

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
*** DIVISION**

Plaintiff,		No. -CV-
vs. Defendant.		TRIAL MANAGEMENT ORDER FOR CIVIL BENCH TRIAL

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APPENDIX A – Deadlines Chart

APPENDIX B – Proposed Final Pretrial Order

*I. **INTRODUCTION***: This order sets forth the deadlines and procedures applicable to this case.¹ All deadlines specified in this order apply to the original trial date or any subsequent date to which the trial is continued, unless specified otherwise. A party who elects to represent himself/herself is held to the same deadlines and procedures as an attorney.² A chart setting the deadlines is attached hereto at Appendix A.

*II. **TRIAL DATE***: This case has been placed on the calendar of United States District Court Judge for a bench trial scheduled to commence in the United States Courthouse in ***, Iowa, on [DATE].

*III. **CONTINUANCE OF TRIAL DATE***: Unless requested within 14 days after the date of this order, no continuance of the trial date will be granted except for exceptional cause.

*IV. **FINAL PRETRIAL CONFERENCE***: A telephonic final pretrial conference (FPTC) is scheduled before District Court Judge on [DATE] at [TIME] a.m. The parties will access the Court's conference bridge by dialing At the FPTC, the parties should be prepared to argue all pretrial motions, evidentiary issues, and procedural disputes.

*V. **FINAL PRETRIAL ORDER***: The parties are jointly responsible for the preparation of the proposed Final Pretrial Order. See LR 16A(b). Before the FPTC, counsel must prepare, agree upon, and sign a proposed Final Pretrial Order prepared for the judge's signature in the format attached to this order at Appendix B. The parties' **witness lists** must be included within the body of the proposed Final Pretrial Order. The proposed Final Pretrial Order must **not** be filed, but must be e-mailed, in MS Word format,

¹ This order was revised August 8, 2022. The parties are on notice that their duties and responsibilities have changed from what the court has required in prior orders.

² Accordingly, wherever reference is made herein to an attorney or counsel, it also means a party who is representing himself or herself.

to the ECF mailbox at ECFmail@iand.uscourts.gov at least **3 days**³ before the FPTC. The parties' **exhibit lists**, prepared as set forth below in this order, must be attached to the proposed Final Pretrial Order, with the entire order, including the exhibit lists, constituting a single document.

VI. WITNESSES:

A. Witness Lists: Each party shall list the names, addresses, and the purpose of the testimony of all witnesses whom the party will call at trial. Parties shall exchange witness lists at least **21 days** before the FPTC. Parties should list in good faith every witness whom they will call to establish their cases-in-chief, and indicate whether the witness will testify in person or by deposition. By listing a witness, counsel guarantees that witness's presence at the trial. Any witness not listed will not be allowed to testify at trial, unless the court modifies this order prior to trial to prevent manifest injustice. Parties are not, however, required to list rebuttal witnesses.

B. Protocol for Preparing and Calling Witnesses. Counsel who may call a witness to testify at trial must, before the witness testifies, advise the witness of the accepted protocol for witnesses testifying in this court. This advice should include the following information: (1) the location of the witness box; (2) the proper route from the courtroom door to the witness box; (3) the fact that the witness will be placed under oath; (4) where the witness should stand while the oath is being administered; (5) that the witness should adjust the witness chair and the microphone so the microphone is close to and directly in front of the witness's mouth; (6) that the witness should speak only in response to a question; (7) that the witness should wait for a ruling on any objections before proceeding to answer a question; (8) that the witness should answer all questions verbally; and (9) that substances such as food, beverages, and chewing gum should not be brought into the courtroom.

³ Unless otherwise specified, any reference to "days" in this order refers to calendar days and not court days.

C. Proper Witness Attire. Counsel must advise witnesses of proper dress for the courtroom. Proper dress *does not* include blue jeans, shorts, overalls, T-shirts, shirts with printed words or phrases on the front or back, tank tops or the like.

D. Exclusion of Witnesses. A witness who may testify at the trial must not be permitted to hear the testimony of any other witnesses before testifying, and is excluded from the courtroom during the trial until after the witness has completed his or her testimony, unless exclusion of the witness is not authorized by Federal Rule of Evidence 615 or unless the court orders otherwise. A witness who is excluded from the courtroom pursuant to this paragraph also is prohibited from reviewing a record of the testimony of other witnesses at the trial until after the witness has completed his or her testimony, unless the court orders otherwise.

