

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

	)	CASE NO. CV
	)	
Plaintiffs,	)	
	)	
v.	)	JUDGE BRENDAN J. SHEEHAN
	)	
	)	
	)	
Defendants,	)	<b>TRIAL ORDER</b>
	)	

I. GENERAL

It is the duty of counsel to confer with each other frequently in order to prepare the case for trial. It will be necessary to confer in person on occasion. If an attorney is not complying with the requirements of this Trial Order, or is failing to cooperate with opposing counsel, opposing counsel shall immediately bring the matter to the Court's attention by written notification.

**FAILURE TO CONFORM TO THIS TRIAL ORDER IS DEEMED A WAIVER OF ANY AND ALL OBJECTIONS TO RESULTING PROCEEDINGS.**

II. REQUIREMENTS APPLICABLE TO ALL TRIALS.

A. TRIAL BRIEF:

Each party is required to serve and file a trial brief no later than one week prior to the scheduled trial date. The trial brief shall contain:

- (a) a succinct statement of the essential and material facts;
- (b) a discussion of the controlling law;
- (c) the type and amount of damages sought;
- (d) an estimate of how long it will take to put on their case in chief;
- (e) a discussion of any evidentiary issues likely to arise at trial, and
- (f) for cases tried to a jury, proposed voir dire questions concerning sensitive or unusual issues that are anticipated.

Trial briefs shall not exceed 10 pages without good cause shown and leave of Court.

**B. WITNESS LISTS:**

No later than one week prior to the scheduled trial date, the parties shall exchange, serve and file witness lists which shall include the witnesses' names and a very brief description of the subject matter of the testimony of each witness. If a witness is not listed in the witness list, the witness shall not testify except under extraordinary circumstances.

**C. EXHIBIT LISTS:**

No later than one week prior to the scheduled trial date, the parties shall serve and file a list of trial exhibits. Trial exhibits shall be pre-marked with exhibit stickers and exchanged no later than one week prior to the scheduled trial date. The plaintiff shall mark exhibits with numbers and the defendant shall mark exhibits with letters. If there are multiple parties, the party's last name should precede the number or letter (e.g., Jones-1 or Smith-A). If the parties have a joint exhibit, it shall be marked as Jt. Ex. 1, etc. If the defendant has more than twenty-six (26) exhibits, double letters shall be used (e.g., AA, BB, CC, etc.)

One copy of each exhibit shall be furnished to the Court no later than one week before the scheduled trial date. The Court recommends that counsel place all exhibits in three-ring looseleaf binders, with appropriately marked divider tabs. A table of contents for each binder must be included. There is no need to file the exhibits with the Clerk of Court. The original exhibits should be retained by counsel for use at trial.

**D. MOTIONS IN LIMINE:**

Motions in limine must be filed and served upon opposing counsel at least one week prior to the scheduled trial date. The nonmoving party shall respond, if desired, at least two (2) business days prior to the scheduled trial date.

E. DEPOSITION TESTIMONY (VIDEOTAPE AND WRITTEN):

Whenever depositions (videotape and written) are intended to be used as evidence at trial, counsel proposing to use such deposition shall notify opposing counsel at least one week prior to the scheduled trial date. Any objections to portions of the deposition must be filed in writing with the Court at least three (3) business days prior to the scheduled trial date. If there are objections, counsel proposing to use said deposition shall file a brief in support within two (2) business days after the objections are filed or indicate an agreement to delete the portion for which there is an objection. The Court must be provided with a complete written transcript of videotape depositions.

**FAILURE TO PRESERVE OBJECTIONS AT DEPOSITION BY FILING WRITTEN OBJECTIONS PRIOR TO TRIAL AS SET FORTH ABOVE WILL BE DEEMED A WAIVER OF ALL OBJECTIONS NOT SO PRESERVED.**

III. JURY TRIALS:

A. JOINTLY SUBMITTED MATERIALS:

The parties are **required** to meet and confer to prepare and submit the following materials:

1. **STIPULATIONS OF FACT:** Counsel for the parties shall confer to prepare written stipulations as to all uncontested facts to be presented to the jury. The stipulations shall be filed with the Court no later than one week prior to the scheduled trial date.
2. **STATEMENT OF DISPUTED FACTS:** Counsel for the parties shall confer to prepare a **joint** statement listing all disputed issues of fact which are to be submitted to the jury. The statement shall be filed with the Court no later than one week prior to the scheduled trial date.
3. **PRELIMINARY STATEMENTS:** Counsel shall prepare a **joint** statement describing the case in an impartial, easily understood and concise manner for use by the Court either during voir dire and/or at the time the jury is impaneled. This statement will be

used to set the context of the trial for the jury and must be submitted at the same time the trial brief is submitted.

4. **JURY INSTRUCTIONS: Counsel for the parties are required to confer on requested jury instructions with the goal of submitting agreed upon instructions.** The instructions agreed upon by all counsel shall be identified. Disputed instructions shall also be identified, along with separate citations to legal authority for each instruction. **No proposed jury instruction will be considered by the Court unless it has been submitted in compliance with these provisions, except that a request for instructions that could not reasonably have been anticipated may be submitted at least twenty-four (24) hours before final argument. FAILURE TO COMPLY WITH THIS REQUIREMENT WILL BE DEEMED AS A WAIVER OF OBJECTIONS TO FINAL JURY INSTRUCTIONS USED BY THE COURT.**

Proposed jury instructions must be submitted to the court at least one week prior to the scheduled trial date. Counsel shall also provide the agreed-upon jury instruction to the court on a CD in Word format or via email attachment addressed to the court's staff attorney at [cpljj@cuyahogacounty.us](mailto:cpljj@cuyahogacounty.us).

Materials submitted by individual parties identified as “Joint” submissions, i.e. “Plaintiff’s Joint Jury Instructions” or “Defendant’s Joint Jury Instructions”, will be stricken for failure to comply with this Trial Order.

**B. VOIR DIRE:**

The Court will conduct initial voir dire of the panel and of individual panel members. Proposed voir dire questions concerning any particularly sensitive or unusual issues that were submitted in the trial brief may be included in the Court's examination, subject to the Court's discretion. The Court may thereafter allow one counsel for each party to question briefly the panel on issues not addressed by the Court. In cases involving more than one plaintiff and/or more than one defendant, the time for voir dire shall be divided by counsel for the parties. Additional time for voir dire shall not be allowed except where otherwise permitted by the Court. The Court will discontinue questioning by counsel if questioning seeks to instruct the jury on the law or accomplish anything other than to elicit information regarding the panel member's background, biases, or suitability for service.

Parties may discuss the voir dire process with the Court and suggest a format that would be agreeable among all parties and the Court.

IV. BENCH TRIALS.

A. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW IN NON-JURY TRIALS:

In all non-jury cases, counsel for each of the parties shall prepare proposed Findings of Fact and Conclusions of Law, which shall be filed with the Court and served upon opposing counsel not later than one week before the date set for trial.

IT IS SO ORDERED.

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JUDGE BRENDAN J. SHEEHAN

CERTIFICATE OF SERVICE

A copy of the foregoing was hand delivered to the parties and/or counsel at pretrial in this matter.