

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
Choose an item. DIVISION

Plaintiff(s).,)	
)	
Choose an item.,)	
)	
v.)	Case No. Case Number.
)	
Defendant(s).,)	
)	
Choose an item..)	

PROPOSED PRETRIAL ORDER

A pretrial conference was held in this case on [date]. As a result, the following proceedings were held and action taken:

1. APPEARANCES. Appearing at the conference were:

[Include a line for each party in the case.]

2. JURISDICTION AND VENUE.

[List each statute, rule, or case authorizing the court's subject matter jurisdiction in this action. Also state whether personal jurisdiction and/or venue are contested.]

3. PARTIES AND TRIAL COUNSEL. The parties before the court and designated trial counsel are correctly named as set out below:

Parties:

Trial Counsel:

[Include a line for each party in the case.]

4. PLEADINGS. The following pleadings have been allowed:

[List the pleadings in the order in which they were filed and allowed. Do not include pleadings that have been stricken or otherwise disallowed.]

5. STATEMENT OF THE CASE.

- a. Agreed Summary: [The agreed summary should be concise and appropriate for the court to use in advising the jury during *voir dire* regarding the basic nature of the case.]
- b. Stipulated Facts: [The parties shall set out in separate numbered paragraphs each fact on which the parties agree and on which no proof is required. In a jury trial, this section will be read to the jury, and the jury will be instructed to accept these facts as true.]
- c. Contested Issues of Fact: [In separately numbered paragraphs, list all factual issues in controversy that are necessary for a final determination of the case.]
- d. Agreed Applicable Propositions of Law: [List the basic principles of law that the parties agree are essential to a determination of the case; *e.g.*, the elements of plaintiff's claim and defendant's defenses. These statements of law should be suitable for use by the court in preliminary instructions to the jury.]
- e. Plaintiff's Positions:
- f. Defendant's Positions:

6. DISCOVERY AND OTHER PRETRIAL PROCEDURES.

- a. All discovery was completed by [date], and no further discovery is required/ The parties are given leave to proceed with further discovery provided it is commenced in time to be completed by [date].
- b. The Standard Pretrial Procedures specified on Exhibit A are adopted as part of this order.
- c. Pending Motions: [In separately numbered paragraphs, list all pending

motions or state that there are no motions pending.]

- d. Motions *in limine* shall be filed **no later than 21 days before scheduled trial date** and shall be accompanied by supporting memoranda. Responses to motions *in limine* are due **within 7 days of the filing** of the motions.

7. TRIAL (JURY CASE).

- a. Proposed *Voir Dire*: **No later than 14 days before the scheduled trial date**, the parties shall jointly file any special questions or topics for *voir dire* examination of the jury venire and email them in Word format to chambers at borden_chambers@alnd.uscourts.gov. Where the parties cannot agree, counsel shall identify the question as disputed in bold type and label it to show which party is requesting the disputed question. The court's civil *voir dire* template may be found on the court's webpage at <https://www.alnd.uscourts.gov/content/magistrate-judge-gray-m-borden>, and counsel need not include the items covered by the court.
- b. Proposed Jury Charges: **No later than 14 days before the scheduled trial date**, the parties shall file a joint proposed jury charge, including all necessary instructions, or definitions, applicable to the specific issues of the case. The court's preliminary and standard instructions may be found on the court's website and need not be submitted. Each requested instruction must be numbered with authority cited. Counsel are to include all necessary instructions or definitions, specifically including (1) the *prima facie* elements of each cause of action and defense asserted; (2) legal definitions required by the jury; (3) items of damages; and (4) methods of calculation of damages. Counsel are to use the 11th Circuit Pattern Jury Instructions or appropriate state pattern jury instructions, as modified by case law or statutory amendments, wherever possible. Any deviations must be identified and accompanied by legal authority for the proposed deviation. Where the parties cannot agree, counsel shall identify the item as disputed in bold type and label it to show which party is requesting the disputed language. Accompanying each instruction shall be all authority or related materials upon which each party relies. A copy shall be

emailed in Word format to chambers at borden_chambers@alnd.uscourts.gov.