E. Restrictions on Communications with Witnesses. Unless the court orders otherwise, after the commencement of the trial and until the conclusion of the trial, a witness who may testify at the trial is prohibited from communicating with anyone about what has occurred in the courtroom during the trial. If the witness does testify at the trial, after the witness is tendered for cross-examination and until the conclusion of the witness's testimony, the witness is prohibited from communicating with anyone about the subject matter of the witness's testimony. A witness may, however, communicate with his or her counsel about matters of privilege, and may communicate with anyone if the right to do so is guaranteed by the United States Constitution.

F. Parties. The restrictions on witnesses in paragraphs (D) and (E) of this section do not apply to the parties or a party representative.

G. Duties of Counsel. A party who may call a witness to testify at the trial must, before the trial, advise the witness of the restrictions in this section and the court's ruling on any motions in limine.

VII. TESTIMONY BY DEPOSITION: In most cases, it is not productive or efficient for the parties to read deposition testimony to the court during a bench trial. Instead, and

unless otherwise ordered, deposition testimony will be made part of the record by filing the transcripts, with the judge reading the designated portions privately. Any party intending to present testimony by deposition shall, at least **28 days** before trial, serve on the opposing parties a written designation, by page and line number, of those portions of the deposition the offering party intends to offer into evidence. At least **21 days** before trial, an opposing party who objects to the intended testimony must serve on the offering party any objections to the designated testimony and a counter-designation, by page and line number, of any additional portions of the deposition which the opposing party intends to offer into evidence. At least **14 days** before trial, the party offering the deposition testimony must serve upon the opposing parties any objections to the counter-designated testimony and a written designation, by page and line number, of any additional portions of the deposition the offering party intends to have read into evidence. At least **7 days** before trial, the parties must consult, either personally or by telephone, and attempt to resolve any objections to the proposed deposition testimony. At least **5 days** before trial, the party intending to offer the deposition testimony must provide the judge with the following: (a) a full copy of the deposition transcript or video recording; (b) a redacted exhibit containing only the lines of the deposition transcript or parts of the video recording to be admitted into evidence; (c) a statement listing all unresolved objections to the deposition testimony; and (d) the parties' combined list of all of the portions of the deposition to be admitted into evidence (listing transcript sections by page and line number and video recordings by counter number). The court will review any objections, make any necessary rulings, and make whatever record may be necessary to establish which portions of the deposition testimony are being received into evidence. Parties will be responsible for editing any video recording to comply with the court's ruling.

If, in a particular case, a party believes it to be important to read deposition testimony aloud in open court, that party shall raise the issue during the FPTC. The court will not require the court reporter to report the reading of deposition transcripts or the

playing of video deposition testimony. The court considers a deposition transcript to be read as published in the written version. The parties should make a record as to any misreads of the transcript at the end of the reading of the transcript.

Prior to the close of evidence, the party offering the deposition testimony must furnish the original deposition transcript to the court. The offering party must clearly highlight the portions of the transcript which were read into evidence. If a video recording is used at trial, it also must be furnished to the court. The transcript and/or video recording will be marked as a court exhibit and preserved as part of the official record.

VIII. EXHIBITS:

A. Exhibit Lists. The exhibit lists shall appear in the following format:

(Plaintiff's)(Defendant's) Exhibits	Category A, B, C	Objections [Cite Fed. R. Evid.]	Offered	Admit/Not Admit (A) - (NA)
[1.][A.] <i>[describe exhibit]</i>			*	*
[2.][B.] <i>[describe exhibit]</i>				
[3.][C.] <i>[describe exhibit]</i>				

*[*These columns are for court use only.]*

Parties are to use the following categories in the second column for objections to exhibits:

Category A. These are exhibits to which neither party objects. They will be deemed admitted in evidence at the commencement of the trial, and will be available for use by any party at any stage of the proceedings without further offer, proof, or objection.

Category B. These are exhibits to which a party objects on grounds **other than** foundation, identification, or authenticity. Parties are to use this category for objections such as hearsay or relevance. Parties are to identify in the third column the Federal Rule(s) of Evidence upon which the party relies in objecting to these exhibits.

Category C. These are exhibits to which a party objects on grounds of foundation, identification, or authenticity. Parties are not to use this category for other objections, such as hearsay. Parties are to identify in the third column the Federal Rule(s) of Evidence upon which the party relies in objecting to these exhibits.

Parties are not required to list rebuttal exhibits or impeachment exhibits. Proposed exhibit lists must be exchanged by the parties (but not filed) at least **21 days** before the FPTC. At the time the parties exchange their exhibit lists, they must give written notice to all adverse parties of any intent to use a declaration under Federal Rules of Evidence 803(6), 902(11), or 902(12) to establish foundation for records of regularly-conducted activities, and, immediately thereafter, they must make the records and the declaration available for inspection. The parties have a continuing duty to keep the lists current and correct with opposing parties and the court.

