UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

PROPOSAL TO AMEND THE LOCAL RULES

The full Court met in executive session on Thursday, 20 January 1994, approved a proposal to amend the *Standing Order Establishing Pretrial Procedure*. The attached copy of the *Standing Order* together with the documents associated with that order, i.e., schedule (c) dealing with exhibits, the final pretrial order form, the pretrial memorandum form for use in personal injury cases, the pretrial memorandum form for use in employment discrimination cases, the guidelines for proposed findings of fact and conclusions of law, and the pattern jury instructions is annotated to show additions to the current *Standing Order* thus and deletions ~~thus~~.

By direction of the full Court and pursuant to 28 U.S.C. § 2071(b) regarding appropriate public notice and opportunity for comment, the Clerk is directed (a) to cause the proposal to amend the *Standing Order Establishing Pretrial Procedure* to be posted in the Courthouses at Chicago and Rockford, (b) to cause notice of the proposal and requests for comment to be published in the *Chicago Daily Law Bulletin*, (c) to indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (d) to collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (e) following receipt of a copy of the report and recommendations of the advisory committee, to distribute copies of the comments together with copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:
FOR THE COURT

James B. Moran
Chief Judge

Dated at Chicago, Illinois, this 21st day of January, 1994.

STANDING ORDER ESTABLISHING PRETRIAL PROCEDURE

(Adopted Pursuant to General Order of 26 June 1985;
Amended Pursuant to General Order of 27 November 1991)

1. Introduction

This pretrial conference procedure is intended to secure a just~~,~~ ~~and~~ speedy~~,~~ and inexpensive determination of the issues. If the type of procedure described below does not appear calculated to achieve these ends in this case~~,~~ ~~please arrange a~~ counsel should seek an immediate conference with the judge and opposing counsel ~~immediately~~ so that alternative possibilities may be discussed. Failure of either party to comply with the substance or the spirit of this *Standing Order* may result in dismissal of the action, default or other sanctions appropriate under Fed. R. Civ. P. ~~("Rule")~~ 16 or 37, 28 U.S.C. §1927 or any other applicable provisions.

Parties should also be aware that there may be variances in the forms and procedures used by each of the judges in implementing these procedures. Accordingly, parties should contact the minute clerk assigned to the presiding judge for a copy of any standing order of that judge modifying these procedures.

Comment: The proposals are based on recommendations made by the C.J.R.A. Advisory Group in its Final Report and the Advisory Committee on Local Rules and Procedures.

A series of minor stylistic changes have been proposed to the *Standing Order*. These are being applied to all of the local rules to provide stylistic uniformity. They include displaying the section designator in bold, e.g., **1.**, **(a)**, and the use of Court to refer only to the entire Court, e.g., the United States District Court for the Northern District of Illinois, and court to refer to an individual judge.

The *Standing Order* currently uses the convention of referring to individual rules of the Federal Rules of Civil Procedure simply as "Rule [number]." While anyone familiar with both Fed.R.Civ.P. and the local rules would not be confused by this, those unfamiliar with the local rules might feel compelled to check each reference to make certain that it is to Fed.R.Civ.P. not the local rules. In the proposal "Fed.R.Civ.P." and "local General Rule" are used to make the identification unambiguous. As a result there is a change in the last sentence of the first paragraph eliminating the indication that for the balance of the *Standing Order* "Rule" will indicate "Fed.R.Civ.P."

References to the Standing Order Establishing Pretrial Procedure have been made uniform, i.e., "*Standing Order.*" This allows ready differentiation from any standing orders adopted by individual judges.

A section heading has been given to each section to indicate the general content of the section.

The following changes are specific to the opening of the *Standing Order.* Currently, the *Standing Order* opens with an introductory paragraph which is followed by 8 numbered paragraphs. It is proposed that the introductory section be expressly designated as such. It becomes section **1.**

It is proposed that the opening sentence of the *Standing Order* be changed to use "just, speedy, and inexepensive" in lieu of "just and speedy." This follows the language currently used in Fed.R.Civ.P. 1. It is also proposed that the second sentence be revised to shift it to the third person used throughout the rule by specifying that counsel should seek a conference where the procedures in the *Standing Order* appear inappropriate to a case.

In its Final Report the Advisory Group recommended that the Court either require uniformity in motion practices before the judges or amend local

General Rule 12 to indicate that there was some diversity. The Group found this change necessary in order to alert out-of-town counsel to an instance where a rule was not uniformly implemented.

Although not specifically mentioned in the Advisory Group's proposed plan, the same considerations apply with respect to the implementation of the procedures and forms set out in the *Standing Order*. Accordingly, a new second paragraph has been added to alert those unfamiliar with the Court's practices of the need to contact the minute clerk for procedures specific to the presiding judge.

~~1.~~2. Preliminary Pretrial Conference

Within ~~120 days after the filing of~~ 60 days after the appearance of a defendant and within 90 days after the complaint has been served on a defendant in each civil case (other than categories of cases excepted by ~~this District Court's~~ local General Rule 5.00), the ~~C~~court will usually schedule a preliminary pretrial conference (ordinarily in the form of a status hearing) as required by ~~Rule Fed.R.Civ.P.~~ 16. At the conference, counsel should be *fully prepared* and have authority to discuss any questions regarding the case, including questions raised by the pleadings, jurisdiction, venue, pending motions, motions contemplated to be filed, the contemplated joinder of additional parties, the probable length of time needed for discovery and the possibility of settlement of the case. Counsel will have the opportunity to discuss any problems confronting them, including the need for time in which to prepare for trial. At the conclusion of the preliminary conference, a date for status hearing on discovery and its completion will be set if the case is not disposed of by settlement or otherwise.

Comment: In section **2.** (the current section 1.) the principal change proposed is a result of the proposed amendment to F.R.Civ.P 16(b). The changes to 16(b) require the court to "enter a scheduling order that limits the time

(1) to join other parties and to amend the pleadings;

(2) to file motions; and

(3) to complete discovery.

The scheduling order may also include

(4) modifications of the times for disclosures under Rules 26(a) and 26 (e)(1) and of the extent of discovery to be permitted;

(5) the date or dates for conferences before trial, a final pretrial conference, and trial; and

(6) any other matters appropriate in the circumstance of the case."

The order is to be entered "as soon as practicable but in any event within 90 days after the appearance of the defendant and within 120 days after the complaint has been served on the defendant." The

The only other changes are the following stylistic changes: (a) the addition of the section caption "Preliminary Pretrial Conference;" (b) "this District Court's General Rule 5.00" becomes "local General Rule 5.00;" (c) "Court" becomes "court;" and (d) "Rule 16" becomes "Fed.R.Civ.P. 16."

