

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

[PLAINTIFF(s)],

Plaintiff(s),

Case No. [Case #]

v.

Honorable David M. Lawson

[DEFENDANT(s)],

Defendant(s).

_____ /

CASE MANAGEMENT AND SCHEDULING ORDER

YOU WILL RECEIVE NO FURTHER NOTICE OF THESE DATES	
Witness Lists Exchanged By:	[Witness List Exchange]
Expert Disclosure, plaintiff:	[Expert Disclosure-P]
Expert Disclosure, defendant:	[Expert Disclosure-D]
Discovery Cutoff:	[Disc C/O]
Interim Status Conference	[Interim Status Conf Date] [Interim
Motions Challenging Experts Filed By:	Status Conf Time]
Dispositive Motions Filed By:	[Mots Challenge Exp]
Motions <i>in limine</i> Filed By:	[Disp Mots C/O]
Stipulation for Case Evaluation Submitted By:	[Mots in limine]
Final Pretrial Order Due:	[Stip for Case Evaluation]
Final Pretrial Conference:	[JFPTO]
Trial Date:	[FPT Conf] at [FPT Conf time]
	[Trial]
[Jury or Non Jury] Trial	
Detailed information contained in body of order. Read Carefully: SOME DEADLINES MAY BE SHORTER than Local Rules would allow.	

- I. Computation of time under this order and under any notice of any scheduling order or notice in this cause shall be in conformity and accordance with Fed. R. Civ. P. 6(a).
- II. DISCOVERY.
 - A. The Court enforces Rule 26 discovery plans agreeable to all parties. Disclosure required by Fed. R. Civ. P. 26(a)(1)(A), (B) and (C) shall be made within fourteen (14) days after the date of this order. A list in the form required by Fed. R. Civ. P. 26(a)(3)(A) and (B) of the witnesses, both lay and expert, whom a party may call to testify, shall be filed on or before **[Witness List Exchange]**.

- B. Disclosure of information regarding expert witnesses required by Fed. R. Civ. P. 26(a)(2) shall be completed by plaintiff on or before **[Expert Disclosure-P]** and by defendant on or before **[Expert Disclosure-D]**.
- C. Discovery shall be completed on or before **[Disc C/O]**. This Court will not order discovery to take place subsequent to the discovery cutoff date. Discovery can be extended both before and after the discovery cutoff date by stipulation only if the extension of time does not affect the motion cutoff, final pretrial conference, or trial dates; no motion is required. Extensions or adjournments of all other dates will only be considered upon the filing of a timely written motion.
- D. Discovery motions may be referred to the Magistrate Judge. Once a motion has been referred, all communication regarding that motion should be directed to the Magistrate Judge's chambers.
- E. The Court will not allow an out-of-state counsel not admitted in the Eastern District to practice upon a special motion. All inquiries regarding admission to the Eastern District must be directed to the Clerk's Office at (989) 894-8800.

III. MOTIONS CHALLENGING EXPERT WITNESSES.

- A. The deadline for filing motions challenging the admissibility of expert witness testimony pursuant to Fed. R. Evid. 702, 703 or 705 shall be **[Mots Challenge Exp]**. If such motion will require a testimonial hearing, it should be filed within sufficient time to permit scheduling such a hearing so as not to interfere with the trial date.
- B. All such motions should include specific references to the witness' deposition and to all other record material needed to establish the foundation for the motion. The full text of any source cited should be filed with the Court as an appendix. The appendix shall contain an index. As to cited deposition testimony, counsel are also encouraged to supply the Court with a complete transcript, and citations should have page and line references.

IV. DISPOSITIVE MOTIONS. Dispositive motions shall be filed on or before **[Disp Mots C/O]**. When filing motions for summary judgment, parties shall proceed in accordance with the following:

- A. Before filing a motion for summary judgment or responding to such a motion, the parties are urged to familiarize themselves with *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), and *Matsushita Electric Industrial Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574 (1986). An excellent summary of these cases appears in *Street v. J.C. Bradford & Co.*, 886 F.2d 1472 (6th Cir. 1989). See also Schwarzer, *Summary Judgment under the Federal Rules: Defining Genuine Issues of Material Fact*, 99 F.R.D. 465 (1984).
- B. Facts stated in the statement of material facts *must* be supported with citations to either the pleadings, interrogatories, admissions, depositions, affidavits, or documentary exhibits.

The full text of any source cited should be filed with the Court as an appendix. The appendix shall contain an index.