- c. Verdict Forms or Interrogatories for Submission to the Jury: **No later than 7 days before the scheduled trial date**, the parties shall file any requested verdict forms or interrogatories for submission to the jury. Copies shall be emailed in Word format to chambers at borden_chambers@alnd.uscourts.gov.
8. TRIAL DATE. This case is **SET** for jury trial on [trial date] at [time] and is expected to last [number of days]. The trial will occur in the United States District Courthouse, [address of courthouse where trial will occur].

EXHIBIT A TO PRETRIAL ORDER STANDARD PRETRIAL PROCEDURES

1. DAMAGES.

No later than 21 days before the scheduled trial date a party claiming damages or seeking relief shall file a list itemizing all damages and equitable relief being claimed or sought, showing the amount and, where applicable, the method and basis of computation.

2. WITNESSES.

(a) Unless specifically agreed upon by the parties or allowed by the court for good cause shown, the parties shall be precluded from offering substantive evidence through any witness, including expert witnesses, not listed on the party's witness list, which shall be filed by **no later than 21 days before the scheduled trial date**. The listing of a witness does not commit the party to have such witness available at trial or to call such witness to testify but does preclude the party from objecting to the presentation of such witness's testimony by another party. Witness lists may not be amended or supplemented without leave of court.

(b) The witness list must designate all witnesses for whom the offering party expects to introduce testimony by means of deposition, and shall include a listing of the specific lines and pages of the deposition to be offered. Within **14 days of the filing** of the witness list, a party must (1) disclose any additional deposition passages to be offered, or (2) disclose any objections to the use of such deposition testimony under Rule 32 or Rule 26(a)(3)(B). Any objections to deposition testimony should be accompanied by excerpts of deposition testimony to which the objection relates. Objections not disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause.

3. EXHIBITS.

(a) Unless specifically agreed upon by the parties or allowed by the court for good cause, the parties shall be precluded from offering in evidence any exhibit not listed on the party's exhibit list, which shall be filed by **no later than 21 days before the scheduled trial date**. As to any document or other exhibit, including summaries of other evidence shown on the exhibit list, within **14 days of the filing** of the list a party must serve and file any objections, together with the grounds, that the party asserts to the admissibility of the materials identified on the exhibit list. Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause shown. Except where beyond the party's control or otherwise impractical (*e.g.*,

records from an independent third party being obtained by subpoena), each party shall make exhibits on the party's exhibit list available for inspection and copying. Exhibit lists may not be amended or supplemented without leave of court.

(b) Each party shall premark its exhibits in advance of trial using exhibit labels and exhibit lists available from the Clerk of Court. **Each party offering an exhibit shall also provide the courtroom deputy with a Portable Document Format ("PDF") version of every exhibit offered at trial for inclusion in the electronic record.** All exhibits shall be made available for inspection by opposing counsel; the presentation of evidence at trial should not be interrupted for opposing counsel to examine a document that has been identified and made available for inspection.

4. SPECIAL MEDICAL PROVISIONS. Counsel for all parties are granted the right to inspect and copy all hospital and medical reports relative to the medical care, treatment, diagnosis, condition, and history of [PARTY], as well as the right to interview (in person or otherwise) all physicians, administrators and other personnel in connection therewith. Pursuant to HIPAA, a copy of this order shall constitute sufficient authority for such inspection, copying, or interview, and to authorize medical providers to supply such information and interviews.

5. ADVISORY FOR LIMITING PERSONAL AND/OR CONFIDENTIAL INFORMATION IN TRANSCRIPTS AND EXHIBITS. The parties are required to follow the Court's Civil Administrative Procedures Manual (revised Feb. 2018).¹ If evidence introduced at trial includes personal information, sealed documents, or documents and/or information subject to a protective order, the parties are directed to comply with sections II.I. and IV.C. of the Administrative Procedures Manual. The foregoing also applies to the trial transcript, which will be public record. If private and/or confidential information is mentioned in court, compliance with the Administrative Procedures Manual may require testimony to be stricken or partially redacted.

¹ The Civil Administrative Procedures Manual is available at: <http://www.alnd.uscourts.gov/sites/alnd/files/AL-N%20Civil%20Administrative%20Procedures%20Manual.Revision.02-2018.pdf>