~~2.~~3. Procedures for Complex or Protracted Discovery

If at any time during the preliminary pretrial conference or later status hearings it appears that complex or protracted discovery will be sought, the ~~C~~court ~~may—~~

~~(a)~~ ~~determine that the *Manual on Complex Litigation 2d* be used as a guide for procedures to be followed in the case, or~~

~~(b)~~ ~~determine that discovery should proceed by phases, or~~

(c) require that the parties ~~provide~~ develop a joint written discovery plan under ~~Rule~~ Fed.R.Civ.P. 26 (f)~~, which shall be as specific as possible as to dates, time and places~~

~~discovery will be sought and as to the names of persons whose depositions will be taken.~~

If the court elects ~~for~~ phased discovery, the first phase will address information necessary to evaluate the case, lay the foundation for a motion to dismiss or transfer, and explore settlement. If the case is pending at the end of the first phase, the court may then require that for the second phase the parties develop a joint written discovery plan under Fed.R.Civ.P. 26 (f), the contents of which shall be as set forth above.

If the court requires parties to develop a discovery plan, such plan shall be as specific as possible as to dates, time and places discovery will be sought and as to the names of persons whose depositions will be taken. It ~~Any such plan~~ shall also specify the parties' proposed discovery closing date and may only be amended for good cause. Where the parties are unable to agree on a joint discovery plan, they shall each submit a plan to the court. After reviewing the separate plans, the court may take such action as it deems appropriate to develop the plan.

Where appropriate, the court may also set deadlines for filing motions and a time framework for their disposition. ~~In all events the Cc~~ourt will, ~~at an appropriate point in the discovery process, set a discovery closing date.~~

Comment: In section **3.** (the current section **2.**) there are several substantive changes. The section has also been restructed for greater clarity. One of the substantive changes is to add the phrase "[the court] may— (a) determine that the *Manual on Complex Litigation 2d* be used as a guide for procedures to be followed in the case, or" in the first sentence. This is in response to the recommendation of the Advisory Group that "[j]udges and litigants in complex cases...should use the *Manual on Complex Litigation 2d* as a guide."[1]

A second substantive change is the addition of "[the court may] (b) determine that discovery should proceed by phases, or" in the first sentence and

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[1] Final Report, page 92, Item 15.

two new sentences as the second paragraph section 3. These additions are in response to 28 U.S.C. § 473(a)(3)(C)(ii) and the recommendation of the Advisory Group.[2] It is the view of the Court that phased discovery is most likely to be applicable to complex cases. Accordingly, the reference to its use was included in section 3. of the *Standing Order*, a section dealing with discovery in complex cases.

The third substantive change involves grouping all the material—some of which is new—relating to joint discovery plan into the third paragraph of section 3. The opening sentence of the paragraph is material relocated from the existing text. The last two sentences of the paragraph are new. They provide that where parties cannot agree to the discovery plan, they should file separate plans and the judge will determine the final timetable.[3]

A fourth substantive change involves adding the following as the opening sentence of the fourth paragraph: "Where appropriate, the court may also set deadlines for filing motions and a time framework for their disposition." This serves as a reminder to parties and the court of the need to consider such a schedule as suggested by 28 U.S.C. § 473(a)(3)(D).

The following stylistic changes are proposed for section 3.: (a) a section caption of "Procedures for Complex or Protracted Discovery" be added; (b) "Court" becomes "court;" (c) "Rule 26 (f)" becomes "F.R.Civ. P. 26 (f);" and the last sentence of the section is shifted to the next section.

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[2] The Advisory Group recommended that the *Standing Order* be amended "to provide that discovery proceed in phases in all cases for which discovery is appropriate." (Final Report, page 91, Item 7.)

[3] The Advisory Group recommended that where litigants cannot agree on a joint discovery plan "each side should submit its own proposed discovery schedule." (Final Report, page 91, Item 7.)

4. Discovery Closing Date.

In cases subject to this *Standing Order*, the court will, at an appropriate point in the discovery process, set a discovery closing date. Except to the extent specified by the ~~C~~court on motion of either party, discovery must be *completed* before the discovery closing date. Discovery requested before the discovery closing date, but not scheduled for completion before the discovery closing date, does not comply with this order.

> **Comments:** Section **4.** combines a first sentence taken from the same as the last sentence of the current section **2.** and the two sentences that make up the current section **3.** Because the contents of the current section **2.** have been designated as dealing with complex or protracted discovery, it was necessary to move the last sentence of that section to a different section in order to avoid the inference that setting a discovery closing date applied *only* to cases with complex or protracted discovery. Other than the addition of the caption for the section, the only other stylistic change is the use of "court" instead of "Court."

~~4.~~5. Settlement

Counsel and the parties are directed to ~~conduct~~ undertake a good faith effort to settle that includes a thorough exploration of the prospects of settlement before undertaking the extensive labor of preparing the Order provided for in the next paragraph. The court may require that representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference. ~~If settlement is feasible, such advance discussions will save the clients' time and money, counsels' time and the Court's time. Should~~

Early in the case, the court may offer *sua sponte* to preside over settlement talks. If the parties wish the ~~C~~court to participate in a settlement conference, counsel ~~may~~ should ask the

~~C~~court or the minute clerk to schedule such conference. In a case where the trial will be conducted without a jury, particularly as the case nears the date set for trial, the preferred method of having the court preside over settlement talks is for the assigned judge to arrange for another judge to preside or to refer the task to a magistrate judge. If the case has not been settled and is placed on the ~~C~~court's trial calendar, settlement possibilities should continue to be explored throughout the period before trial. If the case is settled, counsel shall notify the minute clerk promptly and notice up the case for final order.

Comment: Several substantive changes are proposed for this section. In its Final Report, the Advisory Group recommends that "the judge may require a party representative with authority to bind be present at a settlement conference, in person or by telephone."[4] This language closely tracks that of 28 U.S.C. § 473(b)(5).

The Advisory Group also recommends that "[e]arly in a case, judges may offer to preside over settlement talks."[5] In addition, the Advisory Group also suggested that where a bench trial is involved, provision be made for a judge other than the one who will try the case to preside at the settlement talks, particularly as the time for trial approaches. These suggestions have been incorporated into this section.

Changes to the section proposed by the Rules Advisory Committee have also been incorporated in this proposal. These include substituting for the word "conduct" in the first sentence the words "undertake a good faith effort to settle which includes," eliminating the current second sentence, substituting "If" for "Should" as the opening word of the current third sentence, and substituting

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[4] Final Report, Item 17, page 92.

[5] Final Report, page 93, Item 22.

"should" for "may" in the same sentence. The reason the Committee recommends deleting the second sentence is that it is purely hortatory and adds nothing procedural. The remaining changes are intended to clarify.

Finally, there are three stylistic changes, all involving changing "Court" or "Court's" to "court" or "court's."

~~5.6.~~ Final Pretrial Order

~~When it appears that the case is nearing readiness for trial, or shortly after the discovery closing date, t~~The ~~C~~court will schedule dates for submission of a proposed final pretrial order ("Order") and final pretrial conference (~~the~~ "Conference") in accordance with ~~Rule~~ Fed.R.Civ.P. 16. In the period between notice and the date for submission of the pretrial order:

(a) Counsel for all parties are directed to ~~confer *in person (face to face) at their earliest convenience*~~ meet in order to (1) reach agreement on 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 copies of documents that will be offered in evidence at the trial. The court may direct that counsel meet in person (face-to-face). 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 to fulfill both the substance and spirit of this standing order. If, after reasonable effort, any party cannot obtain the cooperation of other counsel, it shall be his or her duty to ~~communicate with~~ advise the ~~C~~court of this fact by appropriate means.