C. Counsel are discouraged from employing elaborate boilerplate recitations of the summary judgment standard or lengthy string citations in support of well established legal principles. Instead, counsel should focus their analysis on a few well chosen cases, preferably recent and from controlling courts. Counsel are encouraged to supply the Court with copies of their main cases, with the relevant passages highlighted and tabbed. Where unpublished opinions or opinions published only in a specialty reporter are cited, copies of the cases must be submitted along with the brief. As to cited deposition testimony, counsel are also encouraged to supply the Court with a complete transcript, and citations should have page and line references.

D. The Court Clerk will send out a notice of the hearing date. *The Court does not issue a briefing schedule. The Court enforces the response and reply due dates as set forth in L.R. 7.1(d) and Fed. R. Civ. P. 6. even when the motion hearing is set far in advance.* Attorneys who do not respond to motions in a timely fashion are not permitted to argue before the Court during oral argument. The Court requires strict compliance with L.R. 7.1(a) regarding concurrence, and the Court will impose costs for failure to comply with the Local Court Rule. The parties are encouraged to present a proposed order at the hearing.

V. MOTIONS IN LIMINE must be filed by [**Mots in limine**]. It is the intention of the Court that all motions *in limine* and responses shall be received by the final pretrial conference date, therefore counsel must strictly adhere to the deadlines set forth in L.R. 7.1(d)(2).

VI. STIPULATION FOR CASE EVALUATION must be submitted by [**Stip for Case Evaluation**]. Referral to case evaluation panel will be made at the end of discovery. It is the responsibility of the attorneys to make sure that case evaluation is completed before the final pretrial conference.

VII. ORAL ARGUMENT ON MOTIONS. Attorneys who do not respond to motions in a timely fashion will not be permitted to argue before the Court during oral argument.

VIII. FINAL PRETRIAL CONFERENCE AND FINAL PRETRIAL ORDER. The final pretrial conference shall take place on [**FPT Conf**] at [**FPT Conf time**]. The Final Pretrial Order shall be submitted to chambers before the close of business on [**JFPTO**]. Following is the procedure counsel are to utilize to prepare for the final pretrial conference and the final pretrial order:

A. Counsel for all parties are directed to confer *in person (face to face) at their earliest convenience* in order to (1) reach any possible stipulations narrowing the issues of law and fact, (2) deal with non-stipulated issues in the manner stated in this paragraph, and (3) exchange documents that will be offered in evidence at the trial. It shall be the duty of counsel for plaintiff to initiate that meeting and the duty of other counsel to respond to plaintiff's counsel and to offer their full cooperation and assistance. If, after reasonable effort, any party cannot obtain the cooperation of other counsel, it shall be his or her duty

to communicate with the Court. Counsels' meeting shall be had sufficiently in advance of the date of the scheduled final pretrial conference with the Court so that counsel for each party can furnish all other counsel with a statement of the real issues the party will offer evidence to support, eliminating any issues that might appear in the pleadings about which there is no real controversy and including in such statement issues of law as well as ultimate issues of fact from the standpoint of each party. *Counsel for plaintiff then will prepare a draft final pretrial order and submit it to opposing counsel, after which all counsel will jointly submit¹ the original and one copy of the final draft of the proposed pretrial order to the Judge's chambers (or in open court, if so directed) on the date fixed for submission.* All instructions contained within this order *must* be followed carefully; they will be binding on the parties at trial. If there are any pending motions requiring determination in advance of trial,² they should specifically be called to the Court's attention not later than the date of submission of the final pretrial order.

The final pretrial order should provide for the signature of the Court, which, when signed, will become an Order of the Court. *AN ORIGINAL AND ONE COPY IS TO BE FILED WITH THE COURT.*

The proposed pretrial order shall strictly comply with the provisions and requirements of L.R. 16.2, except as this Court may otherwise provide.

- B. The following person and entities shall *personally* attend the final pretrial conference:
- 1) **Trial counsel** for each party;
 - 2) **All parties** who are natural persons;
 - 3) **A representative** on behalf of any other party;
 - 4) **A representative of any insurance carrier** which has undertaken the prosecution or defense of the case and has contractually reserved to itself the ability to settle the action.

Representatives must possess full authority to engage in settlement discussions and to agree upon a full and final settlement. "Full authority" is authority that exceeds the level of the last demand by the plaintiff.

"Personal attendance" by each party is not satisfied by (1) trial counsel professing to have full authority on behalf of the client or (2) a party being available by telephone.

