

**FORM OF FINAL PRE-TRIAL ORDER (FPTO) FOR CASES ASSIGNED
TO THE HONORABLE EDWARD J. McMANUS
TO BE SUBMITTED TO THE JUDGE BY THE MAGISTRATE JUDGE
NOT LATER THAN 20 CALENDAR DAYS BEFORE TRIAL**

[NOTE: Caption of action has been omitted;
page numbers to be centered at bottom of each page]

Pursuant to FRCP 16 and LR 16.1 and the final pre-trial conference (FPTC) in the above matter held on _____, 20__, it is

ORDERED

I. The parties agree and stipulate that the following facts are undisputed:

(Set forth all factual stipulations.)

[NOTE: The parties should set out all relevant facts to which there is no dispute. Special consideration should be given to such things as life and work expectancy, medical and hospital bills, funeral expenses, cause of death, lost wages, and property damage. Parties are encouraged to arrive at stipulations even where the legal relevance of the stipulated fact is questioned by one or more parties. In such instances, the stipulated fact should be followed by an identification of the objecting party and the objection (i.e., "Plaintiff objects to relevance.")]

II. EXHIBITS

A. The parties agree that the following exhibits, marked in accordance with LR 83.6, shall be considered in evidence at trial without further offer, proof or objection:

Plaintiff(s) exhibits (numbered 1, 2, 3, etc.; state purpose of each exhibit).

Defendant(s) exhibits (lettered A, B, C, etc.; state purpose of each exhibit).

B. The parties desire to introduce in evidence the following exhibits to which all foundation objections are waived but to which the opposing party objects as indicated:

Plaintiff(s) exhibits (numbered 1, 2, 3, etc.; state purpose of each exhibit and objection thereto).

Defendant(s) exhibits (lettered A, B, C, etc.; state purpose of each exhibit and objection thereto).

C. The parties desire to introduce in evidence the following exhibits to which the opposing party objects as follows:

Plaintiff(s) exhibits (numbered 1, 2, 3, etc.; state purpose of each exhibit and objection thereto).

Defendant(s) exhibits (lettered A, B, C, etc.; state purpose of each exhibit and objection thereto).

[NOTE: Any exhibits not properly listed in the Order will be subject to exclusion at trial and any objection not indicated will be deemed waived unless this order is modified prior to trial to prevent manifest injustice. All exhibits shall be made available to opposing counsel for inspection sufficiently prior to the FPTC to permit objections to be noted in this Order. Failure to provide exhibits for inspection shall constitute a valid ground for objection at trial and should be noted in this Order.]

III. WITNESSES

A. Plaintiff(s) Witnesses: [List names, addresses, whether in person or by deposition, and substance of testimony.]

- 1.
- 2.

B. Defendant(s) Witnesses: [List names, addresses, whether in person or by deposition, and substance of testimony.]

- 1.
- 2.

C. A party listing a witness guarantees his/her presence at trial unless the court and opposing counsel are notified to the contrary at least seven (7) days prior to trial. All parties are free to call any witness listed by the opposing party whether they have listed them or not.

IV. FACTUAL ISSUES

A. Plaintiff(s) Factual Issues:

- 1.
- 2.

B. Defendant(s) Factual Issues:

- 1.
- 2.

[NOTE: Each party should list all views of the major disputes which are involved in the case.]

V. LEGAL CONTENTIONS

A. Plaintiff(s) Legal Contentions:

- 1.
- 2.

B. Defendant(s) Legal Contentions:

- 1.
- 2.

[NOTE: Each party should set forth all theories of recovery or defense, including specifications of negligence and comparative fault which will be raised at trial. The elements of each theory of recovery and the elements of damages sought must be included.]

VI. LEGAL ISSUES

A. Plaintiff(s) Legal Issues:

- 1.
- 2.

B. Defendant(s) Legal Issues:

- 1.
- 2.

[NOTE: The parties should set forth any legal questions which are likely to arise at trial. This should include such things as:

- (a) A legal dispute as to the elements of plaintiff's cause of action or whether recovery is barred as a matter of law by a particular defense.
- (b) Whether, as a matter of law, a particular defense would apply.
- (c) Any legal dispute as to the measure, elements or recovery of any damage claimed by plaintiff.
- (d) Any unusual evidentiary questions which are likely to arise at trial.
- (e) Whether the statute of frauds or the Parol Evidence Rule will be raised, etc.]

VII. TRIAL DATE AND DEADLINES

1. Trial is set for _____ o'clock ____m., _____, 20____, U.S. Courthouse, Cedar Rapids, Iowa. Estimated number of trial days: _____ .

2. All settlement negotiations must be conducted by the attorneys for the parties with full authority to settle or with the party present in pro se cases. The deadline for settlement shall be [insert date], thirteen (13) calendar days before trial, after which there will be no further negotiations. By 9:00 a.m., [insert date], twelve (12) calendar days before trial, plaintiff's attorney shall notify the Court by telephone and in writing of the result of settlement negotiations.

3. All motions in limine, proposed voir dire questions, requests for instructions and trial briefs shall be filed not later than [insert date], ten (10) calendar days before trial. Any resistance to a motion in limine shall be filed not later than [insert date], seven (7) calendar days before trial.

Date: _____

Counsel for Plaintiff(s)

Counsel for Defendant(s)

Date: _____

Edward J. McManus, Judge
UNITED STATES DISTRICT COURT