(b) Counsels' meeting shall be held sufficiently in advance of the date of the scheduled Conference with the ~~C~~court so that counsel for each party can furnish all other counsel with a statement ("Statement") of the real issues the party will offer evidence to support. The Statement will (1) eliminat~~inge~~ any issues that ~~might~~ appear in the pleadings about which there is no real controversy, and (2) includ~~inge~~ ~~in such statement all~~ issues of law

as well as ultimate issues of fact from the standpoint of each party.

(c) It is the obligation of cCounsel for plaintiff ~~then will~~ to prepare from the Statement a draft ~~pretrial o~~Order ~~and submit it~~ for submission to opposing counsel~~,~~; Included in plaintiff's obligation for preparation of the Order is submission of it to opposing counsel in ample time for revision and timely filing. Full cooperation and assistance of all other counsel are required for proper preparation of the Order to fulfill both the substance and spirit of this Standing Order. Thereafter, ~~after which~~ all counsel will jointly submit[6] the original and one copy of the final draft of the ~~proposed pretrial~~ ~~o~~Order ~~(the "Order")~~ to the ~~J~~judge's chambers (or in open court, if so directed) on the date fixed for submission.[7]

(d) All instructions ~~contained within the text of~~ and footnotes ~~to contained within~~ the Final Pretrial Order form promulgated with this *Standing Order* *must* be followed ~~carefully~~. They will be binding on the parties at trial in the same manner as though repeated in the Order. If any counsel believes that any of the instructions and/or footnotes allow for any part of the Order to be deferred until *after* the Order itself is filed, that counsel shall file a motion seeking leave of court for such deferral.

(e) ~~If there are a~~Any pending motions requiring determination in advance of trial (including, without limitation, 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) shall be,[8] ~~, they should~~ specifically~~,~~ ~~be~~ called to the

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~~[6] Counsel for plaintiff has primary responsibility for preparation of the 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 Order and must therefore be extended.~~

[7] As the Order reflects (see * footnote), various of its requirements (marked by an * on later pages) may be deferred until after the Order itself is filed. ~~If any counsel believes that procedure to be appropriate in the circumstances of the case, a motion should be filed seeking leave of court for such deferral.~~

~~[8] This 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.~~

~~C~~court's attention not later than the date of submission of the Order.

(~~b~~f) Counsel must consider the following matters ~~among others~~ during their conference:

(1) Jurisdiction (if any question exists in this respect, it must be identified in the Order);

(2) Propriety of parties; correctness of identity of legal entities; necessity for appointment of guardian, administrator, executor or other fiduciary, and validity of appointment if already made; correctness of designation of party as partnership, corporation or individual d/b/a trade name; and

(3) Questions of misjoinder or nonjoinder of parties.

(~~e~~g) Duplicate counterparts of the Order, following the attached form, must be submitted at the time and place instructed by the ~~C~~court.

Comment: In addition to stylistic changes of the type previously mentioned, e.g., substituting "court" for "Court" and "counsel" for "Counsel," the text of subsection (a) has been rearranged so that each subsection is accorded its own designation. As a result, the material equivalent to the current subsection (a) is now in subsections (a) through (e). Consequently, the current subsections (b) and (c) are redesignated as subsections (f) and (g).

The proposed subsection (a) contains several changes. In the first sentence the Rules Advisory Committee proposes the substitution of "Counsel for all parties are directed to meet..." for the current "Counsel for all parties are directed to confer *in person (face to face) at their earliest convenience...*" The Committee proposed the change to permit flexibility sufficient to cover the wide range of conditions likely to be met in following these procedures. For example, where one or more of the counsel is from out of town, the required "*face to face*" meeting

may significantly increase costs with no necessary increase in the ability of parties to achieve the aims of the procedures established by the *Standing Order.*

The addition of the words "agreement on" in **(a)(1)** and "copies of" in **(a)(3)** are intended to increase clarity. Similarly, the addition of the phrase "to fulfill both the substance and spirit of this standing order" to the end of the second sentence of **(a)** serves to make explicit what in the current version is tacit. The changes to the final sentence of **(a)** are also intended to increase clarity.

The proposed subsection **(b)** is based on the fourth sentence of the current subsection **(a)**. A single, long sentence is converted to two shorter sentences.

The proposed subsection **(c)** is based on the fifth sentence of the current subsection **(a)**. However, the proposal converts the opening of that sentence into a separate sentence. It also makes the preparation of the initial draft of the final pretrial order an "obligation" of counsel for plaintiff. New material, the second and third sentences of **(c)**, further define the nature of the "obligation" and require the cooperation of the other counsel. The last sentence of **(c)** is the end of the fifth sentence of the current **(a)**. As a result of these changes footnote 6 and the final sentence of footnote 7 are no longer needed and so will be deleted.

The proposed subsection **(d)** is based on the sixth and seventh sentences of the current subsection **(a)**. There are minor revisions to the sixth sentence. The seventh sentence is unchanged. The third sentence in **(d)** is new. It creates a procedure whereby counsel can seek leave of court to defer preparation of part of the Order until after the main portion is filed.

The proposed subsection **(e)** is based on the eighth sentence of the current subsection **(a)**. The major change is stylistic. References to motions *in limine* relegated to footnote 5 in the current version are incorporated into the text of subsection **(e)** and footnote 5 is eliminated.

Proposed subsections (f) and (g) are the same as current subsections (b) and (c) other than the final word in (g), where "court" is substituted for "Court."

~~6.7.~~ Final Pretrial Conference

At the Conference each party shall be represented by the attorneys who will try the case (unless before the conference the ~~C~~court grants permission for other counsel to attend in their ~~stead~~ place). ~~Those~~ All attending attorneys will familiarize themselves with the pre-trial rules and will come to the Conference with *full authority* to accomplish the purposes of ~~Rule~~ Fed.R.Civ.P. 16 (including simplifying the issues, expediting the trial and saving expense to litigants). ~~Accordingly c~~Counsel shall be prepared to discuss compromise settlement possibilities at the Conference without the necessity of obtaining confirmatory authorization from their clients.[9] If a party represented by counsel desires to be present at the Conference, that party's counsel must notify the adverse parties at least one week in advance of the conference. If a party is not going to be present at the Conference, that party's counsel shall use their best efforts to provide that the client can be contacted if necessary. Where counsel represents a governmental body, the court may for good cause shown authorize that counsel to attend the Conference even if unable to enter into settlement without consultation with counsel's client.