¹Counsel for plaintiff has primary responsibility for preparation of the final pretrial order and, in that respect, for its submission to opposing counsel in ample time for revision and timely filing. Nonetheless, full cooperation and assistance of all other counsel are required for proper preparation of the final pretrial order and must therefore be extended.

²This includes motions in limine, disputes over specific jury instructions or the admissibility of any evidence at trial upon which the parties desire to present authorities and argument to the Court.

Any party who disregards these requirements may be sanctioned pursuant to Fed. R. Civ. P. 16(f). Possible sanctions include fines, cost, fees, foreclosure of witnesses, or loss of claims or defenses.

Requests for adjournment of the final pretrial conference should be made in accordance with section XII of this Order.

- IX. Trial shall commence on **[Trial]** at 8:30 a.m.
- X. At least *ONE WEEK* prior to the trial date all counsel shall furnish to the court the following:
- A. In jury cases, any requests for *VOIR DIRE* and proposed *JOINT JURY INSTRUCTIONS*. In jury cases, the parties are hereby ordered to meet and confer prior to trial to discuss jury instructions. No later than one week prior to the first day of trial, the parties are to file with the court a single set of proposed, stipulated jury instructions. The Court will provide proposed opening and closing instructions, and counsel are responsible for all instructions related to their specific claims or defenses. All such instructions are to be submitted in typewritten form (double spaced) and on computer disk compatible with WordPerfect version 8.0; each instruction shall contain references to authority (e.g., "Devitt and Blackmar, Section 11.08"); and each instruction shall be contained on a separate page. In addition, each party shall separately file any additional proposed instructions (in the same form) to which any other party objects. The parties must make a concerted, good faith effort to narrow the areas of dispute and to discuss each instruction with a view to reaching agreement as to an acceptable form.
 - B. A statement of claims or defenses, no longer than two pages, suitable to be read to the jury during opening instructions.
 - C. In non-jury cases, proposed *FINDINGS OF FACT* and *CONCLUSIONS OF LAW*.
- XI. Exhibits During Trial.
- A. Counsel are required to mark all proposed exhibits in advance of trial; the preferred method is to use the traditional "Plaintiff's Exhibit ___" (yellow) and "Defendant's Exhibit ___" (blue) stickers, but any clearly marked method is acceptable. A consecutive numbering system should be used, each party starting with Exhibit "1."
 - B. **COUNSEL ARE REQUIRED TO KEEP TRACK OF ALL ADMITTED EXHIBITS DURING TRIAL, AND ONE WEEK PRIOR TO TRIAL SHALL SUBMIT AN EXHIBIT LIST USING THE ATTACHED EXHIBIT FORM.**
 - C. If exhibits are voluminous, exhibits used for each witness should be bound separately, and binders should be provided to the Court and each juror.
 - D. Counsel must confer and purge from one set of binders or files all exhibits not admitted during the course of trial. Such exhibits should be ready to be turned over to the jury foreperson prior to closing jury instructions so that jury deliberations are not delayed.

E. It is the responsibility of the parties to see that the record is complete; all trial exhibits, briefs, etc. are to be filed with the Clerk's Office on the 3rd floor in accordance with the Local Court Rules.

F. The Court requires full disclosure to opposing counsel of computer generated visual or animated evidence and full disclosure of underlying data.

XII. **Requests for extension of a scheduling order date are not routinely granted.** All requests shall be made *in writing* to the Court in a (1) stipulation by the parties with a proposed order or (2) motion to extend the date which states that concurrence was sought and refused. The Court will consider persuasiveness of the reasons for the extension and the overall reasonableness of the request, including its effect on the other dates in the scheduling order.

XIII. **Alternative Dispute Resolution:** The parties shall appear through counsel for a status conference on [Interim Status Conf Date] at [Interim Status Conf Time] to discuss Alternative Dispute Resolution.

XIV. Other Matters:

LR 16.2 Joint Final Pretrial Order

(a) Joint Final Pretrial Order. The parties shall furnish a joint final pretrial order in every civil case at, or if the judge requires, before the final pretrial conference.

(NOTE: THIS COURT REQUIRES THAT THE JOINT FINAL PRETRIAL ORDER BE FURNISHED AT LEAST ONE WEEK BEFORE THE TIME SET FOR THE FINAL PRETRIAL CONFERENCE.)

