

PROPOSED PRETRIAL ORDERS

The following sets forth the requirements that the parties must meet in submitting a Proposed Pretrial Order for the Court's consideration. Proposed Pretrial orders must be e-mailed to Proposed_Order_Kness@ilnd.uscourts.gov in Microsoft Word format, and two courtesy copies (with labeled tabs for each requirement listed below) should be delivered to chambers. Proposed Pretrial Orders must also be filed on the docket by selecting "Other Filings" and then "Other Documents" and choosing the Proposed Pretrial Order event in CM/ECF.

In every civil action that is scheduled to proceed to trial, the parties must jointly prepare and submit a Proposed Pretrial Order. Plaintiff's counsel is responsible for preparing the initial draft of the Proposed Pretrial Order and must provide a draft to defendant's counsel no later than 21 days before the date on which the Proposed Pretrial Order is due. Defendant's counsel must respond in writing to plaintiff's draft no later than 14 days before the Proposed Pretrial Order is due, including any objections, changes, and additions to plaintiff's draft, as well as defendant's portions of the draft Proposed Pretrial Order (for example, defendant's witness list, exhibit list, and objections to exhibits and deposition testimony listed by plaintiff). The parties must meet and confer by no later than seven days before the Proposed Pretrial Order is due to discuss their respective drafts and to reach agreement to the extent possible. Non-compliance with these requirements may subject a party and its counsel to sanctions.

Following the meet-and-confer process, it is the responsibility of plaintiff's counsel, with full cooperation from defendant's counsel, to assemble the Proposed Pretrial Order for filing. The Proposed Pretrial Order should be submitted to the Court with a cover document setting forth the case caption and the title "PROPOSED PRETRIAL ORDER." The document must be signed by counsel for each party and must contain a space for the judge's signature.

1. *Jurisdiction.* State the jurisdictional basis for each claim. If the parties rely on either diversity jurisdiction or another jurisdictional basis that requires a threshold amount, then state whether the parties agree that the amount in controversy exceeds the amount and include a concise explanation of how the evidence supports that statement.

2. *Trial Attorneys.* List all of the attorneys trying the case, as well as contact information (business address, telephone number, and e-mail address).

3. *Case Statement.* Provide a concise agreed statement of the case to be read by the Court to the jury pool during jury selection. The statement must describe the nature of the case, claims, and defenses. This is a neutral description of the case,

with just enough information to introduce the case to the jury and to ask potential jurors whether they happen to know anything about the case.

4. *Trial Length / Number of Jurors.* State the estimated number of trial days, including jury selection and deliberations. Propose estimated time limits for (a) opening statements per side; (b) closing arguments per side (including an initial close and rebuttal for the plaintiff); and (c) the total number of hours of witness examination per side. Also, state the number of jurors that the parties recommend (subject to Rule 48(a) of the Federal Rules of Civil Procedure).

5. *Stipulations and Uncontested Facts.* In numbered paragraphs, state any stipulations and uncontested facts.

6. *Witness Description Lists.* Each party shall provide a list of witnesses, including expert witnesses, divided into (a) witnesses who will be called; and (b) witnesses who might be called. The lists should include witnesses whose testimony will be presented by deposition or other previous testimony (and explaining whether the presentation will be made by reading a deposition transcript or playing a video). For each witness, provide a concise (two or three sentence) description of the witness and the witness's role in the case. Witnesses who are not on the lists are barred from testifying unless the proponent shows good cause for the failure to disclose the witness. The names of witnesses on the lists will be read to the jury during jury selection to ensure that potential jurors do not personally know any witnesses.

a. *Objections.* The parties should include a statement of any objections to the calling of any witness, including expert witnesses. Objections not made in the final pretrial order will be deemed waived absent a showing of good cause. If the objection is the subject of a motion in limine, the pretrial order may simply refer to the motion and need not repeat the grounds stated in the motion.

7. *Exhibits and Exhibit Charts.* The parties must submit exhibit charts, one each for plaintiff's exhibits and defendant's exhibits. The charts must state the following: (a) the exhibit number; (b) the date of the document or exhibit, if applicable; (c) a concise, neutral description of the exhibit; (d) a concise statement of the exhibit's relevance; and (e) whether there is an objection to the exhibit's admission, and if so, a concise explanation of the objection. The chart's format must be substantially similar to the example below.

No.	Date	Description	Relevance	Objection
1	02/15/06	2005 Performance Review	Proves record of satisfactory job performance.	R. 402 relevance; R. 403 confusion. Plaintiff fired in 2011.

In addition to substantive exhibits and Rule 1006 summary exhibits, the chart should also include proposed demonstrative exhibits and any exhibits that are likely to be referred to at trial even though not allowed into evidence. Deposition transcripts of witnesses likely to be impeached, or documents likely to be used to refresh memory, should be included on the chart and assigned an exhibit number and description.

Any substantive exhibit not objected to will be deemed admissible (note: for the exhibit to be entered into the record for the jury’s consideration, the exhibit still must be referred to during trial testimony or otherwise published to the jury). Do not over-designate exhibits; the Court will examine exhibits one by one during the pretrial conference, and plainly inadmissible exhibits will needlessly consume time. By the same token, the parties must limit their objections to good-faith objections only. The parties should stipulate to the authenticity of exhibits whenever possible. If a foundation objection is asserted and the offering party proffers a foundation that the Court believes overcomes the objection, the offering party still must lay the foundation at trial.