Comment: There are a few minor stylistic changes in the first three sentences of this section. Major changes were proposed by both the Rules Advisory Committee and the Advisory Group. The proposal of the Rules Advisory Committee consists of two additional sentences dealing with the presence of parties at the final pretrial conference. That of the Advisory Group is in the last sentence.

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[9] ~~If a party desires to be present at the conference, counsel must notify the adverse parties at lease one week in advance of the Conference.~~

The first new sentence is essentially the same as the current footnote 6 [footnote 10 in this document]. It requires notification of adverse parties where a party will attend the Conference. The importance of this provision suggests that it should be in the body of the order, rather than relegated to a footnote.

The second new sentence places a duty on counsel to make an effort to determine how to contact the represented party if that party is *not* going to attend the Conference.

The Advisory Group recommended that this section be revised "to require that each party be represented at each pretrial conference by an attorney with authority to bind the party with respect to all matters previously identified by the court for discussion at the conference, and all reasonably related matters. An exception may be appropriate for governmental bodies in particular cases."[10] As revised, this section requires that counsel attending the final pretrial conference has "*full authority* to accomplish the purposes of Fed.R.Civ.P. 16 (including simplifying the issues, expediting the trial and saving expense to litigants)" and that "[c]ounsel shall be prepared to discuss compromise settlement possibilities...without the necessity of obtaining confirmatory authorization of their clients." Taken together, these would appear to satisfy the desire of the Advisory Group to require that counsel have authority to bind the party, at least at the final pretrial conference.

The suggestion of the Advisory Group that counsel for governmental bodies be excepted in certain instances is incorporated into the last sentence of this section.

~~7.~~8. Extensions for Final Pretrial Order or Conference

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[10] Final Report, page 92, Item 17.

It is essential that parties adhere to the scheduled dates for the Order and Conference, for the Conference date governs the case's priority for trial. Because of the scarcity of Conference dates, courtesy to counsel in other cases also mandates no late changes in scheduling. Accordingly, *no* extensions of the Order and Conference dates will be granted without good cause, and no request for extension should be made less than 14 days before the scheduled Conference.

Comment: No changes are proposed for this section other than re-numbering and the addition of a caption.

~~8.~~9. Action Following Final Pretrial Conference

At the conclusion of the Conference the ~~C~~court will enter an appropriate order reflecting the action taken, and the case will be added to the civil trial calendar. Although no further pretrial conference will ordinarily be held thereafter, a final conference may be requested by any of the parties or ordered by the ~~C~~court prior to trial. Any case ready for trial will be subject to trial as specified by the ~~C~~court.

Comment: The only changes proposed for this section are its being re-numbered, the addition of a caption, and substituting "court" for "Court" in each of the three sentences of the section.

10. Documents Promulgated with the *Standing Order*

Appended to this *Standing Order* are the following:

(a) a form of final pretrial order;

(b) a form for use as "Schedule (c)," the schedule of exhibits for the final pretrial order;

(c) a form of pretrial memorandum to be attached to the completed final pretrial order in personal injury cases;

(d) a form of pretrial memorandum to be attached to the completed final pretrial order in employment discrimination cases;

(e) guidelines for preparing proposed findings of fact and conclusions of law; and

(f) pattern jury instructions.

Each of the forms is annotated to indicate the manner in which it is to be completed.

Comment: This section is new. It explicitly identifies the various materials that are associated with the *Standing Order*.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Plaintiff(s),	)	
v.	)	Civil Action No.
Defendant(s).[1]	)	Judge [*Insert name of assigned judge*]

FINAL PRETRIAL ORDER

(1) This matter having come before the ~~C~~court at a pretrial conference held pursuant to Fed. R. Civ. P. ("Rule") 16, and [*insert name, address and telephone number*] having appeared as counsel for plaintiff(s) and [*insert name, address and telephone number*] having appeared as counsel for defendant(s), the following action was taken:

(2) This is an action for[2] [*insert nature of action, e.g., breach of contract, personal injury*] and the jurisdiction of the ~~C~~court is invoked under ~~U.S.C. §~~ [*insert citation of statute(s) on which jurisdiction based*]. Jurisdiction is (not) disputed.[3]

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[1] Where a third-party defendant is joined pursuant to Rule 14(a), the Order may be suitably modified. In ~~that respect such cases~~, the caption and the statement of parties and counsel shall be modified to reflect the joiner.

[2] ~~Breach of contract, personal injury, etc.~~

[3] In diversity cases or other cases requiring a jurisdictional amount in controversy, the Order shall contain either a stipulation that ~~$150~~,000 is involved or a ~~resume of the brief written statement citing~~ evidence supporting the claim that such sum could reasonably be awarded.

(3) ~~All */ t~~The following stipulations and statements were submitted and are attached to and made a part of this Order:[4]

(a) a comprehensive stipulation or statement of all uncontested facts, which will become a part of the evidentiary record in the case (and which, in jury trials, may be read to the jury by the court or any party);[5]

~~(b) an agreed statement of the contested issues of fact and law, together with separate statements by each party of any contested issues of fact or law not agreed to;[6]~~

(b) all motions *in limine* should be filed with supporting briefs within 7 days after the time of the filing of this Order. Responses to such motions *in limine* shall be filed within 14 days thereafter;

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[4] If it does not appear that the case will be reached for trial in the ~~near~~ immediate future, or if active settlement discussions are in progress, the ~~C~~court may defer asterisked (*) requirements until shortly before the case is set for trial. See items (i), (j), (k), and (l). On motion of any party or on the ~~C~~court's own motion, any requirements of this Order (including one or more of the asterisked requirements) may be waived entirely.

[5] Counsel for plaintiff has the responsibility to prepare the initial draft of a proposed stipulation dealing with allegations in the complaint. Counsel for any counter-, cross- or third-party complainant has ~~a like~~ the same responsibility ~~as~~ to prepare a stipulation dealing with allegations ~~that speak to~~ in that party's complaints. If the admissibility of any uncontested fact is challenged, the party objecting and the grounds for objection must be stated.

~~[6] If any difficult or unusual problems of law or evidence are likely to arise during the trial, they should be called to the Court's attention, together with a statement of the parties' contentions and the most important authorities. In this respect, all motions in limine should be filed with supporting briefs at the time of the filing of the Order. Responses to such motions shall be filed within 14 days thereafter, and replies shall be filed within seven days after the responses are filed. All other information called for by subparagraph (b) of the text or this footnote may of course be included in the trial briefs or, in non-jury cases, in the proposed Findings of Fact and Conclusions of Law.~~

(c) ~~except for rebuttal exhibits,~~ schedules ~~in the form set out in the attached Schedule~~ (c) of ~~—~~

(1) all exhibits (all exhibits shall be marked for identification before trial), including documents, summaries, charts and other items expected to be offered in evidence and

(2) any demonstrative evidence and experiments to be offered during trial;[7]

(d) a list or lists of names and addresses of the potential witnesses to be called by each party, with a statement of any objections to calling, or to the qualifications of, any witness ~~to be noted~~ identified on the list;[8]

(e) stipulations or statements setting forth the qualifications of each expert witness in such form that the statement can be read to the jury at the time the expert witness takes the stand;[9]

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[7] Items not listed will not be admitted without good cause shown. Cumulative documents, particularly among x-rays and photos, should be omitted. Duplicate exhibits shall not be scheduled by different parties, but may be offered as joint exhibits. All parties ~~are directed to~~ shall stipulate to the authenticity of exhibits ~~wherever~~ whenever possible, and this Order shall identify any exhibits whose authenticity has not been stipulated to and specific reasons for the party's failure so to stipulate. As the attached Schedule (c) form ~~reflects~~ indicates, non-objected-to exhibits are received in evidence by operation of this Order, without any need for further foundation testimony. Copies of exhibits shall be made available to opposing counsel and a bench book of exhibits shall be prepared and delivered to the ~~C~~court at the start of the trial unless excused by the ~~C~~court. If the trial is a jury trial and counsel desires to display exhibits to the members of the jury, sufficient copies of such exhibits must be made available so as to provide each juror with a copy, or alternatively, enlarged photographic copies or projected copies should be used.

