



MAGISTRATE JUDGE M. DAVID WEISMAN
219 South Dearborn Street
Courtroom 1300
Chambers 1318
Chicago, IL 60604
(312) 435-5656

PREPARATION OF FINAL PRETRIAL ORDER
FOR CIVIL CASES BEFORE JUDGE WEISMAN

The parties shall jointly prepare and submit a Final Pretrial Order on the date set containing the following components, unless otherwise ordered by the Court. An original and one copy of the Final Pretrial Order shall be delivered to chambers.

Contents of the Pretrial Order

1. **Jurisdiction.** A concise statement of the basis for federal subject matter jurisdiction, and if jurisdiction is disputed, the nature and basis of the dispute.
2. **Trial Attorneys.** A list of the attorneys trying the case that includes their business and cell phone numbers and email addresses.
3. **Case Statement.** A concise joint statement of the case that includes the nature of the case; the claims, counterclaims and cross-claims; and the defenses raised to those claims. In a jury case, this statement will be read to the jury during *voir dire*.
4. **Relief Sought.** An itemization of the damages and other relief sought.
5. **Witnesses.** A list of names and addresses of all witnesses, including experts:
(a) who will be called; (b) who may be called; and (c) whose testimony will be presented by deposition or other prior testimony (indicating whether the

presentation will be by transcript or video). In a jury trial, this list will be read to the jury during *voir dire*. Any witness not listed in the Pretrial Order will be precluded from testifying absent a showing of good cause, except that each party reserves the right to call such rebuttal witnesses (who are not presently identifiable as rebuttal witnesses) as may be necessary.

- a. **Objections.** A statement of any objections to the calling of any witness, including expert witnesses. Objections not made in the 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.
 - b. **Depositions and Other Prior Testimony.** For witnesses who will be presented by deposition or other prior testimony, the Pretrial Order must include for each such witness a chart containing the following information: (a) the testimony that each side seeks to present, by page and line number; (b) a concise statement of objections to any testimony and the basis for the objections with appropriate citations to evidentiary rules or case law; and (c) a concise statement of the asserted basis of admissibility with appropriate citations to evidentiary rules or case law. Objections not made in the Pretrial Order will be deemed waived absent a showing of good cause. *If the Court will be asked to rule upon objections, a copy of the deposition is to be provided with the Pretrial Order.*
6. **Exhibits.** A schedule of all exhibits a party may introduce at trial, as well as any demonstrative exhibits or evidence, identified by trial exhibit number, with a brief description of each exhibit. Joint exhibits should be denominated “JX,” plaintiff’s exhibits, “PX,” and defendant’s exhibits, “DX.” Any exhibit not listed in the Pretrial Order will be excluded from evidence absent a showing of good cause.
- a. **Objections.** A statement of any objections to each exhibit. Objections not made in the Pretrial Order will be deemed waived absent a showing of good cause. The parties should follow a similar format for objections and asserted bases of admissibility to that outlined above for deposition or other prior testimony designations.
 - b. **Exhibits to Be Displayed to Jury.** If an exhibit is to be displayed to the jury, the party intending to display the exhibit must make sufficient copies for all jurors or must use an enlargement or projection of the exhibit.
 - c. **Copies for Court.** A bench book of each party’s exhibits is to be delivered to the Court at or before the start of trial.

7. **Type and Length of Trial.** A statement of whether the trial will be a bench trial or jury trial, and a realistic estimate of the length of the trial.
8. **Proposed Findings and Conclusions.** For a bench trial, proposed findings of fact and conclusions of law. The parties shall confer about proposed findings of fact and law as to which they agree and submit those to the Court. Each party also shall submit its separate proposed findings of fact and conclusions of law. Proposed findings of fact and conclusions of law are to be in Word and included both in the written Pretrial Order and in electronic form (emailed to the Proposed Order box).
9. **Proposed Voir Dire Questions.** For a jury trial, proposed *voir dire* questions. Judge Weisman often uses a written questionnaire as the initial basis for *voir dire*. Counsel will be given copies of the completed questionnaires before jury selection begins. Judge Weisman may also pose additional *voir dire* questions in open court that are not suitable for the questionnaire. The parties should include any particular *voir dire* questions they want asked in the Pretrial Order. If any question proposed by an opposing party is objected to, the objection should be noted in the Pretrial Order.
10. **Proposed Jury Instructions.** For a jury trial, proposed jury instructions are to be in Word and included both in the written Pretrial Order and electronic form (emailed to the Proposed Order Box). When there is a Seventh Circuit pattern jury instruction on point, that instruction should be used absent a good reason for not doing so.
 - a. **Agreed Instructions.** The parties are directed to confer and agree upon jury instructions to the extent possible prior to the submission of the jury instructions to the Court. Agreed proposed instructions should be marked as such and shall be numbered consecutively.
 - b. **Disputed Instructions.** Proposed instructions that are not agreed shall be numbered, shall identify the proponent of the instruction, and shall include supporting authority. Objections to any proposed instructions must be set forth in writing and shall include supporting authority.
11. **Stipulations.** A listing of any stipulations agreed to by the parties, including stipulations regarding the presentation or admissibility of evidence.