B. Marking of Exhibits. All exhibits must be marked by the parties before trial, in accordance with Local Rule 83E(a). Unless the parties have previously agreed upon a different numbering system during the course of pretrial litigation, the plaintiff(s) must use numbers and the defendant(s) must use letters. *See* LR 83E(a)(1). Exhibits must also be marked with the case number. *See* LR 83E(a)(2). ***All exhibits longer than one page must contain page numbers at the bottom of each page.*** *See* LR 83E(a)(3). Personal Data Identifiers ***must*** be redacted from all exhibits. *See* LR 10(g).

C. Elimination of Duplicates. The parties must compare their exhibits and eliminate duplicates. If more than one party wants to offer the same exhibit, then it should be marked with a number and listed as a joint exhibit on the plaintiff's exhibit list.

D. Listing of Exhibits and Objections. The parties must list each exhibit separately in the exhibit lists, unless leave of court is granted for a group exhibit. If a party objects to parts of an exhibit but not to other parts, the offering party must prepare separate versions of the exhibit, one that includes the parts to which objections are being asserted and the other that redacts those parts.

E. Exhibits Referenced in Deposition Testimony. All references to exhibits in deposition testimony that are offered into evidence must correspond to the exhibit designation for trial. The parties are directed to number or letter their exhibits accordingly.

F. Copies for the Court. At least **3 days** before the FPTC, each party must provide the judge with a hard copy of all exhibits to be used at trial. The judge's copies of exhibits should be placed in three-ringed binders with a copy of the exhibit list at the front and with each exhibit tabbed and labeled. *See* LR 83E(c). The parties may also supply the judge with a courtesy copy of the exhibits in PDF format on a thumb drive, DVD, or CD. The court's copies of exhibits shall be separate from the original trial exhibits for the official records of the Clerk of Court. *See* LR 83E(d).

G. Electronic Filing of Exhibits. The Clerk of Court will upload and file trial e-exhibits into CM-ECF/PACER as attachments to the minutes of the trial. E-exhibits that are not offered into evidence during the trial will not be uploaded or filed. E-exhibits that are offered but not admitted will be filed in a separate attachment to the minutes as an offer of proof. All trial e-exhibits that are filed are made a part of the public record of the case unless the court specifically orders otherwise. Administrative Order No. 09-AO-03-P.

H. Demonstrative Aids. At least **3 days** before trial, counsel using a demonstrative aid must show it to all other counsel and the judge. The term "demonstrative aid" includes charts, diagrams, models, samples and animations, but does not include exhibits admitted into evidence or outlines of opening statements or closing arguments.

IX. TRIAL BRIEFS: If the trial of the case will involve significant issues not adequately addressed by the parties in connection with dispositive motions or other pretrial motions, the parties must prepare trial briefs addressing such issues. Trial briefs must be filed at least **3 days** before the FPTC. *See also* LR 16A(d).

X. MOTIONS IN LIMINE: The court discourages the use of motions in limine in advance of a bench trial unless it is very apparent that the resolution of novel, unusual, or complex evidentiary issues in advance of trial will substantially streamline the presentation

of evidence at trial. If a motion in limine is necessary, it must be served and filed at least **21 days** before the FPTC. Only one motion, encompassing all issues, should be filed by a party. Resistances to such motions must be served and filed within **7 days** after service of the motion. Motions in limine are intended to address the admissibility of evidence pursuant to the Federal Rules of Evidence. Motions in limine must specifically reference the rules the parties believe relate to the admissibility of the evidence. Motions in limine must be sufficiently detailed such that the court may rule on the motion in advance of trial. Parties must include copies of transcripts, exhibits, or other documents that pertain to the evidence in dispute. Parties should not use motions in limine simply to alert the court to areas of testimony parties believe may generally be objectionable; rather, those matters should be brought to the court's attention in a trial brief.

XI. OPENING STATEMENTS; CLOSING ARGUMENTS: Prior to the FPTC, the parties shall confer as to whether they wish to make opening statements and closing arguments or, instead, will rely on pre-trial and/or post-trial briefing to present their arguments. That issue will be addressed during the FPTC. Opening statements, if any, will be limited to **15 minutes**. Closing arguments, if any, will be limited to **60 minutes**. See LR 83D. A request for additional time for opening statements or closing arguments must be made no later than the FPTC. If, however, issues arise during trial which could not have reasonably been foreseen, and which warrant additional time, the court may extend the time limits for closing argument at the court's discretion.