[8] Each party shall indicate which witnesses *will* be called in the absence of reasonable notice to opposing counsel to the contrary, and which *may* be called as a possibility only. ~~No~~ Any witness ~~who is~~ not listed will be ~~allowed to testify~~ precluded from testifying ~~except for absent~~ good cause shown, except that each party reserves the right to call such rebuttal witnesses (who are not presently identifiable) as may be necessary, without prior notice to the opposing party.

[9] Only one expert witness on each subject for each party will ~~ordinarily~~ be permitted ~~to testify absent good cause shown~~. If more than one expert witness is listed, the subject matter of each expert's testimony shall be

(f) a list of all depositions, or portions thereof, to be read into evidence and statements of any objections thereto;[10]

(g) an itemized statement of special damages;[11]

(h) waivers of any claims or defenses that have been abandoned by any party;

(i)* trial briefs ~~in non-jury trials and, if ordered by the court, in jury trials~~;[12]

(j)* for a jury trial, one set of marked proposed jury instructions, verdict forms and

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specified.

[10] If any party objects to the admissibility of any portion, ~~both~~ the name of the party objecting and the grounds shall be stated~~, and. Additionally,~~ the parties shall be prepared to present to the ~~C~~court~~, at such time as directed to do so,~~ a copy of ~~a sufficient all relevant~~ portions of the deposition transcript to ~~permit the objection to be ruled on in limine at such time as directed to do so~~ assist the court in ruling in limine on the objection. All irrelevant and redundant material ~~and including~~ all colloquy between counsel ~~must~~ shall be eliminated when the deposition is read at trial. If a video deposition is proposed to be used, opposing counsel must be so advised sufficiently before trial to permit any objections to be made and ruled on by the ~~C~~court, ~~so that to allow~~ objectionable material ~~can to~~ be edited out of the film before trial.

[11] If the case involves personal injuries, a special Pretrial Memorandum form available from the ~~C~~court's minute clerk or secretary shall also be filed with this Order.

[12] ~~*(Note: The use of the asterisk (*) is explained in Footnote 4.)* Except as previously approved by the C~~court, n~~No party's trial brief shall exceed 15 pages ~~without prior approval of the court~~. Trial briefs are intended to provide full and complete disclosure of the parties' respective theories of the case. Accordingly, each trial brief shall include statements of~~:~~

(a) the nature of the case,
(b) the contested facts the party expects the evidence will establish,
(c) the party's theory of liability or defense based on those facts and the uncontested facts,
(d) the party's theory of damages or other relief in the event liability is established, and
(e) the party's theory of any anticipated motion for directed verdict.

~~It The brief~~ shall also include citations of authorities in support of each theory stated in the brief. Any theory of liability or defense that is not expressed in a party's trial brief will be deemed waived. Trial briefs ~~need~~ should not repeat matters ~~covered~~ expressed in the proposed Findings of Fact and Conclusions of Law in non-jury cases.

special interrogatories, if any, by each party;[13]

(k)* for a jury trial, a list of the questions each party requests the ~~C~~court to ask prospective jurors in accordance with ~~Rule~~ Fed.R.Civ.P. 47(a);[14]

(l)* for a non-jury trial, each party's proposed *Findings of Fact and Conclusions of Law* in duplicate (see guidelines available from the ~~C~~court's minute clerk or secretary);[15] ~~and~~

(m) a statement summarizing the history and status of settlement negotiations,

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[13] ~~To the extent possible a~~*Agreed* instructions shall be presented by the parties ~~whenever possible~~. Whether agreed or unagreed, each marked copy of an instruction shall indicate the proponent and supporting authority. All objections to tendered instructions shall be in writing ~~(failure, so to object may constitute a waiver of any objection)~~ and ~~shall also~~ include citations of authority~~ies~~. ~~Failure to object may constitute a waiver of any objection.~~

In diversity and other cases where Illinois law provides the rules of decision, use ~~of~~ Illinois Pattern Instructions ("IPI") as to all issues of substantive law ~~is required~~. As to all other issues, and as to all issues of substantive law where Illinois law does not control, ~~the following pattern jury instructions shall be used in the order listed, e.g., an instruction from (c) shall be used only if no such instruction exists in (a) or (b):~~

~~(a) the pattern jury instructions adopted by this Court and included with the materials appended to the *Standing Order*;~~

~~(b)~~ ~~the~~ Seventh Circuit pattern jury instructions (~~at the present~~ ~~Currently~~ the only such instructions are Federal Criminal Jury Instructions ~~prepared by the Committee on Federal Criminal Jury Instructions of the Seventh Circuit,~~ which ~~of course~~ have limited potential applicability to civil cases); or,

~~(c) any published~~ ~~if there are none, *Fifth Circuit* District Judges Association~~ pattern jury instructions~~,~~ ~~are preferred~~ (~~though c~~Care should be taken to make certain substantive instructions on federal questions conform to Seventh Circuit case law) ~~. If Fifth Circuit pattern instructions are not otherwise available to counsel, the Chicago Bar Association has a copy of the volume containing such instructions.~~

At the time of trial~~,~~ an unmarked original set of instructions and any special interrogatories (~~all~~ on 8 1/2" x 11" sheets) shall be submitted to the ~~C~~court~~,~~ to be sent to the jury room after being read to the jury. Supplemental requests for instructions during the course of the trial or ~~at~~ the conclusion of the evidence will be granted solely as to those matters that cannot ~~be~~ reasonably ~~be~~ anticipated at the time of ~~preparation of this Order~~ presentation of the initial set of instructions.