12. **Settlement Status.** A statement summarizing the current status of settlement negotiations and whether the parties believe a pretrial settlement conference would be productive.
13. **Trial Briefs.** Trial briefs are required as part of the Pretrial Order in bench trials. Ordinarily, Judge Weisman will not accept trial briefs in a jury trial, unless he has granted a prior motion to file such a brief or ordered the filing of a trial brief *sua sponte*. Any trial briefs shall be limited to 15 pages without leave of court.

Motions *in Limine*

The Court will set a schedule for the filing of motions *in limine* when it sets dates for the filing of the Pretrial Order. These motions and responses should not be bound with the Pretrial Order. They should be filed separately on the CM/ECF system. Two courtesy copies of any motions *in limine* shall be delivered to chambers in accordance with the Local Rules.

Judge Weisman discourages the filing of “boilerplate” motions *in limine* or motions that address matters not in dispute. Any motion *in limine* filed by a party must be accompanied by a statement that the party has conferred with the opposing party and has determined that the matter upon which a ruling is sought is actually in dispute – that is, that the opposing party intends to offer the evidence that the movant seeks to exclude. If the meet-and-confer process results in agreement that certain matters are inadmissible, that agreement should be memorialized in a stipulation to be provided to Judge Weisman in the Pretrial Order (*see* paragraph 11 above) or at the final pretrial conference.

Daily/Expedited Transcript and Real-Time Reporting

Any requests for daily or other expedited transcripts and real-time reporting must be made at least seven days prior to trial so that an appropriate court reporter can be assigned to the trial.

Evidence Projection Systems

The Court has a limited number of evidence projection systems which may or may not be available depending on how early a request is made. Any such request should be made to Judge Weisman’s Courtroom Deputy. Parties will be permitted to use their own projection systems (upon reasonable terms) if a request is made in advance of trial.

Instructions for Compiling Final Pretrial Order

Plaintiff’s counsel has the responsibility to prepare the initial draft of the Pretrial Order and must provide a draft to defendant’s counsel no later than twenty-one days before the date the Pretrial Order is due. Defendant’s counsel must respond in writing to

plaintiff's draft by no later than fourteen days before the Pretrial Order is due, including any objections, changes, and additions to plaintiff's draft, as well as defendant's portions of the draft Pretrial Order (*e.g.*, defendant's witness list, exhibit list, and objections to exhibits and deposition or other prior testimony listed by plaintiff). The parties must meet and confer by no later than seven days before the Pretrial Order is due to discuss their respective drafts and to reach agreement to the extent possible. ***These dates may be varied only by written agreement of the parties or by order of the Court.***

Following the meet-and-confer process, it is the responsibility of plaintiff's counsel, with full cooperation from defendant's counsel, to assemble the Pretrial Order for submission. The Pretrial Order should be filed on the CM/ECF system with a cover page with the case caption and the title FINAL PRETRIAL ORDER. The cover document must: (a) recite that each of the foregoing categories of materials is included, (b) state that "This Order will control the course of trial and may not be amended except by consent of the parties, or by order of the Court to prevent manifest injustice," and (c) provide spaces for the signature of counsel for each of the parties and the Court.

Pretrial Conferences

Often, the Court will hold an initial pretrial conference with lead trial counsel to discuss case theories, trial plan, anticipated motions *in limine* and other pretrial matters. The purpose of this conference is to address issues that can be resolved easily and to provide the Court with a better sense of the case, particularly when Judge Weisman was not involved substantially in pretrial proceedings.

The Court will set a date for the final pretrial conference at least three weeks before trial. The purpose of this conference is to avoid surprises and to simplify the trial. At the conference, Judge Weisman will address (1) pending motions *in limine*, (2) objections to witnesses and exhibits, (3) contested jury instructions, and (4) trial procedures and scheduling. Lead trial counsel fully prepared and with authority to discuss all aspects of the case must attend. The parties need not attend the pretrial conference unless settlement will be discussed at the conference. The parties, however, are welcome to attend the pretrial conference with their attorneys, if they wish to do so.

SO ORDERED.

A handwritten signature in black ink, reading "M. David Weisman". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

M. David Weisman
United States Magistrate Judge