

EXHIBIT A -- STANDARD PRETRIAL PROCEDURE

1. **Damages.** Thirty calendar days prior to the date set for the 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 requests and, where applicable, the method and basis of computation.
2. **Witnesses – Exchange of Lists.**
 - (a) **Expert Witnesses.** Thirty 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.** Thirty 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 realistically expect to offer at trial. The list of witnesses exchanged should not include the name of any witnesses not previously identified, but should represent a narrowing of previously-identified witnesses.
 - (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 the 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 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 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.** Thirty 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 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 chambers by email (Bowdre_chambers@alnd.uscourts.gov) in Word or WordPerfect format.

- (b) **Objections and Stipulations.** Upon receipt of Exhibit lists, the parties should 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, at least ten 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 five 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 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) **Juror's Notebooks.** Only in extraordinary circumstances will the court allow the use of juror notebooks. Any such request should be made in writing at least 30 calendar days before trial.
- (h) **Use of Exhibits at Trial.** No exhibit can be shown to the jury or read aloud until after the exhibit has been admitted into evidence.
- (i) **Special and Visual Exhibits.** Should either side desire to present exhibits or other documents via projection onto a screen or monitor or by enlargement, or other special means to present the Exhibit to the jury, counsel shall advise opposing counsel at the same time as submission of Exhibit List which documents it plans to so present. However, no exhibit should be projected prior to admission by the court. No other document should be projected without first obtaining consent of the opposing party and permission of the court.

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 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' agreement to use a deposition at trial even though the witness is available. Otherwise, parties must follow Fed R. Civ. P. 32.
- (b) Before trial, counsel must provide the courtroom deputy or law clerk 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 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 within **ten business days** after filing of witness list as stated in paragraph 2.

- (d) Use of videotape depositions is permitted to the extent the parties agree on admissibility or edit 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.

5. Trial Submissions to Court.

Ten business days prior to the scheduled trial date, each party will submit the following to the court's chambers:

- a. A listing of any special evidentiary or other anticipated legal problems with citation to legal authority that supports the party's position.
- b. Parties may, if they desire, file trial briefs. Any such briefs must be filed at least ten business days prior to trial. Opposing parties may respond to such trial briefs at least five business days prior to trial. The briefs, if any, should not exceed ten typed pages and must otherwise comply with this court's Exhibit A to scheduling Order, and must be submitted in Word or WordPerfect by email to chambers (Bowdre_chambers@alnd.uscourts.gov).

Five business days prior to the scheduled trial date, each party will submit the following to the court's chambers:

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

6. Jury Charges.

At least five business days prior to the scheduled trial date, the parties must file a **single, joint proposed jury charge**, including all necessary instructions, or definitions applicable to the specific issues of the case. The court's standard instructions may be found on the court's website (www.alnd.uscourts.gov/bowdre/BowdrePage.htm) and need not be submitted to the court.

- a. **Each** requested **instruction** must be numbered and presented on a separate sheet of paper with authority cited.
- b. In 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 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 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.
- d. **The parties shall also submit a Word or WordPerfect version of the proposed jury charges to chambers by email to Bowdre_chambers@alnd.uscourts.gov.**

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 continuance is requested within ten business days after the date 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.