[14] ~~(*Note: The use of the asterisk (*) is explained in Footnote 4.*)~~

[15] These shall be separately stated in separately numbered paragraphs. Findings of Fact should contain a detailed listing of the relevant material facts the party intends to prove. They should not be in formal language, but should be in simple narrative form. Conclusions of Law should contain ~~a full exposition~~ concise statements ~~of the meaning or intent~~ of the legal theories ~~set forth by~~ counsel ~~urges~~.

indicating whether further negotiations are ongoing and likely to be productive. ~~;~~ and

~~(m)~~ ~~a statement that e~~Each party has completed discovery, including the depositions of expert witnesses (unless the ~~C~~court has previously ordered otherwise). ~~Except for~~ Absent good cause shown, no further discovery shall be permitted.[16]

~~(4)~~ Trial of this case is expected to take ~~____[insert the number of days trial expected to take]~~ days. It will be listed on the trial calendar, to be tried when reached.

~~(5)~~ [*Indicate the type of trial by placing an X in the appropriate box*]

Jury ☐ Non-jury ☐

~~(6)~~ It is the parties' recommendation that [*indicate the number of jurors recommended*]~~[17]~~ jurors be selected at the commencement of the trial.

~~(7)~~ It is the parties' preference that the issues of liability and damages ~~should ___ should not ___ [insert "should" or "should not" as appropriate]~~ be bifurcated for trial. On motion of any party or on motion of the ~~C~~court, bifurcation may be ordered in either a jury or a non-jury trial.

~~Mark appropriate line:~~

~~(8)~~ ~~[Pursuant to 28 U.S.C. § 636(c), parties may consent to the reassignment of this case to a magistrate judge who may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case. Indicate below parties' view towards such a reassignment.]~~

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[16] If this is a case in which (contrary to the normal requirements) discovery has not been completec, this Order shall state what discovery remains to be completed by each party.

~~[17] Fed.R.Civ.P. 48 specifies that a civil jury shall consist of not fewer than six nor more than twelve jurors.~~

☐ The parties consent to this case being reassigned to a magistrate judge.

☐ The parties do not object to this case being tried by a ~~M~~magistrate judge if need be.

☐ The parties are not in agreement that this case may be tried by a ~~M~~magistrate judge.

(9) This Order will control the course of the trial and may not be amended except by consent of the parties and the ~~C~~court, or by order of the ~~C~~court to prevent manifest injustice.

(10) Possibility of settlement of this case was considered by the parties.

_____

United States District Judge[18]

Date: _____

APPROVED AS TO FORM AND SUBSTANCE:

_____ _____

Attorney for Plaintiff(s) Attorney for Defendant(s)

Comment: The first change proposed to the Final Pretrial Order ("Order") is that the name of the assigned judge be included in the caption under the case

[18] Where the case has been reassigned on consent of parties to a magistrate judge for all purposes, the magistrate judge will, of course, sign the final pretrial order.

number.

Throughout the Order there are minor stylistic changes, e.g., use of "court" in lieu of "Court." These are not all specified in the **Comment**. In order to make references to sections less ambiguous, a section number has been added in bold at the start of each paragraph. For stylistic uniformity, the subsections in section **(3)** are also in bold type.

The major change to the section **(2)** is to place the instructions in italics inside brackets. As a result, footnote 2 becomes superfluous and is eliminated. (Because of the limitations of the manner in which the word processor handles footnotes, the remaining notes are numbered as though footnote 2 continued to exist.)

There are minor stylistic changes to footnotes 1 and 3. In addition, the diversity jurisdictional amount is changed in footnote 3 to show the current minimum of $50,000.00.

Subsection **(3)(a)** is unchanged. Subsection **(3)(b)** is to be eliminated. The material relating to the filing of motions *in limine* together with responses and replies to such motions was moved from its current position in footnote 6 to a separate subsection. With the elimination of the current subsection **(3)(b)**, this material will be designated as **(3)(b)**. The Rules Advisory Committee proposed this change because the materials on *in limine* motions are sufficiently important that they should be located in the body of the text, rather than relegated to a footnote.

In addition to the removal of the materials dealing with motions *in limine*, the text of footnote 6 has been altered to provide more extensive and explicit descriptions of the matters covered.

The change proposed to subsection **(3)(c)** is intended to make clear that

rebuttal exhibits are not usually included among those covered by **Schedule (c)**.

The Rules Advisory Committee proposed that subsection **(3)(i)** be changed to require trial briefs in non-jury cases but only where ordered by the court in jury cases.

The first clause of the current subsection **(3)(m)** is retained as the new **(3)(m)**. The balance of the subsection is shifted to a new subsection, **(3)(n)**. This provides greater stylistic consistency by setting out the two statements required by the current subsection **(3)(m)** as separate requirements.

A new footnote 17 is added to remind parties that Fed.R.Civ.P. 48 provides that a civil jury shall consist of not fewer than 6 nor more than 12 persons.

The Rules Advisory Committee proposed that the provisions of section **(8)** in the current Order (consent to reassignment to a magistrate judge) should be expanded. In lieu of the terse "Mark appropriate line—" the Committee recommends a statement identifying the statute and reminding parties that they can still consent. In addition, a line is added for those cases where the parties explicitly agree to such a consent.

A new footnote 18 has been added to indicate that where the case has been reassigned to a magistrate judge on consent, the magistrate judge will sign the Order, even though the form states "United States District Judge."

The remaining changes to the Order are stylistic.

Schedule (c)

Exhibits

1. The following exhibits were offered by plaintiff(s), received in evidence and marked as indicated:

[*State identification number and brief description of each exhibit.*]

2. The following exhibits were offered by plaintiff(s) and marked for identification. Defendant(s) objected to their receipt in evidence on the grounds stated:[1]

[*State identification number and brief description of each exhibit. Also state briefly the ground of objection, such as competency, relevancy or materiality, and the provision of Fed. R. Evid. relied upon. Also state briefly plaintiff('s)(s') response to the objection, with appropriate reference to Fed. R. Evid.*]

3. The following exhibits were offered by defendant(s), received in evidence and marked as indicated:

[*State identification number and brief description of each exhibit.*]

4. The following exhibits were offered by defendant(s) and marked for identification. Plaintiff(s) objected to their receipt in evidence on the grounds stated:[2]

[*State identification number and brief description of each exhibit. Also state briefly the ground of objection, such as competency, relevancy or materiality, and the provision of Fed. R. Evid. relied upon. Also state briefly defendant('s) (s') response to the*

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[1] Copies of objected-to exhibits should be delivered to the ~~C~~court with this Order, to permit rulings *in limine* where possible.

[2] *See* ~~fn.~~footnote 1.

objection, with appropriate reference to Fed. R. Evid.]

Comment: The only changes proposed to the **Schedule (c)** form are minor stylistic changes in the presentation of the instructions and the footnotes. No substantive changes are proposed.

