness stand when the Court reconvenes. If a new witness is to be called, he/she must be standing in front of the witness box ready to be sworn.
13. In examining a witness, counsel shall not repeat or echo the answer given by the witness.
14. Gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.

One copy of all filings set forth in this Order shall be delivered to Chambers at the time of filing with the Clerk even if the case is being electronically filed.

IT IS SO ORDERED.

PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE