

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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Plaintiff<sup>1</sup> )  
) Civil Action No.  
v. )  
) Judge Charles P. Kocoras  
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)  
Defendant )  
)

**FINAL PRETRIAL ORDER**

This matter having come before the Court at a pretrial conference held pursuant to Fed.R.Civ.P. (“Rule”) 16, and [insert name, address and telephone] having appeared as counsel for plaintiff(s) and [insert name, address and telephone number] having appeared as counsel for defendant(s), the following actions were taken:

- (1) This is an action for [insert nature of action, e.g. breach of contract, personal injury] and the jurisdiction of the court is invoked under [insert citation of statute on which jurisdiction is based]. Jurisdiction is (not) disputed.<sup>2</sup>
- (2) The following stipulations and statements were submitted and are attached to and made a

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<sup>1</sup>Singular forms are used throughout this document. Plural forms should be used as appropriate. Where a third-party defendant is joined pursuant to Rule 14(a), the Order may be suitably modified. In such cases, the caption and the statement of parties and counsel shall be modified.

<sup>2</sup>In diversity cases or cases requiring a jurisdictional amount in controversy, the Order shall contain either a stipulation that more than \$75,000 is involved or a brief written statement citing evidence supporting the claim that such sum could reasonably be awarded.

part of this Order:<sup>3</sup>

- (a) a comprehensive stipulation or statement of all uncontested facts, 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 Court or any party);<sup>4</sup>
- (b) except for rebuttal exhibits, schedules in the form set out in the attached Schedule of -
  - (1) all exhibits (all exhibits shall be marked for identification before trial), including documents, summaries, charts and other items expected to be offered in evidence and
  - (2) any demonstrative evidence and experiments to be offered during trial;<sup>5</sup>
- (c) a list or lists of names and addresses of the potential witnesses to be called by each party, with a statement of any objections to calling, or to the

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<sup>3</sup>If it does not appear that the case will be reached for trial in the immediate future, or if active settlement discussions are in progress, the Court may defer asterisked (\*) requirements until shortly before the trial date. See item (h). On motion of any party or on the Court's own motion, any requirements of this Order (including one or more of the asterisked requirements) may be waived entirely.

<sup>4</sup>Counsel for plaintiff has the responsibility to prepare the initial draft of a proposed stipulation dealing with allegations in the complaint. Counsel for any counter-, cross- or third-party complainant has the same responsibility to prepare a stipulation dealing with allegations in that party's complaints. If the admissibility of any uncontested fact is challenged, the party objecting and the grounds for objection must be stated.

<sup>5</sup>Items not listed will not be admitted unless good cause is shown. Duplicate exhibits shall be scheduled by different parties, but may be offered as joint exhibits. All parties shall stipulate to the authenticity of exhibits whenever possible, and this Order shall identify any exhibits whose authenticity has not been stipulated to and specific reasons for the party's failure to so stipulate. As the attached Schedule form indicates, non-objected-to exhibits are received in evidence by operation of this Order, without any need for further foundation testimony. Copies of exhibits shall be made available to opposing counsel and a bench book of exhibits shall be prepared and delivered to the court at the start of the trial unless excused by the Court. If the trial is a jury trial and counsel desires to display exhibits to the members of the jury, sufficient copies of such exhibits must be made available so as to provide each juror with a copy, or alternatively, enlarged photographic copies or projected copies should be used.

- qualifications of, any witness identified on the list;<sup>6</sup>
- (d) stipulations or statements setting forth the qualifications of each expert witness in such form that the statement can be read to the jury at the time the expert witness takes the stand;<sup>7</sup>
  - (e) a list of all depositions, or portions thereof, to be read into evidence and statements of any objections thereto;<sup>8</sup>
  - (f) an itemized statement of special damages;<sup>9</sup>
  - (g) waivers of any claims or defenses that have been abandoned by any party;
  - (h)\* for a jury trial, each party shall provide the following:
    - (i) trial briefs except as otherwise ordered by the Court;<sup>10</sup>
    - (ii) one set of marked proposed jury instructions, verdict forms and

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<sup>6</sup>Each party shall indicate which witnesses *will* be called in the absence of reasonable notice to opposing counsel to the contrary, and which *may* be called as a possibility only. Any witness not listed will be precluded from testifying absent good cause shown, except that each party reserves the right to call such rebuttal witnesses (who are not presently identifiable) as may be necessary, without prior notice to the opposing party.

<sup>7</sup>Only one expert witness on each subject for each party will be permitted to testify absent good cause shown. If more than one expert witness is listed, the subject matter of each expert's testimony shall be specified.

<sup>8</sup>If any party objects to the admissibility of any portion, both the name of the party objecting and the grounds shall be stated. Additionally, the parties shall be prepared to present to the Court, at such time as directed to do so, a copy of all relevant portions of the deposition transcript to assist the Court in ruling *in limine* on the objection. All irrelevant and redundant material including all colloquy between counsel shall be eliminated when the deposition is read at trial. If a video deposition is proposed to be used, opposing counsel must be so advised sufficiently before trial to permit any objections to be made and ruled on by the Court, to allow objectionable material to be edited out of the film before trial.

<sup>9</sup>If the case involves personal injuries or employment discrimination, a special Pretrial Memorandum form available from the Court's Courtroom Deputy or Secretary shall also be filed with this Order.

