

**IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO**

Plaintiff
vs.
Defendant

: : : : :
FINAL PRETRIAL ORDER
Case No. _____

This action came before the court at a final pretrial conference held on _____
at _____ a.m./p.m., pursuant to Rule 16 of the Ohio Rules of Civil Procedure and Local Rule 16.

1. APPEARANCES:

For plaintiff:

For defendant:

2. NATURE OF ACTION AND JURISDICTION:

- A. This is an action for
 - B. The jurisdiction of the court is disputed.

3. TRIAL INFORMATION:

- A. The estimated length of trial is _____ days.

B. (1) Trial to _____ has been set for _____ pursuant
(court or jury) (date)

to the General Order on Trial Assignment.

(2) Trial begins at 9:00 a.m. All parties and their counsel shall be present for trial not later than fifteen (15) minutes prior to the scheduled time for trial.

4. DISCOVERY:

Discovery deadline is _____. The discovery deadline pertains to discovery of all lay witnesses, the court understanding that experts, who have been identified, may be deposed nearer the trial date.

A. PRODUCTION OF MEDICAL RECORDS AND BILLS:

(1) Counsel for plaintiff shall submit to counsel for defendant copies of all bills, reports, and other evidence anticipated to be used at trial in support of plaintiff's claim in sufficient time to enable defendant to obtain necessary independent evaluations and/or to review such records so as to determine settlement options. If counsel for plaintiff is unable to provide this information in response to interrogatories directed to plaintiff or requests for production of documents directed to plaintiff within the time allowed for response, then plaintiff is under an obligation to secure said information through any means necessary, including use of depositions so as to enable defendant to complete its evaluation and be prepared for trial on the date scheduled herein. In the alternative, plaintiff may produce or provide medical release authorizations to defendant, allowing defendant to obtain copies of all medical bills, records and reports; if such authorizations are utilized, defendant shall provide copies of such records to plaintiff, upon receipt, at defendant's expense.

5. DISPOSITIVE MOTIONS:

A. Any party is granted leave to file dispositive motions, including motions for summary judgment, without additional leave of court, provided, however, all dispositive motions shall be filed not later than _____.

6. AGREED STATEMENTS AND LISTS:

A. General nature of the claims of the parties:

(1) PLAINTIFF CLAIMS: (Set out brief summary without detail; an itemized statement of special damages must be included. Failure to include damages may result in exclusion of such damages at trial.)

(2) DEFENDANT CLAIMS: (Set out brief summary without detail.)

(3) ALL OTHER PARTIES' CLAIMS (Same type of statement where third parties are involved.)

B. UNCONTROVERTED FACTS:

The following facts are established by admissions in the pleadings or by stipulations of counsel. (Set out uncontroverted or uncontested facts.)

C. ISSUES OF FACT AND LAW:

(1) CONTESTED ISSUES OF FACT: The contested issues of fact remaining for decision are: (Set out.)

(2) CONTESTED ISSUES OF LAW: The contested issues of law in addition to those implicit in the foregoing issues of fact are: (Set out) OR There are no special issues of law reserved other than those implicit in the foregoing issues of fact.

7. LAY WITNESSES:

(1) In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call or will have available at the trial: (List) OR: Plaintiff may call: (List).

(2) In the absence of reasonable notice to opposing counsel to the contrary, defendant will call or will have available at the trial: (List) OR Defendant may call (List).

(3) A final witness list shall be prepared and the names and addresses of all witnesses (including those not previously known to counsel and discovered after discovery cut-off dates and determined necessary to be used) shall be disclosed to opposing counsel

immediately upon discover, but in no event later than fifteen (15) days prior to trial, or _____(date). Failure to identify witness as required herein shall preclude the testimony of such witness except for good cause shown to the court. **(This is a final witness list and witnesses not expected to testify shall not be included thereon.)**

(4) There is reserved to each of the parties the right to call such rebuttal witnesses as may be necessary, without prior notice thereof to the other party.

8. EXPERT WITNESSES (EXPECTED TO TESTIFY AT TRIAL):

Parties are limited to the following number of expert witnesses expected to testify at trial, including treating physicians, whose names have been disclosed to the other side:

Plaintiff:

Defendant:

Plaintiff's experts expected to testify at trial shall be identified to the defendant on or before _____.

Defendant's experts expected to testify at trial shall be identified to the plaintiff on or before _____.

Written reports, if any, and curriculum vitae shall be exchanged between counsel as soon as available after identification of experts. In the event a written expert report is unavailable, the party expecting to call the expert at trial shall clearly state in writing, in concise, but complete detail, the subject matter upon which said expert is expected to testify. This requirement does not preclude additional discovery pursuant to Civil Rule 26(B)(4).