PRETRIAL MEMORANDUM FOR USE IN PERSONAL INJURY CASES

	)	Civil Action No.
	)	
	)	Plaintiff requests $_____
v.	)	
	)	Defendant offers $_____
	)	
	)	Court recommends $_____

Plaintiff's Name: _____

Age: _____

Occupation: _____

Marital status: _____

Attorney(s) for plaintiff:

[~~*add*~~ *indicate name and phone number of trial attorney*]:

_____

_____

_____

Summary of injuries: (note especially any permanent pathology):

_____

_____

_____

Attorney(s) for Defendant:

[*indicate name and phone number of trial attorney*]:

_____

_____

Date, hour and place of accident:

Medical fees:

Attending physicians:

Hospital bills:

Hospitals:

Place of employment:

Loss of income:

Miscellaneous expenses:

Total liquidated damages: $_____

[IMPORTANT: Attach ~~O~~one or more of the following items as required by the ~~C~~court:

(1) copies of all medical reports-plaintiff and defendant (get current reports);

(2) police report, if any, of all witnesses;

(3) summary of depositions of critical witnesses (based on joint consultation by counsel);

(4) copies of interrogatories and answers; and

(5) copies of bills of special items of expense.

Furnish copies of above items to ~~C~~court and defendant's attorney at least one week in advance of pretrial hearing.

Brief Statement of Circumstances of Occurrence:

Plaintiff's view:

_____

_____

_____

_____

Defendant's view:

_____

_____

_____

_____

The parties shall attach any medical reports or summaries useful for discussion at the pretrial conference.

Comment: Only minor stylistic changes are proposed to this form.

PRETRIAL MEMORANDUM FOR USE IN EMPLOYMENT DISCRIMINATION CASES

v. } Civil Action No.

Attorney(s) for plaintiff:

[Indicate name and phone number of trial attorney]

Summary of claim:

Attorney(s) for defendant:

[Indicate name and phone number of trial attorney]

Summary of actual damages:

[Plaintiff's counsel will complete Part A, and defendant's counsel will complete Part B.]

Part A.

1. Lost Wages: *[For each year for which damages are claimed, indicate (A) the total wages and benefits that would have been earned working for defendant but for the discrimination, (B) in a failure to hire or termination case, the total wages and benefits earned in substitute employment that plaintiff was able to obtain, and (C) the difference.]*

Year	A Wages Lost Due to Discrimination	B Earned in Substitute Employment	C Difference
19			
19			
19			
19			

Total Lost Wages & Benefits: $

Pre-Judgment interest Claimed: $

Total Wages, Benefits & Interest: $

2. Attorneys Fees and Costs: $

3. Do you claim:

a. Pain, suffering, emotional injury, etc.?

Yes ☐ No ☐

If yes, how much? $

b. Punitive or liquidated (double) damages?

Yes ☐ No ☐

If yes, how much? $

4. Do you claim any other kinds of damage?

Yes ☐ No ☐

If yes, what kind and how much?

_____ $

5. Total Amount Claimed: $

Part B. Does defendant contend that plaintiff failed to use reasonable diligence to mitigate?

Yes ☐ No ☐

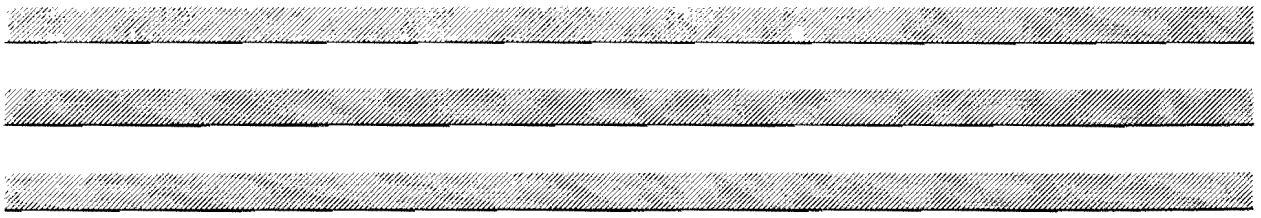
If yes, indicate the amount of additional wages and benefits that defendant contends plaintiff could have earned.

Year	Additional Amounts
19____	
19____	
19____	
19____	
Total:	$_____

Part C. [Each party provides a brief statement of the circumstances of the employment action.]

Plaintiff's view:

Defendant's view:



Comment: The *Pretrial Memorandum for Use in Employment Discrimination Cases* is new. It was recommended as an additional form by the Advisory Committee on Local Rules and Procedure.

GUIDELINES FOR PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

(1) Plaintiff shall first serve and file proposed findings and conclusions. Each defendant shall then serve and file answering proposals.

(2) Plaintiff's proposals shall include (~~1~~a) a narrative statement of *all facts* proposed to be proved and (~~2~~b) a concise statement of plaintiff's legal contentions and the authorities supporting them:

(~~1~~a) Plaintiff's narrative statement of facts shall set forth in simple, declarative sentences all the facts relied upon in support of plaintiff's claim for relief. It shall be complete in itself and shall contain no recitation of any witness' testimony or what any defendant stated or admitted in these or other proceedings, and no reference to the pleadings or other documents or schedules as such. It may contain references in parentheses to the names of witnesses, depositions, pleadings, exhibits or other documents, but no party shall be required to admit or deny the accuracy of such references. It shall, so far as possible, contain no pejoratives, labels or legal conclusions. It shall be so constructed, in consecutively numbered paragraphs (though where appropriate a paragraph may contain more than one sentence), that each of the opposing parties will be able to admit or deny each separate sentence of the statement.

(~~2~~b) Plaintiff's statement of legal contentions shall set forth all such plaintiff's contentions necessary to demonstrate the liability of each defendant to such plaintiff. Such contentions shall be separately, clearly and concisely stated in separately numbered paragraphs. Each paragraph shall be followed by citations of authorities in support thereof.

(3) Each defendant's answering proposals shall correspond to plaintiff's proposals:

(~~1~~a) Each defendant's factual statement shall admit or deny each separate sentence contained in the narrative statement of fact of each plaintiff, except in instances where a portion of a sentence can be admitted and a portion denied. In those instances, each defendant shall state clearly the portion admitted and the portion denied. Each separate sentence of each defendant's response shall bear the same number as the corresponding sentence in the plaintiff's narrative statement of fact. In a separate portion of each defendant's narrative statement of facts, such defendant shall set forth all affirmative matter of a factual nature relied upon by such defendant, constructed in the same manner as the plaintiff's narrative statement of facts.

(~~2~~b) Each defendant's separate statement of proposed conclusions of law shall respond directly to plaintiff's separate legal contentions and shall contain such additional contentions of the defendant as may be necessary to demonstrate the non-liability or limited liability of the defendant. Each defendant's statement of legal contentions shall be constructed in the same manner as is provided for the similar statement of each plaintiff.

Comment: The only changes proposed to the **Guidelines** are that each paragraph be numbered. As a result, the current numbering of the subparagraphs is changed.

United States District Court

Northern District of Illinois

PATTERN JURY INSTRUCTIONS

TABLE OF CONTENTS

The Functions of the Court and Jury

Members of the jury, the evidence and arguments in this case have been completed, and I will now instruct you as to the law applicable to this case. It is your duty to follow all of the instructions.

You must not question any rule of law stated by me in these instructions. Regardless of any opinion you may have as to what the law ought to be, you must base your verdict upon the law given by me.

It is your duty to determine the facts from the evidence in this case. You are to apply the law given to you in these instructions to the facts and in this way decide the case.

