

## PROPOSED PRETRIAL ORDERS FOR JUDGE SHAH

### Final Pretrial Conference

A final pretrial conference will be held before trial. The purpose of this conference will be to avoid surprises and to simplify the trial. At the conference, the judge will address pending motions in limine, objections to witnesses and exhibits, and contested jury instructions, and will discuss trial procedures and scheduling. The judge may also discuss settlement prospects. Lead trial counsel with authority to discuss all aspects of the case must attend.

In advance of the pretrial conference and submission of the proposed pretrial order, the parties should also review Judge Shah's procedures for jury instructions and jury selection, as provided on his website.

### Proposed Pretrial Order

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 Court will set a date for filing the proposed pretrial order, usually no later than one week prior to the final pretrial conference. The Proposed Pretrial Order must be:

- e-mailed to Proposed\_Order\_Shah@ilnd.uscourts.gov in Microsoft Word format;
  - filed on the docket by selecting the Proposed Pretrial Order event in CM/ECF;
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, neutral agreed statement of the case to be read by the Court to the jury during jury selection. The statement should include a brief description of the nature of the case, the parties' claims, and affirmative defenses.
  4. **Trial Length.** State the estimated number of trial days, including jury selection, opening statements, and closing arguments.

5. **Stipulations and Uncontested Facts.** In numbered paragraphs, set forth any stipulations and uncontested facts. The parties must confer in good faith to arrive at as many stipulations and uncontested facts as possible. The parties will be responsible for presenting stipulations to the jury during trial.
6. **Witness Lists and Names that Will Be Mentioned.** List the witnesses, including expert witnesses, with a very concise (2 or 3 sentences) description of each witness and the witness's role in the case. The list should be 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.

Witnesses who are not on the lists are barred from testifying unless the proponent shows good cause for the failure to disclose the witness.

If there are important names that will be mentioned, but who are not witnesses, list those names.

The names on the lists will be provided to the jury during jury selection.

7. **Exhibit Lists.** The parties must submit an exhibit list that 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.

Any exhibit not objected-to shall be deemed admitted by operation of the Final Pretrial Order without any need for foundation testimony, unless the exhibit is not referred to or published during trial. The parties shall stipulate to the authenticity of exhibits whenever possible.

Objected-to exhibits may be submitted to chambers by email to [proposed\\_order\\_shah@ilnd.uscourts.gov](mailto:proposed_order_shah@ilnd.uscourts.gov). Large files can be submitted via

Box.com. Paper copies must not be delivered to chambers unless requested by the Court.

If 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. Absent abuse of this process, an exhibit will not be deemed inadmissible simply because it was not included on the original exhibit list, provided the exhibit/document was earlier produced to the opposing side during discovery.

8. **Deposition Designations.** If the parties have a dispute over deposition designations for trial, the parties should include a deposition designation list with the proposed pretrial order, identifying:
  - (a) the witness;
  - (b) the designations;
  - (c) any objections, with a concise explanation; and
  - (d) any counter-designations.

The Court will instruct the parties on submitting transcripts for ruling on objections in advance of the deposition presentation at trial.

9. **Requested Relief.** Plaintiff (and counter/cross-claimants, if applicable) shall itemize damages and other relief sought.
10. **Motions in Limine.** In the Proposed Pretrial Order, each party must provide a list summarizing its motions in limine.

Motions in limine must also be filed separately on the docket. Each party must file all of its motions in limine in one consolidated filing (or a few consolidated filings). Unless otherwise ordered, responses are due one week after the motion's filing, and no replies may be filed without leave of court.

Any motion in limine 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 may be memorialized in a stipulation entered into at the final pretrial conference.

11. **Jury Selection Questions (Proposed Voir Dire).** Judge Shah will always ask routine biographical questions (a typical list is available on his website), and general questions to elicit commitments to follow the law, and to

determine whether strong feelings prevent a juror from being fair and impartial. Any additional questions sought by the parties must be listed in the Proposed Pretrial Order. The list should identify (a) agreed-upon questions and (b) proposed questions to which one party objects, with a short basis for the objection. Lengthy or unnecessarily detailed questions will often be rejected by the Court.

**12. Proposed Jury Instructions and Verdict Forms.** The parties must confer to agree on jury instructions and verdict forms.

The Proposed Pretrial Order must include:

- a list of any agreed Seventh Circuit Pattern Instructions (which may be listed by citation), and
- the complete text of any non-Seventh Circuit Pattern instruction, identifying:
  - 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:

- (a) the proponent of the instruction must concisely explain the basis for the instruction (below the proposed language), and
- (b) the objecting party must concisely state the grounds for the objection, citing to legal authority if applicable, and provide a redline of any proposed modification or alternative.

Competing, disputed instructions should be placed sequentially in the document to allow ready comparison of the parties' respective proposals.

The same principles apply to proposed verdict forms.

**13. Trial Briefs.** Judge Shah does not require trial briefs in jury trials. Parties who wish to file a trial brief must seek leave of court to do so.