

Proposed Pretrial Order Procedures (including Motions in Limine)
for Judge John Robert Blakey

The parties shall jointly prepare and submit a Proposed Pretrial Order for the Court's consideration that contains the sections and information described below. The parties must email the Proposed Pretrial Order (along with any attachments) to this Court's In-Box: "Proposed_Order_Blakey@ilnd.uscourts.gov" in Word format, with two courtesy copies delivered to chambers. The Proposed Pretrial Order 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. The Court will set a date for filing the proposed pretrial order, usually no later than two weeks prior to the final pretrial conference.

Final Pretrial Conference

A Final Pretrial Conference will be held approximately two weeks before trial. The purpose of this conference will be to avoid surprises and to simplify the trial. At the conference, the Judge will address all pending motions in limine, objections to witnesses and exhibits, and other outstanding issues, and will discuss trial procedures and scheduling. Lead trial counsel with authority to discuss and address all aspects of the case, including the authority to enter into stipulations or settlement (if any), must attend.

Contents of Proposed Pretrial Order

- 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. Also, if the parties rely on diversity jurisdiction, state each party's domicile.
- 2. Trial Attorneys.** List all of the attorneys trying the case, as well as their 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 during jury selection. The statement should include a description of the nature of the case and the claims (plus counter-claims and cross-claims, if any), and the defenses. The statement shall be no longer than 1-3 paragraphs, and shall be neutral in tone. In other words, the statement shall be non-argumentative. It is not an opportunity for the parties to advance competing views on the merits of the case.
- 4. Trial Length/Number of Jurors.** State the estimated number of trial days, including jury selection (which will cover the entire first day of trial), opening statements, and closing arguments, as well as the number of jurors the parties recommend be selected (subject to Rule 48(a)). For most civil trials, the Court prefers a 12-person jury, with no alternates, and all 12 jurors deliberating.

5. Stipulations. The stipulations section of the Proposed Pretrial Order shall include:

(1) A list of all “agreed exhibits” to which both parties **waive or forfeit any and all objections.** Along with the Proposed Pretrial Order, the parties shall submit to chambers a binder including all of the agreed exhibits pre-marked. Unless the Court determines otherwise based upon its own review of the exhibits submitted, all of the exhibits included in the agreed binder will be considered admitted by the Court, and will be moved into evidence by the parties at the beginning of trial. No objections will be permitted at trial to the admission of these exhibits into evidence.

(2) All agreed factual and testimonial stipulations the parties intend to enter into evidence and publish to the jury. For instance, a “factual stipulation” could include something like “the bank was insured by the FDIC,” or “the car dealership employed 500 or more people.” A “testimonial stipulation” could include something like “Witness Jones would testify that the records (Ex. A) were kept in the normal course of business,” or “Witness Smith would testify that the transcript (Ex. B) is a true and correct transcription of the deposition testimony.” While there are many purposes for using stipulations at trial, testimonial stipulations are particularly useful for allowing the parties to avoid the time and expense of unnecessarily calling certain foundational witnesses. This same result can also be achieved through agreements between the parties not to raise certain objections to certain exhibits. This alternate mechanism is described in more detail below in Section 7.

(3) A list of all certifications that will be submitted under FRE 902.

The parties must confer in good faith to arrive at as many stipulations as possible. This is a useful tool for streamlining trial presentation. At trial, all stipulations must be in writing.

6. Witness Lists. List the witnesses, including expert witnesses, divided into: (a) witnesses who will be called; (b) witnesses whose testimony will be presented by deposition or other prior testimony (indicating whether the presentation will be by reading a transcript or playing a video); and (c) witnesses who might be called or whose testimony might be presented. For each witness, provide a concise (2 or 3 sentences) description of the witness and the witness’ 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.

Prior to the submission of the Proposed Pretrial Order, the parties shall meet and confer regarding any deposition testimony that will be submitted via designation at trial (in lieu of a live appearance or for any other purpose), including the designation of video deposition testimony or court-reported deposition testimony. In the Proposed Pretrial Order, the parties shall list all the objections to the designations that remain following the parties’ meet and confer.

7. Exhibit Lists. The parties must submit an exhibit list containing all of the exhibits which are not “agreed exhibits,” and which the parties intend to use (or may use) at trial. This includes summary exhibits and demonstrative exhibits. The list must state the following: (a) the exhibit

number; (b) a concise description of the exhibit (with any pertinent dates of documents); (c) a concise statement of the exhibit's relevance; and (d) whether there is an objection to the exhibit's admission, and if so, a concise explanation of the objection and the proponent's theory of admissibility.

If useful, the parties may also wish to submit a separate list of exhibits to which certain objections are waived by agreement of the parties (and approval of the Court at the Final Pretrial Conference). For instance, in order to avoid calling a purely foundational witness, the parties may agree to waive objections as to the foundation or authenticity of a certain exhibit, but otherwise reserve particular objections such as hearsay or FRE 403. This proposed list of specific exhibits (along with specific waivers of particular objections) shall be noted separately from the general exhibit list described above, and shall be called the Waived-Objection Exhibit List. Since any exhibits listed on the "Waived-Objection Exhibit List" still remain subject to certain objections, the parties shall not include them in the "agreed exhibits" binder.

Along with the Proposed Pretrial Order, the parties shall submit binders to chambers containing all exhibits they intend to use (or may use) at trial. These binders will not include the "agreed exhibits," which will be submitted in the separate "agreed exhibits" binder. In total, then, the parties will submit the following binders to chambers along with the Proposed Pretrial Order: (1) the agreed exhibits binder; (2) a binder containing the exhibits each Plaintiff intends to use (or may use) at trial; and (3) a binder containing the exhibits each Defendants intends to use (or may use) at trial.

If, due to unforeseen circumstances during trial a party wishes to introduce an exhibit not previously listed, notice should be given as soon as possible to the opposing side and to the Court so that any objections can be discussed. Generally, absent an abuse of this process or a showing of unfair prejudice, an exhibit will not be deemed inadmissible simply because it was not included on the original exhibit list, provided the exhibit was properly produced to the opposing side during discovery.

Any exhibits, including summary exhibits and PowerPoints, that the parties intend to use during opening statements must be exchanged with opposing counsel by 10 a.m. on the morning of jury selection. Any objections regarding those exhibits will be addressed by the Court on the morning of opening statements.

8. Requested Relief. Plaintiff (and counter/cross-claimants, if applicable) shall itemize damages and other relief sought.

9. Motions in Limine. In the Proposed Pretrial Order, each party must provide a list summarizing its motions in limine. Motions in limine must be filed separately from the Pretrial Order by the due date set by the Court. Two weeks prior to the Final Pretrial Conference, or on the date otherwise set by the Court, each party shall file its motions in limine in a single pleading not to exceed 30 pages, with each issue separately numbered and argued within the pleading. One week prior to the Final Pretrial Conference, or on the date otherwise set by the Court, each party shall file its response. The response shall consist of a single pleading, not to exceed 30 pages, with each issue separately addressed and listed with the same numbering as the motions in

limine. No replies will be permitted absent leave of the Court. Unless otherwise directed by the Court, the parties will argue all motions in limine at the Final Pretrial Conference.

Any 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 any evidentiary issues, such agreement should be noted for discussion at the Final Pretrial Conference.

10. Jury Selection Questions (Proposed Voir Dire). This Court will always ask routine biographical questions. Any additional questions sought by the parties must be listed in the Proposed Pretrial Order, divided into (a) agreed-upon questions and (b) proposed questions to which one party objects. A short basis for any objection should accompany the list.

11. Proposed Jury Instructions and Verdict Forms. The parties must meet and confer on jury instructions and verdict forms. If the parties agree to use any [Seventh Circuit Pattern Instructions](#), those instructions may simply be listed by citation in the Proposed Pretrial Order. The parties should concentrate their efforts on the substantive jury instructions related to the merits. In the Proposed Pretrial Order, the parties should set forth the complete text of any non-Seventh Circuit Pattern instruction and identify: (a) the proponent of the instruction; (b) the legal authority for the instruction; and (c) 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 the grounds for the objection, as well as any proposed modification or alternative. The same principles apply to proposed verdict forms. As with all parts of the Proposed Pretrial Order, all proposed jury instructions must be submitted to the Court's proposed order In-Box in Microsoft Word form.

12. Trial Briefs. This Court does not require trial briefs in jury trials. Parties who wish to file a trial brief to address any unique issues of law or fact, however, must file that trial brief by 10 a.m. on the morning of jury selection. Trial briefs are not to exceed 15 pages absent leave of Court. If any party wishes to file additional briefing throughout the course of trial, they must first seek leave of Court.

13. Bifurcation. Prior to the submission of the Proposed Pretrial Order, the parties shall meet and confer regarding whether any type of trial bifurcation is needed or useful. The Proposed Pretrial Order shall indicate the parties' positions on this issue.

14. Evidence Projection Systems. The Court has a limited number of evidence projection systems, which may or may not be available for use on any given date. Parties who would like access to evidence projection systems are advised to make a request as early as possible (four weeks prior to trial is suggested) to Nathaniel Groshek, Courtroom Technology Administrator, at (312) 435-6045. Parties will be permitted to use their own evidence projection systems, upon reasonable terms, if a request is made in advance of trial through the Courtroom Deputy.