

PRETRIAL ORDER REQUIREMENTS

United States Magistrate Judge David J. Ayo

1. Jurisdictional Basis.

The jurisdictional basis for all claims shall be explained.

2. Claims and Responses.

Any party asserting a claim shall identify the following, as to each claim: (1) the law and any contractual provision supporting the claim; (b) the remedy prayed for as to each defendant; and (c) the law supporting that remedy as to that defendant. This requirement applies to all counterclaims, cross-claims, third-party claims, and interventions, and the parties shall state whether they have stipulated to any intervention.

Each party against whom a claim has been asserted shall provide the following information: (a) the basis or lack thereof for each claim; (b) all affirmative defenses asserted and the legal bases therefor; (c) whether the dispute in question is one of law, fact, or contractual interpretation; and (d) the law supporting the responses.

If a bench trial is scheduled, the information regarding claims and responses contained in this section shall be supplemented by page-specific citations to supporting jurisprudence as to each claim, remedy, defense, and allegation.

FAILURE TO INCLUDE A CLAIM OR DEFENSE IN THIS ORDER WILL CONSTITUTE ABANDONMENT OF THE CLAIM OR DEFENSE.

3. Issues of Fact and Issues of Law.

Identify any TRUE issues of fact or law that remain unresolved as of the pretrial conference.

4. Stipulations.

List any matters to which the parties have stipulated. Counsel are encouraged to stipulate to as many factual and legal issues as possible in the interest of reducing costs and delays at trial. If the matter will be tried to a jury, counsel shall state whether the stipulations are to be read to the jury.

5. Will Call Witnesses.

Each party shall list those witnesses who definitely will be called to testify at trial. Pursuant to this Court's authority under Fed. R. Civ. P. 16 to modify its scheduling order, the parties are required to provide a will call witness list.

6. May Call Witnesses.

Each party shall set out a witness list that conforms to the requirements of Fed. R. Civ. P. 26(a)(3)(A) and (B).

7. Exhibits.

Each party shall set out an exhibit list that conforms to the requirements of Fed. R. Civ. P. 26(a)(3)(A)(iii). Pursuant to this Court's authority under Fed. R. Civ. P. 16 to modify its scheduling order, the parties are required to provide an exhibit list that reflects only those exhibits that will be presented at trial.

8. Objections to Witness and Exhibit Lists.

Each party shall list any objections to the witness or exhibits lists of another party, including those objections contained in Fed. R. Civ. P. 26(a)(3)(B). ANY OBJECTIONS NOT SPECIFICALLY STATED IN THE PRETRIAL ORDER ARE DEEMED WAIVED UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE SHOWN. If an exhibit has been objected to, a copy of the disputed exhibit must be made available for review at the pretrial conference.

9. Counsel Affirmations.

Counsel for each party shall affirm:

- a. That he or she is aware that exhibits are to be published to the jury by way of CD-ROM or the Visual Presenter unless consent of this Court is obtained upon a showing of impracticality or prejudice.
- b. That he or she is familiar with the Visual Presenter and its operation or note the date he or she has scheduled with this Court's Courtroom Deputy for training.
- c. That good faith settlement negotiations have been engaged in within one week prior to the pretrial conference.
- d. The need, if any, for handicap provisions that are provided by the Court.