This case should be considered and decided by you as an action between persons of equal standing in the community. All persons stand equal before the law and are to be dealt with as equals in a court of justice.

Jury as Factfinder

Neither by these instructions, nor by any ruling or remark which I have made, do I mean to indicate any opinion as to the facts or as to what your verdict should be. You are the sole and exclusive judges of the facts.

Evidence in the Case

The evidence consists of the sworn testimony of the witnesses, the exhibits received in evidence, and stipulations.

A stipulation is an agreed statement of facts between the parties, and you should regard agreed statements as true.

You are to consider only the evidence received in this case. You should consider this evidence in the light of your own observations and experiences in life. You may draw such reasonable inferences as you believe to be justified from proved facts.

You are to disregard any evidence to which I sustained an objection or which I ordered stricken. Anything you may have seen or heard about this case outside the courtroom is not evidence and must be entirely disregarded. You should not be influenced by sympathy, prejudice, fear or public opinion.

Arguments and Statements of Counsel

Opening statements of counsel are for the purpose of acquainting you in advance with the facts counsel expect the evidence to show. Closing arguments of counsel are for the purpose of discussing the evidence.

Opening statements, closing arguments, and other statements of counsel should be disregarded to the extent they are not supported by the evidence.

During the course of trial, it often becomes the duty of counsel to make objections and for the court to rule on them in accordance with the law. The fact that counsel made objections should not influence you in any way.

Direct and Circumstantial Evidence

There are two types of evidence: direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the disputed facts, such as an eyewitness. Circumstantial evidence consists of proof of facts and circumstances which give rise to a reasonable inference of the truth of the facts sought to be proved. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Credibility of Witness

You are the sole judges of the credibility of the witnesses, and of the weight to be given to each of them. in considering the testimony of any witness, you may take into account the witness' intelligence, ability and opportunity to observe, age, memory, manner while testifying, any interest, bias, or prejudice the witness may have, and the reasonableness of the testimony considered in the light of all the evidence in the case.

Attorney Interviewing Witness

It is proper for an attorney to interview any witness in preparation for trial.

Witness Who Has Been Convicted of a Crime

The credibility of a witness may be attacked by introducing evidence that the witness has been convicted of a crime. Evidence of this kind may be considered by you in connection with all the other facts and circumstances in evidence in deciding the weight to be given to the testimony of that witness.

Expert Testimony

You have heard testimony of expert witness[es]. This testimony is admissible where the subject matter involved requires knowledge, special study, training, or skill not within ordinary experience and the witness is qualified to give an expert opinion.

However, the fact that an expert has given an opinion does not mean that you are obligated to accept the expert's opinion as to the facts. You should assess the weight to be given to the expert opinion in the light of all the evidence in this case.

Deposition Testimony

During the trial, certain testimony was presented to you by [the reading of a deposition and] [video tape]. This testimony is entitled to the same consideration you would give it had the witness[es] personally appeared in court.

Summaries

There have been admitted in evidence certain schedules or summaries. They truly and accurately summarize the contents of voluminous books, records, or documents, and should be considered together with and in the same manner as all other evidence in the case.

Corporate Responsibility

A corporation can only act through natural persons as its agents or employees. A corporation is legally responsible for acts or omissions of its agents or employees within the scope of their employment.

Agent and Principal

An agent is a person who, by agreement with another called a principal, represents the principal in dealings with third persons or transacts business, manages some affair, or does some service for the principal, with or without compensation. The agreement to act as an agent may be oral or written, express or implied. Regardless of the form it takes, an agency relationship must be intended by both the principal and the agent.

If you find that one person has the right to control the actions of another at a given time, you may find that the relationship of principal and agent exists, even though the right to control may not have been exercised.

Meaning of Burden of Proof

When I say that a party has the burden of proof on any proposition, or use the expression "if you find," or "if you decide," I mean you must be persuaded, considering all the evidence in the case, that the proposition on which the party has the burden of proof is more probably true than not true.

Separate Consideration of Each Claim and Party

You must give separate consideration to each claim and each party. In doing so, you must analyze what the evidence in the case shows with respect to each claim and party, leaving out of consideration any evidence admitted solely in regard to some other party. Each party is entitled to have the case decided on the evidence and the law applicable to that party.

Burden of Proof on the Issues

On plaintiff[s] _____ claim against defendant[s] plaintiff[s] must prove each of the following propositions:

If you find from your consideration of all the evidence that plaintiff[s] has[have] proven each of these propositions, then you should find in favor of plaintiff[s] on plaintiff's _____ claim.

If, however, you find from your consideration of all the evidence that any of these propositions has not been proved, then you should find against plaintiff[s] on plaintiff's _____ claim.

Definition of Knowingly

When the word "knowingly" is used in these instructions, it means that a person realized what he or she was doing and was aware of the nature of the conduct, and did not act through ignorance, mistake, or accident. Knowledge may be proved by a person's conduct, and by all the facts and circumstances surrounding the case.

Selection of Foreperson and Form of Verdict

Upon retiring to the jury room, select one of your number as your foreperson. The foreperson will preside over your deliberations and will be your representative here in court.

[A] form[s] of verdict has [have] been prepared for you. (Form[s] of verdict read).

Take this form to the jury room and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the form, and each of you will sign it. [Take these forms to the jury room and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the appropriate form[s] and each of you will sign the form[s].

Jury Communications

I do not anticipate that you will need to communicate with me. If you do, however, the only proper way is to give the marshal [clerk] a written request, signed by the foreperson, or by some other juror if the foreperson is unwilling to do so.

I will then respond as promptly as possible, either in writing or by having you return to the courtroom so that I can respond orally. I caution you, however, with regard to any message or question you might send, that you should never state or specify your numerical division at the time.

Unanimous Verdict

The verdicts must represent the considered judgment of each juror. Your verdicts, whether for or against the parties, must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to reexamine your own views and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence solely because of the opinions of other jurors or for the purpose of returning a unanimous verdict.

The [six] of you should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement which is consistent with the individual judgment of each juror. You are impartial judges of the facts.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
[EASTERN] DIVISION

[*case title*]) No. _____
)
)
)
)

VERDICT FORM

We, the jury, find with respect to the claims of plaintiff "P" as follows:

[*Place an "x" on the appropriate line for each defendant and each count.*]

Count One

As to:	For Plaintiff	Against Plaintiff
Defendant A	_____	_____
Defendant B	_____	_____

Count Two

As to:	For Plaintiff	Against Plaintiff
Defendant A	_____	_____
Defendant B	_____	_____

DAMAGES

(a) Plaintiff "P" is awarded $_____ in compensatory damages. (If you found against plaintiff "p" on all its claims, fill in the number "0".)

(b) Do you award Plaintiff "P" punitive damages and, if so, in what amount? (As to each defendant, either (1) place and "x" on the YES line and fill in the amount or (2) place and "x" on the NO line.)

As to:

Defendant A	_____	$_____	_____NO
Defendant B	_____	$_____	_____NO