

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. In diversity actions, state the citizenship of each party, and if any party is an LLC, state the citizenship of every member of the LLC.
2. *Trial Attorneys.* List all attorneys trying the case, as well as full contact information.
3. *Case Statement.* Provide a concise agreed statement of the case to be read by the Court to the venire during jury selection. The statement must describe the nature of the case, and the parties' respective claims and defenses. This statement should be 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. This statement is not an advocacy piece for any party.
4. *Damages Itemization.* Plaintiff (and counter/cross-claimants, if any) shall itemize damages and other relief sought and provide a concise explanation of the evidentiary basis for each itemization.
5. *Trial Length / Number of Jurors.* State the estimated number of trial days, including jury selection and deliberations, premised on six-hour trial-testimony days (the six hours already account for lunch and breaks). 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. Time limits will not be imposed by the Court without discussion with counsel, but these estimates are helpful in planning for trial. Also, state the number of jurors that the parties recommend (subject to Federal Rule of Civil Procedure 48(a)).
6. *Stipulations and Uncontested Facts.* In numbered paragraphs, state any stipulations and uncontested facts. No later than 10 business days before the Proposed Pretrial Order's due date, the parties must serve on each other proposed stipulations and uncontested facts. No later than 5 business days before the due date, the parties must confer in good faith to arrive at as many stipulations and uncontested facts as possible. As the cases proceeds through trial, the parties are encouraged to continually consider whether the case can be streamlined through further stipulations.
7. *Witness Description Lists.* Each party shall provide a list of 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 very concise (2 or 3 sentences) description of the witness and the witness's role in the case. For example: "George Washington is Plaintiff's cousin. Washington witnessed the arrest of Plaintiff where Defendants allegedly used excessive force." Or: "John Adams is Defendant's Chief Operating Officer. Adams made promises concerning the timing of payments under the contract." For each expert witness, provide the opinions the expert will deliver. Other than witnesses called solely for impeachment, witnesses who are not on the lists will be barred from testifying unless the proponent shows good cause for the failure to disclose the witness or all parties consent. 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.

8. *Exhibits and Exhibit Charts*. The parties must submit an exhibit chart, 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 shall be substantially similar to the example below (landscape orientation is encouraged).

1	02/15/06	2005 Performance Review	Proves record of satisfactory job performance	R. 402 relevant; R. 403 confusion. Plaintiff fired in 2011.
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Exhibits that will be used for impeachment purposes only need not be included in the exhibit list.

Any substantive exhibit not objected to shall be deemed admissible into evidence by this Order (note: for the exhibit to be actually entered into the record for the jury's consideration, the exhibit still must be moved into evidence and referred to during trial testimony or otherwise published to the jury). Do not over-designate exhibits, because we 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 the objections to only good-faith objections. The parties shall 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.

No later than one week prior to the final pretrial conference, the parties must submit to chambers 2 sets of exhibit binders containing copies of all objected-to substantive exhibits.

If an exhibit is not included in the pretrial exhibit list, it may not be introduced at trial absent consent of all parties or leave of court. (Again, documents offered solely for impeachment are not included in this admonishment.) 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.

9. *Deposition Designations.* If a party proposes to introduce a witness's testimony via a deposition rather than live testimony, the offering party must serve an electronic copy of the deposition transcript with the proposed designations highlighted. This designation proposal will be due 10 business days in advance of the pretrial order's due date. Within 5 calendar days of receipt of the designations, the opposing party must serve (1) counter-designations upon the proposing party by adding additional lines in a different highlight color and (2) objections to designations, including a concise basis for the objection, like the Exhibit Chart. The parties shall generate a joint chart, in page order, that sets forth the designation, objection, counter-designation if objection overruled, any counter-designations, and any objections to the counter-designations (again, with a concise basis for the objection, like the Exhibit Chart). The parties should also include the dual-highlighted transcript in the exhibit binders submitted to the Court.

10. *Motions in Limine.* As noted above, motions *in limine* will be filed separately. In the Proposed Pretrial Order, each party must provide a list that very briefly summarizes its motions *in limine* and indicates whether they are opposed. For example: Defendant's Motion *in Limine* No.1 to bar reference to Witness A's drug use (Unopposed); Defendant's Motion *in Limine* No. 2 to bar Witness B from trial (Opposed), etc.

11. *Voir Dire Questions.* Judge McNally 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. Each side is limited to 10 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.

14. *Daily/Expedited Transcript and Real-Time Reporting.* State whether any party will be requesting daily or expedited transcripts or real-time reporting.

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