XII. CONDUCT OF TRIAL: It is anticipated that the first day of trial will last from 9:00 a.m. to 5:00 p.m. Thereafter, trial days may start or end at different times, depending on the other demands on the court's schedule. The court will notify the parties of the trial schedule no later than the FPTC. The parties are expected to have witnesses available so the court can take testimony throughout the full trial day with no undue delays in the receipt of evidence.

After the first day of trial, the parties and their counsel are expected to be at the courthouse and available in the courtroom by no later than 8:15 a.m. on each morning of trial. The time between 8:15 a.m. and the start of testimony is to be used to review exhibits the parties anticipate introducing into evidence during that trial day, to set up any audio-visual equipment, and to take up any evidentiary or other issues which need to be addressed before the presentation of evidence resumes. In the event any party believes there may be particularly difficult issues requiring more than five or ten minutes to resolve, that party must advise the court and opposing counsel so an earlier time can be set to meet with counsel and the parties.

XIII. COURTROOM TECHNOLOGY: Before the commencement of trial, counsel and witnesses who intend to utilize the technology available in the courtroom must familiarize themselves with the proper manner of operating the equipment. Instruction and training on the proper use of the equipment may be obtained from the court's automation staff, whose contact information is contained on the court's website at the following web address: www.iand.uscourts.gov.

If a party wishes to use video conferencing technology for the testimony of any witness, the party **must** first obtain consent from court and then contact the court's automation staff to schedule a test call with all parties planning on appearing via video **at least 10 days in advance of the start of the trial. Failure to comply with the court's requirements for video conferencing will result in the court denying the opportunity to have a witness testify via video conferencing.**

If a party wishes to connect a laptop or other electronic device to the courtroom equipment, the party must have the laptop or other electronic device tested by the court's automation staff **at least 7 days in advance of the start of the trial. Failure to have the laptop or other electronic device tested will result in the court denying the connection of the laptop or other electronic device to the courtroom equipment.**

If a party wishes to present electronic evidence requiring use of the courtroom equipment, the party **must** schedule a test with the court's automation staff **at least 7 days** in advance of the start of the trial to ensure compatibility with the courtroom equipment.

Please note the courthouse does not have public Wi-Fi.

XIV. SETTLEMENT CONFERENCE: The court's primary ADR procedure is private mediation. *See* LR 72B(a). The court disfavors judicial involvement in the settlement process. Thus, the parties are encouraged to arrange for private mediation if they believe it would be beneficial to involve a neutral party in their settlement negotiations. If, for some reason, private mediation is not a viable option, any party may contact the chambers of the United States Magistrate Judge assigned to this case to request a settlement conference. Such contact may be *ex parte* for the sole purpose of inquiring about a settlement conference. Absent extraordinary circumstances, a settlement conference will not be scheduled unless all parties express a willingness to participate. Even if all parties agree, the court retains discretion to decline to conduct a settlement conference. If conducted, a settlement conference will be subject to Local Rule 72B, along with any additional requirements and limitations that may be imposed by the judicial officer who agrees to conduct the conference.

XV. SETTLEMENT DEADLINE: The court hereby imposes a settlement deadline of **5:00 p.m., 7 days** before the first scheduled day of trial. If the case is settled after that date, the court may enter an order to show cause why costs and sanctions should not be imposed on the party or parties causing the delay in settlement. *See* LR 83B.

IT IS SO ORDERED this *** day of ***, 2022.

APPENDIX A
Deadlines Chart

Event	Deadline	Section	Page
Draft Final Pretrial Order to Judge	3 days before FPTC	V	1
Trial Briefs	3 days before FPTC	IX	8
Parties exchange witness lists	21 days before FPTC	VI(A)	2
Parties exchange exhibit lists	21 days before FPTC	VIII(A)	6
Exhibits to judge	3 days before FPTC	VIII(F)	7
Parties disclose demonstratives	3 days before trial	VIII(H)	8
Offering party identifies depositions to be used in trial	28 days before trial	VII	4
Opposing party serves objections, identifies other portions of depositions to be used in trial	21 days before trial	VII	4
Offering party serves objections to other portions of depositions	14 days before trial	VII	4
Parties confer to resolve objections to depositions	7 days before trial	VII	4
Judge provided with copies of depositions & objections	5 days before trial	VII	4
Motions in limine filed	21 days before FPTC	X	8
Resistances to motions in limine filed	7 days after service of motion	X	8
Requests for additional time for opening/closing	No later than FPTC	XI	9
Notify court automation staff of intent to use video conferencing technology	10 days before trial	XIII	10
Notify court automation staff to connect laptop	7 days before trial	XIII	10
Notify court automation staff to present electronic evidence	7 days before trial	XIII	10

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
_____ ¹ DIVISION

[plaintiff],

Plaintiff,

vs.

