

# PRETRIAL PREPARATION PACKET

Judge Charles L. Pater

## **A. DISCLOSURE OF EXPERTS AND THEIR REPORTS:**

Parties are ordered to reveal to opposing parties, by the dates specified in the pretrial order, the names of all expert witnesses to be called at trial.

A party may not call an expert witness to testify unless a written report has been procured from that witness and provided to opposing parties. The report must be supplied no later than 30 days after the deadline for the disclosure of the expert. It is each party's responsibility to take reasonable measures, including the procurement of supplemental reports, to insure that each report adequately sets forth the expert's opinion. Unless good cause is shown, all supplemental reports must be supplied no later than thirty days prior to trial. The report of an expert must reflect his opinion as to each issue concerning which he will testify. An expert will not be permitted to testify or provide an opinion on any issue not raised in his report.

## **B. DISCOVERY CUTOFF DATE:**

All discovery must be completed by the discovery cutoff date.

## **C. SUMMARY JUDGMENT MOTIONS:**

Any response to a motion for summary judgment shall be filed no later than twenty-eight (28) days after the motion is filed, unless otherwise specified. The moving party may reply to the response. A reply must be filed no later than seven (7) days after the response is filed, unless otherwise specified. When the time period for a reply has run, the court will consider a motion submitted for decision, unless a party specifically requests oral argument.

## **D. PRETRIAL STATEMENTS:**

Each party shall prepare a pretrial statement which shall contain the following:

- (1) A concise statement of its claims and defenses;

- (2) Those facts established by admissions in the pleadings, admissions by discovery, and stipulations of counsel;
  - (3) The contested issues of fact;
  - (4) The contested issues of law, with citations of authority for the party's position;
  - (5) The names and addresses of fact witnesses, together with a brief statement of the subject matter of each witness's testimony and a brief summary of the anticipated testimony;
  - (6) The names, addresses, and qualifications of expert witnesses expected to testify, together with a brief statement of the subject matter of each witness's testimony and a brief summary of the anticipated testimony;
  - (7) A list of exhibits which each party intends to offer into evidence, marked as follows:
    - (a) Joint exhibits with Roman numerals,
    - (b) Plaintiff's exhibits with Arabic numerals,
    - (c) Defendant's exhibits with letters;
- NOTE: Each list of exhibits shall be set forth on an "Itemized Evidence Inventory Form." This form can be obtained on the internet at [www.bcccommonpleas.org](http://www.bcccommonpleas.org), under the heading "Downloadable Documents."**
- (8) Motions *in limine* not previously filed;
  - (9) A list of all special damages being alleged;
  - (10) Each party's expectation of the trial time needed to present its side of the case; and
  - (11) The status of settlement negotiations, including specific demands and/or offers.

The pretrial statements shall be delivered to the court's chambers no later than 4:00 p.m. on the date indicated. This deadline cannot be extended except by leave of court. Failure to submit the pretrial statement or comply with any other court order in a timely manner may result in the imposition of appropriate sanctions, including, but not limited to, dismissal of the case or a finding of contempt of court. The failure to include any of the materials specified in this order may result in the imposition of appropriate sanctions, including, but not limited to, exclusion of testimony or exhibits, denial of claims, directed verdicts, dismissal of the case, or a finding of contempt of court.

**E. JURY INSTRUCTIONS:**

Joint jury instructions are required to be submitted in writing and electronically in Microsoft Word, at least one week before trial. If the parties cannot agree on jury instructions, then each party must submit its proposed jury instructions as described above. If the parties cannot agree, they, if pro se, or their attorneys, will meet in the judge's chambers a few days before trial to resolve any disputes. If there is a particular legal or evidentiary issue which any party wishes to bring to the court's attention, a short memorandum with pertinent cases attached is expected.

**F. ISSUES TRIED TO THE COURT:**

In lieu of jury instructions, for any issue to be tried to the court, each party shall submit to the court, in writing and electronically, at least one week before trial, proposed findings of fact and conclusions law. For each claim to be tried to the court, each party shall submit to the court, in writing and electronically, at least one week before trial, a memorandum setting forth the elements to be proved to establish such claim.

The court expects the parties, before the trial, to have briefed the court on all legal issues related to the trial. The court intends to resolve all factual and legal matters and to render judgment on the case immediately at the conclusion of the trial. The court will not permit, except in the most extraordinary circumstances, parties to submit post-trial briefs. The court's perspective is that a "bench trial" should progress and be resolved virtually the same as a jury trial, in the sense that the legal issues should all be

clarified before the trial begins, and that the court, as fact-finder, should be ready to apply the applicable law to the facts immediately at the conclusion of the trial, when the court's factual findings are fresh.

**G. ATTENDANCE AT PRETRIAL AND SETTLEMENT CONFERENCE:**

Trial counsel and all parties, or others with settlement authority, shall be present at the pre-trial and settlement conference, unless granted leave to attend by telephone.

**H. TRIAL MATERIALS EXCHANGE:**

Each party, or its attorney, shall assemble all depositions, documents, photographs and other items to be used at trial. Each party's set of materials shall be placed in a binder or cover. Separate sets of materials shall be delivered to opposing parties, or their attorneys, and to the court before 4:00 p.m. on the date indicated in the pretrial order.

Objections to the admission of exhibits or to the use of other material must be made in writing and filed before 4:00 p.m. on the date indicated, and a copy of the objection shall be contemporaneously delivered to the court in chambers. Each objection shall include both the grounds for the objection and a brief citation of authority.

Failure to include a document, photograph, or other item in the materials as required by this Order will prevent its use as evidence or as trial material. Relief from this provision may be obtained only upon motion and for good cause shown.

**I. PERPETUATION OF EVIDENCE DEPOSITIONS:**

Perpetuation depositions may be taken at any time prior to trial, so long as the parties comply with Local Rule 5.16 concerning video tape depositions.

**J. TRIAL:**

- (1) The courts in Butler County use a computer recording system to record proceedings. If a party desires to have a stenographer that party is responsible to make the appropriate arrangements. The Court has equipment for playing video depositions and for displaying documents.

- (2) The parties, or their attorneys, are responsible for insuring that all transcripts and video depositions are filed with the Clerk's office prior to trial. The parties, or their attorneys, are also required to contact the Clerk's office prior to trial to insure the availability of the recorded depositions. The parties and their attorneys are cautioned to view the videos before filing and to test the videos before trial to insure that there is "sound" on the video.
- (3) The trial shall commence at 9:00 a.m. on the date indicated, unless otherwise specified. Jury lists and jury questionnaires will be available at the Clerk's office at 3:00 p.m. on the working day before the trial date.

**So ordered,**

**Charles L. Pater, Judge**