9. SUBROGATION:

A. If subrogation claims for payment of medical expenses have been made

against plaintiff, IT IS ORDERED, that plaintiff shall undertake efforts to resolve those claims without the necessity of joining the entities claiming to hold rights of subrogation as parties to this action. In the event that said claims are not resolved by _____, plaintiff is ordered to file an amended complaint joining said entities as parties in this action.

B. Plaintiff is ordered to provide defendant with the names and addresses of any entities who may have a claim based upon subrogation and if an agreement is reached by and between plaintiff and entities holding subrogation rights, plaintiff shall be obligated to resolve subrogation matters in the event of judgment and/or settlement of plaintiff's claims, and shall hold defendant harmless from such claims.

10. EXHIBITS:

Needless court time is taken up in the marking of exhibits during trial. Accordingly, all exhibits intended to be used at trial by either side shall be pre-marked and exchanged with opposing counsel and filed with the court not later than 5 days prior to trial, or ______. In addition, each counsel shall prepare and submit to the court _____ days prior to trial, or _____, a typed exhibit list with each exhibit identified by the appropriate number or letter.

Any exhibit not pre-marked and exchanged as ordered herein may be excluded as evidence at the trial. In addition, no objection as to the admissibility of any exhibit for any reason will be entered at trial. The exhibits will be placed in a three-ring, tabbed, notebook.

- A. If the document was provided to opposing counsel as ordered herein:
- B. Unless the party opposing the introduction of the exhibit files written objection to the introduction of the same at least one day prior to the date of trial, setting forth the particular legal objection raised.

Exhibit markers shall be attached to all exhibits at the time they are shown to opposing counsel. A supply of marking tags for exhibits may be retained from the court reporter. They should be attached to the upper right hand corner whenever possible.

Except for good cause shown, the court will not permit the introduction of any exhibits unless they have been listed in accord with the provisions of this pretrial order, with the exception of exhibits to be used solely for the purpose of impeachment.

11. USE OF DEPOSITIONS AND INTERROGATORIES:

During the trial the reading of depositions frequently presents problems which can be eliminated by advance discussion and preparation. Therefore, the deposition testimony of any witness whose testimony is intended to be used at trial shall be taken in sufficient time so that transcripts of said testimony can be prepared and the same filed not later than _____ days prior to trial, or _____, unless a shorter time is granted by the court, the purpose being to enable the court to rule upon objections therein prior to trial so as to not unduly delay the trial itself. Transcripts of said depositions not filed as required herein shall not be permitted to be used as evidence at trial. **(However, the use of depositions and/or interrogatories for purposes of impeachment only shall not require the filing of such document prior to trial.)**

For purpose of identification of experts who are anticipated to testify at trial the suggested language for the pretrial order:

Testimony of the following witnesses offered by depositions/videotape (if none, so state).

12. SETTLEMENTS:

A. The parties _____ entered into "good faith" settlement
(have been or have not)

negotiations.

B. The court shall conduct a settlement conference during the month of _____ upon appropriate request of counsel, who may contact the court per telephone to set a date and time for such conference. Subject to leave of court, the parties or an agent of the parties (other than attorney) who is authorized to enter into meaningful settlement negotiations, shall be present for the settlement conference. So as to properly prepare for said conference, plaintiff and defendant shall provide the court with copies of plaintiff's and defendant's deposition, medical report, written reports of medical experts, Independent Medical Examinations, compilations of medical specials, lost wages, future projected damages and other documents pertinent to settlement issues one week before settlement conference.

C. If settlement occurs at such time that the court is not able to call off a jury panel so that said panel reports and is required to be paid, the court will assess the costs of said jury against whichever party the court concludes was responsible for the late settlement, and may assess said costs against both parties, if the court determines both parties were responsible for the late settlement.

13. JURY INSTRUCTIONS:

Counsel for all parties shall file with the court, not later than 1 day prior to trial, or _____, a complete proposed charge on all anticipated issues. There is reserved the right to submit supplemental requests for instructions during trial, or at the conclusion of the evidence, on matters that cannot be reasonably anticipated.

14. JURY VIEW:

A jury view _____ requested.
(is or is not)

15. MOTIONS IN LIMINE:

All motions in limine shall be filed not later than 30 days prior to trial, or

_____, unless a shorter time is approved by the court.

16. APPLICABLE STATUTORY OR CASE LAW:

Each party will set forth the statutory or case law, or both, applicable to the issues.

17. PROTECTIVE ORDERS:

Before the court will consider a motion for protective order, the parties must confer and seek to resolve the matter without court intervention.

18. MODIFICATION:

A. This final pretrial order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application by counsel, or on motion of the court.

19. ADDITIONAL ACTION TAKEN:

JENNIFER L. SARGUS
Judge

Attorney for Plaintiff

Attorney for Defendant