[defendant],

Defendant.

No. C _____ -

FINAL PRETRIAL ORDER
(PROPOSED)

This final pretrial order was entered after a final pretrial conference held on date.
The court expects the parties to comply fully with this order.²

The following counsel, who will try the case, appeared at the conference:

1. For plaintiff(s):
Name(s)
Street Number, Street Name and/or Box Number
City, State and Zip Code
Phone Number [include area code]
Facsimile Number [include area code]
E-mail address

¹ [NOTE: Instructions for preparing this form appear in brackets and should not be reproduced in the proposed Final Pretrial Order. All material not appearing in brackets should be reproduced in the proposed Final Pretrial Order.]

² Full compliance with the order will assist the parties in preparation for trial, shorten the length of trial, and improve the quality of the trial. Full compliance with this order also will help “secure the just, speedy, and inexpensive determination” of the case. Fed. R. Civ. P. 1.

2. For defendant(s):
Name(s)
Street Number, Street Name and/or Box Number
City, State and Zip Code
Phone Number [include area code]
Facsimile Number [include area code]
E-mail address

I. STIPULATION OF FACTS: The parties agree that the following facts are true and undisputed:[The parties are to recite all material facts as to which there is no dispute. Special consideration should be given to such things, for example, as life and work expectancy, medical and hospital bills, funeral expenses, cause of death, lost wages, back pay, the economic value of fringe benefits, and property damage. The parties should stipulate to an undisputed fact even if the legal relevance of the stipulated fact is questioned by one or more party, but in such instances the stipulated fact should be followed by an identification of the objecting party and the objection (e.g. “Plaintiff objects to relevance.”)]

- A.
- B.

II. EXHIBIT LIST: The parties’ exhibit lists are attached to this Order.[The parties are to attach to this order (not include in the body of the order) exhibit lists that list all exhibits (except for impeachment and rebuttal exhibits) each party intends to offer into evidence at trial. Exhibit lists are to be prepared in the attached format, indicating objections using the categories described in the form.

All exhibits are to be made available to opposing counsel for inspection at least 21 days before the date of the FPTC. Failure to provide an exhibit for inspection constitutes a valid ground for objection to the exhibit, and should be noted on the exhibit list.

Copies of all exhibits as to which there may be objections must be provided to the court at least 3 days before the FPTC. If an exhibit is not provided to the court in advance of the FPTC and an objection is asserted to the exhibit at the FPTC, the exhibit may be excluded from evidence by the court. Any exhibit not listed on the attached exhibit list

is subject to exclusion at trial. The court may deem any objection not stated on the attached exhibit list as waived.]

III. WITNESS LIST: The parties intend to call the following witnesses at trial:[Each party must prepare a witness list that includes all witnesses (except for rebuttal witnesses) whom the party intends to call to testify at trial. The parties are to exchange their separate witness lists at least 21 days before the date of the FPTC. The witness lists are to be included in the following format. A witness testifying by deposition must be listed in the witness list with a designation that the testimony will be by deposition.]

A. *Plaintiff(s) witnesses* [list name, substance of testimony, whether any party objects to the witness, and the nature of and grounds for any objection]:

- 1.
- 2.

B. *Defendant(s) witnesses* [list name, substance of testimony, whether any party objects to the witness, and the nature of and grounds for any objection]:

- 1.
- 2.

All parties are free to call any witness listed by an opposing party. A party listing a witness guarantees his or her presence at trial unless it is indicated otherwise on the witness list. Any objection to the offer of testimony from a witness on the witness list is waived if it is not stated on this list.

IV. EVIDENTIARY AND OTHER LEGAL ISSUES:

A. *Plaintiff(s) Issues:*

- 1.
- 2.

B. *Defendant(s) Issues:*

- 1.
- 2.

[The parties must list all unusual evidentiary and legal issues which are likely to arise at trial, including such things as disputes concerning the admissibility of evidence or testimony under the Federal Rules of Evidence; the elements of a cause of action; whether recovery is barred as a matter of law by a particular defense; disputes concerning the measure, elements, or recovery of damages; and whether the Statute of Frauds or the Parol Evidence Rule will be raised. The purpose of this listing of issues is to advise the court in advance of issues and problems that might arise at trial.]