Exhibits not objected to will be admitted into evidence by operation of the final pretrial order, without any need for further foundation testimony. The exhibit must still be referred to during trial testimony or otherwise published to the jury in order for the exhibit to be considered by the jury. During the trial, for the jury’s sake and for the clarity of the record, the parties must still move the exhibit into evidence before publishing it to the jury. The Court will ask whether there is any “further” objection, so any pretrial objection is preserved.

At least five business days before the pretrial conference, the parties must submit to chambers two USB storage devices with all of the proposed exhibits. In addition to the storage devices, the parties also must supply two sets of exhibit binders containing copies of *objected-to* exhibits only. The party that is objecting to an exhibit is responsible for providing the copy of the objected-to exhibit. After the final pretrial conference and rulings on exhibits, no closer than five business days before trial, the parties must submit the final trial exhibits on a USB drive and provide two paper copies of the exhibits, double-sided in three-ring binders.

8. *Deposition Designations.* If a party proposes to introduce a witness's testimony via a deposition rather than live testimony, then the offering party must serve the page/line designations of the deposition transcript on the opposing party 21 business days in advance of the pretrial order's due date. The opposing party must serve objections to designations (including a concise basis for the objection, like the Exhibit Chart) and also state the opposing party's counter-designations (including counter-designations conditioned on an objection being overruled) 14 business days in advance of the pretrial order's due date. The parties shall generate a joint chart, in page order, that sets forth the designation by page and line number, objection, counter-designation if objection overruled, any counter-designations, and any objections to the counter-designations (again with a concise basis for the objection).

At least five business days before the pretrial conference, the parties must submit to chambers two USB storage devices with all of the disputed deposition designations. Plaintiff's designations must be color-coded in blue, and Defendant's designations must be color-coded in red.

9. *Damages Itemization.* Plaintiff (and counter/cross-claimants, if any) must itemize damages and other relief sought and provide a concise explanation of the evidentiary basis for each itemization.

10. *Motions in Limine.* In the Proposed Pretrial Order, each party must provide a list that very briefly summarizes its motions in limine (for example, "Motion to bar reference to Witness A's drug use"). The motions themselves must be filed the earlier of (a) the due date of the Proposed Pretrial Order or (b) 3 weeks before trial. The parties must confer on all motions in limine before filing them. If there is no objection to a motion, but the movant wishes to file a motion memorializing the non-objection, then the motion must state that there is no objection. To the extent reasonable, file multiple motions in one filing (or a few consolidated filings) to reduce the number of filings. Unless otherwise ordered, responses are due five business days after the motion's filing. Unless otherwise directed by the Court, the parties will argue all motions in limine at the final pretrial conference.

Every motion in limine filed by a party must be accompanied by a statement that the party has conferred with the opposing party and the opposing party actually intends to offer the evidence that the movant seeks to exclude, or actually opposes admission of the evidence that the movant seeks to include. If the meet-and-confer process results in agreement over evidentiary issues, that agreement should be memorialized under the procedure noted above. Subject to approval by the Court, such agreements may be finalized at the final pretrial conference.

11. *Voir Dire Questions.* The parties must file a list divided into (a) agreed-upon questions and (b) proposed questions to which there is an objection. A short basis for any objection must accompany the list. Each side is limited to 12 proposed disputed questions, unless a motion is filed before the pretrial conference that explains good cause for proposing more than the limit.


12. *Jury Instructions / Verdict Forms.* The parties must meet and confer in order to attempt to agree on as many jury instructions and verdict forms as possible. Where applicable, the Court generally prefers the Seventh Circuit's Pattern Instructions. The proposed jury instructions must state, on an instruction-by-instruction basis, the following information: the proponent of the instruction, the legal authority for the instruction, and whether there is an objection to the instruction. If an instruction is disputed, the proponent of the instruction should concisely explain the basis for the instruction, if more explanation is required beyond the identified legal authority. Moreover, if an instruction is disputed, the objecting party must concisely state—on the page immediately following the instruction—the grounds for the objection, as well as any proposed modification or alternative. The same principles apply to proposed verdict forms.

13. *Evidence Presentation System.* Judge Kness's courtroom has evidence presentation equipment allowing exhibits (including video and audio files) to be projected and displayed to witnesses, the court, counsel, and the jury. The jurors have individual screens. This equipment will be used as the default method of displaying exhibits to the jury. During deliberations, the default method by which the jury will view exhibits that have been admitted in evidence is an electronic evidence presentation system called the Jury Evidence Recording System (JERS). Instructions for use of the JERS system may be found at http://www.ilnd.uscourts.gov/courtroomtech/JERS_Attorney_Instructions.pdf. Trial counsel are expected to familiarize themselves with the JERS instructions and system before the final pretrial conference by contacting the Court's Systems Department at 312-435-5555.

14. *Daily/Expedited Transcripts.* Any requests for daily or other expedited transcripts must be made directly to Judge Kness's court reporter at least 7 days before the start of trial.

15. *Signature.* The Proposed Pretrial Order must be signed (electronically) by counsel for each party.

SO ORDERED.



JOHN F. KNESS
United States District Judge