<sup>10</sup>(Note: The use of the asterisk (\*) is explained in Footnote 3.) No party's trial brief shall exceed 15 pages without prior approval of the Court. Trial briefs are intended to provide full and complete disclosure of the parties' respective theories of the case. Accordingly, each trial brief shall include statements of -

- (a) the nature of the case,
- (b) the contested facts the party expects the evidence will establish,
- (c) the party's theory of liability or defense base on those facts and the uncontested facts,
- (d) the party's theory of damages or other relief in the event liability is established, and
- (e) the party's theory of any anticipated motion for directed verdict.

The brief shall also include citations of authorities in support of each theory stated in the brief. Any theory of liability or defense that is not expressed in a party's trial brief will be deemed waived.

special interrogatories, if any;<sup>11</sup> and

(iii) a list of the questions the party requests the Court to ask prospective jurors in accordance with Fed.R.Civ.P. 47(a).

(i) all motions *in limine* should be filed on or before the time for the filing of this Order. Any briefs in support of and responses to such motions shall be filed pursuant to a briefing schedule set by the Court.

(3) Trial of this case is expected to take [*insert the number of days trial expected to take*] days.

(4) [*Indicate the type of trial by placing an X in the appropriate box*]

Jury

Non-jury

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<sup>11</sup>*Agreed* instructions shall be presented by the parties whenever possible. Whether agreed or unagreed, each marked copy of an instruction shall indicate the proponent and supporting authority and shall be numbered. All objections to tendered instructions shall be in writing and include citations of authorities. Failure to object may constitute a waiver of any objection.

In diversity and other cases where Illinois law provides the rules of decision, use of Illinois Pattern Instructions (“IPI”) as to all issues of substantive law is required. As to all other issues, and as to all issues of substantive law where Illinois law does not control, the following pattern jury instructions shall be used in the order listed, e.g., an instruction from (c) shall be used only if no such instruction exists in (a) or (b):

- (a) Judge Kocoras’s Jury Instructions in Civil Cases adopted by this Court and included with the materials appended to the *Standing Order*;
- (b) the Seventh Circuit pattern jury instructions; or
- (c) any pattern jury instructions published by a federal court. (Care should be taken to make certain substantive instructions on federal questions conform to Seventh Circuit case law.)

At the time of trial, an unmarked original set of instructions and any special interrogatories (on 8 ½" x 11" sheets) shall be submitted to the Court to be sent to the jury room after being read to the jury. Supplemental requests for instructions during the course of the trial or at the conclusion of the evidence will be granted solely as to those matters that cannot be reasonably anticipated at the time of presentation of the initial set for instructions.

- (5) The parties recommend that [*indicate the number of jurors recommended*]<sup>12</sup> jurors be selected at the commencement of the trial.
- (6) The parties [*insert “agree” or “do not agree” as appropriate*] that the issues of liability and damages [*insert “should” or “should not” as appropriate*] be bifurcated for trial. On motion of any party or on motion of the Court, bifurcation may be ordered in either a jury or a non-jury trial.
- (7) [*Pursuant to 28 U.S.C. § 636(c), parties may consent to the reassignment of this case to a magistrate judge who may conduct any or all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case. Indicate below if the parties consent to such a reassignment.*]

The parties consent to this case being reassigned to a magistrate judge for trial.

- (8) This Order will control the course of the trial and may not be amended except by consent of the parties and the Court, or by order of the Court to prevent manifest injustice.
- (9) Possibility of settlement of this case was considered by the parties.

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CHARLES P. KOCORAS  
United States District Court<sup>13</sup>

Date: \_\_\_\_\_

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<sup>12</sup>Fed.R.Civ.P. 48 specifies that a civil jury shall consist of not fewer than six nor more than twelve jurors.

<sup>13</sup>Where the case has been reassigned on consent of parties to a magistrate judge for all purposes, the magistrate judge will, of course, sign the final pretrial order.

*[Attorneys to sign the form before presenting it to the Court]*

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Attorney for Plaintiff

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Attorney for Defendant

## SCHEDULE OF EXHIBITS<sup>14</sup>

- (1) The following exhibits were offered by plaintiff, received in evidence and marked as indicated:

*[State identification number and brief description of each exhibit.]*

- (2) The following exhibits were offered by plaintiff and marked for identification. Defendant objected to their receipt in evidence on the grounds stated:<sup>15</sup>

*[State identification number and brief description of each exhibit. Also state briefly the ground of objection, such as competency, relevancy or materiality, and the provision of Fed. R. Evid. relied upon. Also state briefly plaintiff's response to the objection, with appropriate reference to Fed. R. Evid.]*

- (3) The following exhibits were offered by defendant, received in evidence and marked as indicated:

*[State identification number and brief description of each exhibit.]*

- (4) The following exhibits were offered by defendant and marked for identification. Plaintiff objected to their receipt in evidence on the grounds stated:<sup>16</sup>

*[State identification number and brief description of each exhibit. Also state briefly the ground of objection, such as competency, relevancy or materiality, and the provision of Fed. R. Evid. relied upon. Also state briefly defendant's response to the objection, with appropriate reference to Fed. R. Evid.]*

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<sup>14</sup>As in the Final Pretrial Order form, references to "plaintiff" and "defendant" are intended to cover those instances where there are more than one of either.

<sup>15</sup>Copies of objected-to exhibits should be delivered to the Court with this Order, to permit rulings *in limine* where possible.

<sup>16</sup>See footnote 15.