This joint final pretrial order shall fulfill the parties' disclosure obligations under Fed.R.Civ.P. 26(a)(3), unless the Judge orders otherwise. All objections specified in Rule 26(a)(3) shall be made in this order. Counsel for plaintiff(s) or a plaintiff without counsel shall convene a conference for all parties to confer and collaborate in formulating a concise joint final pretrial order. Counsel for plaintiff(s) or a plaintiff without counsel shall compile the order. Counsel for all parties and any party without counsel shall approve and sign the order. Counsel for plaintiff(s) or a plaintiff without counsel shall submit an original and one copy of the order to the assigned Judge for approval and adoption. The order shall provide for the signature of the Court and, when signed and filed in the Clerk's Office, becomes an order of the Court, superseding the pleadings and governing the course of trial unless modified by further order. The pretrial order shall not be a vehicle for adding claims or defenses. The order will not be filed in the Clerk's Office until the Judge has signed it.

(b) Contents of Order. The joint final pretrial order shall contain, under numbered and captioned headings, the following:

(1) Jurisdiction. The parties shall state the basis for Federal Court jurisdiction and whether jurisdiction is contested by any party.

(2) Plaintiffs' Claims. The statement of the claim or claims of plaintiffs shall include legal theories.

(3) Defendants' Claims. The statement of the defenses or claims of defendants, or third parties, shall include legal theories.

(4) Stipulation of Facts. The parties shall state, in separately numbered paragraphs, all uncontested facts.

(5) Issues of Fact to be Litigated.

(6) Issues of Law to be Litigated.

(7) Evidence Problems Likely to Arise at Trial. Include objections to exhibits and to the use of deposition testimony, including the objections required under Fed.R.Civ.P. 26(a)(3). The order shall list all motions *in limine* of which counsel or a party without counsel should reasonably be aware.

(8) Witnesses. Each party shall list all witnesses whom that party will call and all witnesses whom that party may call. This listing shall include, but is not limited to, the disclosures required under Fed.R.Civ.P. 26(a)(3)(A) and (B). A party may, without further notice, call a witness listed by another party as a "will call" witness. Except as permitted by the Court for good cause a party may not list a witness unless the witness was included on a witness list submitted under a prior order or has been deposed. The list shall state whether the witness is an expert and whether testimony will be offered by deposition. Only listed witnesses will be permitted to testify at trial, except for rebuttal witnesses whose testimony could not be reasonably anticipated before trial, or except for good cause shown. The provisions of Fed.R.Civ.P. 37(c)(1) shall apply to a failure to list a witness.

(9) Exhibits.³ The parties shall number and list, with appropriate identification, each exhibit, including summaries, as provided in Fed.R.Civ.P. 26(a)(3)(C). Objections to listed exhibits must be stated in the joint pretrial order. Only listed exhibits will be considered for admission at trial, except for rebuttal exhibits which could not be reasonably anticipated before trial, or except for good cause shown. The provisions of Fed.R.Civ.P. 37(c)(1) shall apply to a failure to list an exhibit.

(10) Damages. The parties shall itemize all claimed damages and shall specify damages that can be calculated from objective data. The parties shall stipulate to those damages not in dispute.

(11) Trial.

(A) Jury or non-jury.

(B) Estimated length of trial.

(12) Settlement. Counsel or a party without counsel shall state that they have conferred and considered the possibility of settlement, giving the most recent place and date, and state the current status of negotiations and any plans for further discussions. They may state that they wish the Court to schedule a settlement conference.

(c) Failure to Cooperate. For failure to cooperate in preparing or submitting the joint final pretrial order or failure to comply strictly with the terms of the joint final pretrial order, the Court may dismiss claims, enter default judgment, refuse to permit witnesses to testify or to admit exhibits, assess costs and expenses, including attorney fees, or impose other appropriate sanctions.

³ COMMENT: Under LR 16.2(b)(9), any objections based on foundation or authenticity will be deemed waived if not raised before trial.

(d) Filing of Trial Briefs, Findings and Instructions. The joint final pretrial order shall further provide that trial briefs, proposed findings of facts and conclusions of law in nonjury cases or requests for instructions in jury cases shall be filed on the first day of trial.

(NOTE: THIS COURT REQUIRES THAT TRIAL BRIEFS, MOTIONS IN LIMINE, PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW IN NON-JURY CASES, OR REQUESTS FOR INSTRUCTIONS IN JURY CASES SHALL BE FILED ONE WEEK PRIOR TO THE DAY OF THE TRIAL TERM.)

(e) Additional Requirements. A Judge, in an appropriate case, may add additional requirements to the joint final pretrial order, or may suspend application of this Rule, in whole or in part.

(f) Juror Costs Attributable to Parties. Each party shall also acknowledge that the Court may assess juror expenses under LR 38.2.

DAVID M. LAWSON
United States District Judge

Dated: