

EXHIBIT A -- STANDARD PRETRIAL PROCEDURES

1. **Damages.** No later than thirty (30) calendar days prior to the date set for trial, the parties shall file and serve a list itemizing all damages and equitable relief being claimed or sought; such list shall show the amount requested and, where applicable, the method and basis of computation.
2. **Witnesses – Exchange of Lists.**
 - (a) **Expert Witnesses.** No later than thirty (30) calendar days prior to the date set for trial, the parties shall file and serve a list stating the names and addresses of all expert witnesses who have previously been identified in accordance with Fed. R. Civ. P. 26(a)(2) and whose testimony may be offered at trial.
 - (b) **Other Witnesses.** No later than thirty (30) calendar days prior to the date set for trial, the parties shall file and serve a list stating the names and addresses of all witnesses (other than expert witnesses) whose testimony they may offer at trial.
 - (c) **Contents of Lists.** The parties shall appropriately indicate on their witness lists: (1) the “primary” witnesses – those witnesses whose testimony the party expects to offer; (2) the “optional” witnesses – those witnesses whose testimony the party expects will not be needed, but the party has listed to preserve its right to offer such testimony should the need arise in light of developments at trial, and (3) those witnesses the party expects to present by means of depositions with a listing of the specific pages from the depositions to be used.

Unless specifically agreed by the parties in writing or allowed by the court for good cause shown, the parties shall be precluded from offering substantive evidence through any witness not included on the party’s witness list. 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 it does preclude the party from objecting to the presentation of such witness's testimony by another party.

As to any witnesses shown on such list to be presented by deposition, within ten (10) business days after the filing of such list, an opposing party may serve a list of additional pages of the deposition to be used, and may serve and file a list

disclosing 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 from the depositions including the testimony to which the objection relates. Objections not made within such time, other than objections under Fed. R. Evid. 402 and 403, shall be deemed waived, unless such failure to timely object is excused by the court for good cause shown.

3. Exhibits.

- (a) **Exchange of lists.** No later than thirty (30) calendar days prior to the date set for trial, the parties shall file and serve a list providing an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those exhibits that the party expects to offer and those exhibits that the party may offer if the need arises. Unless specifically agreed by the parties in writing or allowed by the court for good cause shown, the parties shall be precluded from offering as substantive evidence any exhibit not so identified.

Courtesy copies of Exhibit Lists should be submitted to the Clerk's office (for delivery to the judge's chambers), as well as emailed to the chamber's email address at *kallon_chambers@alnd.uscourts.gov*, in WordPerfect format.

- (b) **Objections and Stipulations.** Upon receipt of Exhibit Lists, the parties shall immediately meet and confer regarding any objections to the listed exhibits. Most objections should be cured by discussion, and the parties should stipulate as to the admissibility of as many exhibits as possible.

As to any document or other exhibit on which agreement cannot be reached, including summaries of other evidence shown on such list, no later than ten (10) business days before trial, an opposing party shall serve and file a list disclosing any objection, together with the grounds therefor, that may be made as to the admissibility of exhibits identified on such list. Objections not so disclosed, other than objections under Fed. R. Evid. 402 and 403, are waived unless such failure to timely object is excused by the court for good cause shown. The court generally rules on objections to exhibits outside the presence of the jury and will do so prior to opening statements, to the extent possible.

- (c) **Counsel requiring authentication** of an opponent's exhibit must notify offering counsel in writing within ten (10) business days after the exhibit is identified and made available for examination. Failure to do so is an admission of authenticity.
- (d) **Marking.** Each party that anticipates offering more than five (5) exhibits as substantive evidence shall premark such exhibits in advance of trial, using exhibit labels and lists available from the Clerk of Court. The court will provide up to 100 labels; if any party needs more labels, that party must use labels of the same type as those supplied by the court. Counsel must contact the courtroom deputy for the appropriate exhibit list form for use at trial. The court urges counsel to be judicious in determining which documents actually are relevant to necessary elements of the case.
- (e) **Examination by Opposing Party.** 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 such exhibits available for inspection and copying. The presentation of evidence at trial shall not ordinarily be interrupted for opposing counsel to examine a document that has been identified and was made available for inspection.
- (f) **Court's Copies.** In addition to the premarked trial exhibits mentioned above, the court requests for the bench an exhibit notebook of anticipated trial exhibits (to the extent possible and practical). The notebook should include a copy of the Exhibit List referenced in "(d)" above.
- (g) **Special and Visual Exhibits.** Should either side desire to present exhibits via projection onto a screen or monitor or by enlargement, or other special means to present the exhibit to the jury, such exhibits will be limited to the twenty (20) most critical documents to that side's case. Counsel shall advise opposing counsel at the same time as submission of the Exhibit List which documents it plans to so present. Hard copies of such exhibits must first be identified before projection. Counsel are responsible for providing whatever technology may be necessary for such projection.

THE PARTIES ARE REMINDED THAT THEY WILL NOT BE ALLOWED TO USE AT TRIAL ANY WITNESS OR EXHIBIT NOT DISCLOSED IN ACCORDANCE WITH FED. R. CIV. P. 26(a) OR 26(e), UNLESS EXTREMELY GOOD CAUSE IS SHOWN AND THE OFFERING PARTY CAN SHOW THAT ITS FAILURE TO DISCLOSE WAS HARMLESS. *See* Fed. R. Civ. P. 37(c)(1).

4. Use of Depositions at Trial.

- (a) The court will accept the parties' written agreement to use a deposition at trial even though the witness is available. In the absence of such an agreement, parties must comply with Fed R. Civ. P. 32.
- (b) Before trial, counsel must provide the courtroom deputy with a copy of all depositions to be used as exhibits at trial.
- (c) To the extent possible, counsel will designate the portion of any deposition that counsel anticipates reading by citing pages and lines in the final witness list. Objections, if any, to those portions (citing pages and lines) with supporting authority must be filed at least five (5) business days before trial.
- (d) Use of videotape depositions is permitted and the parties must make good faith efforts to agree on admissibility or edit the videotape to resolve objections.
- (e) In a non-jury trial, for any deposition offered as a trial exhibit, counsel shall attach to the front of the exhibit a summary of what each party intends to prove by the deposition testimony, with line and page citations, and include an appropriate concordance of the deposition pages offered.

5. Trial Submissions to Court.

No later than ten (10) business days prior to the scheduled trial date, each party may submit the following to the Clerk's office (for delivery to the judge's chambers):

- (a) A listing of what each party understands to be the essential elements of

each of Plaintiff's claim(s) (separate listing for each claim).

- (b) A listing of what each party understands to be the essential elements of each Defendant's defense(s) (separate listing for each defense).
- (c) A listing of what each party understands to be the essential elements of each Defendant's counterclaim(s), if any (separate listing for each counterclaim).
- (d) A listing of what each party understands to be the essential elements of each defense to any Defendant's counterclaim, if any (separate listing for each defense).
- (e) A listing of any special evidentiary or other anticipated legal problems with citation to legal authority that supports the party's position.

Parties may, if they desire, file trial briefs. Any such briefs must be filed at least ten (10) business days prior to trial. Opposing parties may respond to such trial briefs at least five (5) business days prior to trial. The briefs, if any, should not exceed ten (10) typed pages. Additionally, three-hole punched and bound courtesy copies of all briefs must be submitted to the Clerk's office for delivery to the judge's chambers, as well as emailed to the chamber's email address at *kallon_chambers@alnd.uscourts.gov*, in WordPerfect format.

No later than the Friday before the scheduled trial date, each party will submit the following to the Clerk's office (for delivery to the judge's chambers):

- (a) Any special questions or topics for voir dire examination of the jury venire.

6a. *Jury Charges.

No later than five (5) business days prior to the scheduled trial date, the parties shall file a **single, joint proposed jury charge**, including all necessary instructions, or definitions applicable to the specific issues of the case. The parties need not submit standard generic instructions regarding routine matters, *e.g.*, burden of proof, credibility of witnesses, duty of jurors, etc.

- (a) **Each** requested **instruction** must be numbered and presented on a

separate sheet of paper with authority cited.

- (b) In their joint, proposed jury materials, 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 Eleventh 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 with legal authorities for the proposed deviation.
- (c) Even if the parties, in good faith, cannot agree on all instructions, definitions or questions, the parties should nonetheless submit a single, **unified** charge. Each disputed instruction, definition, or question should be set out in bold type, underlined or italics and identified as disputed. Each disputed item should be labeled to show which party is requesting the disputed language. Accompanying each instruction shall be all authority or related materials upon which each party relies. **The parties shall also email the unified charge, in WordPerfect format, to the chamber's email address at kallon_chambers@alnd.uscourts.gov.**

6b. *Trial[Non-Jury].

- (a) Proposed Facts.
 - (1) No later than twenty-five (25) calendar days prior to trial, Plaintiff's counsel shall submit to Defendant's counsel a statement setting forth the principle facts proposed to be proved by Plaintiff in support of their claims as to liability and damages. These facts should be set out in short, separately numbered paragraphs.
 - (2) No later than fifteen (15) calendar days prior to trial, Defendant's counsel shall return the statement of principle facts to Plaintiff's counsel, indicating thereon those factual contentions of the Plaintiff with which they disagree and including any additional facts Defendant proposes to prove.

- (3) No later than seven (7) calendar days prior to trial, Plaintiff's counsel shall indicate on the statement of principle facts those additional factual contentions of Defendant with which Plaintiff disagrees and shall file with the court the modified statement of principle facts, serving a copy thereof on opposing counsel. The final product should have all agreed facts, regardless of by whom proposed, collected under one heading and have the respective additional disputed facts proposed by the parties collected under separate headings. The final product should be submitted to the Clerk's office (for delivery to the judge's chambers), and then emailed to the chamber's email address at *kallon_chambers@alnd.uscourts.gov*, in WordPerfect format.
- (4) In stating facts proposed to be proved, counsel shall do so in simple, declarative, consecutively numbered sentences, avoiding "color words," labels, and legal conclusions. In indicating disagreement with a proposed fact, counsel shall do so by deletion or interlineation of particular words and phrases so that the nature of the disagreement will be clear. Objections to the admissibility of a proposed fact (whether as irrelevant or on other grounds) may be made at trial and, without court order, may not be used to avoid indicating agreement or disagreement with the truth of the proposed fact.

(b) Proposed Conclusions of Law.

- (1) No later than twenty-five (25) calendar days prior to trial, Plaintiff's counsel shall submit to Defendant's counsel a statement setting forth the principles of law, with citation to authority, that Plaintiff contends are applicable to the case. These principles should be set out in short, separately numbered paragraphs.
- (2) No later than fifteen (15) calendar days prior to trial, Defendant's counsel shall return the statement of principles of law, indicating thereon those principles of law of the Plaintiff with which they disagree, and including any additional principles of law on which Defendant relies.

- (3) No later than seven (7) calendar days prior to trial, Plaintiff's counsel shall indicate on the statement of principles of law those additional principles of law of Defendant with which Plaintiff disagrees and shall file with the court the modified statement of principles of law, serving a copy thereof on opposing counsel. The final product should have all agreed principles of law, regardless of by whom proposed, collected under one heading and have the respective additional disputed principles proposed by the parties collected under separate headings. The final product should be submitted to the Clerk's office (for delivery to the judge's chambers), and then emailed to the chamber's email address at *kallon_chambers@alnd.uscourts.gov*, in WordPerfect format.

7. Court's Expectations.

- (a) The court will expect all parties to be ready for trial as of the trial date set in the Pretrial Order unless a continuance is requested within ten (10) business days after the date on which the court enters the Pretrial Order. Continuances based on inadequate preparation will not be considered favorably.
- (b) The court calls to the attention of all parties the various time requirements in the Pretrial Order and Exhibits. The court strictly adheres to these time requirements to avoid last minute requests for rulings.
- (c) Any case announced settled after the Pretrial Conference but before the scheduled trial date will be dismissed with prejudice and with costs taxed as paid on the scheduled trial date unless a different stipulated judgment form is submitted on or before the scheduled trial date.