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MAGISTRATE JUDGE GERALDINE SOAT BROWN
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**STANDING ORDER REGARDING TRIAL PREPARATION FOR
CIVIL CONSENT CASES BEFORE MAGISTRATE JUDGE BROWN**

At an appropriate time, the Court will set dates for: (a) submission of the Pretrial Order, including motions in limine and copies of exhibits; (b) a pretrial conference; and (c) trial. **Once a trial date has been set it will not be changed except for extraordinary, unforeseeable circumstances.** A trial date will not be changed because the parties are engaging in settlement negotiations.

I. DAUBERT MOTIONS. Any motions challenging an expert witness under Fed. R. Evid. 702 and Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), must be filed and presented in court (with proper notice) at the time set by the Court, and no later than the time for filing motions in limine, whichever is earlier. This is in order to provide sufficient time for briefing and evidentiary hearing, if necessary.

II. PRETRIAL ORDER. The parties shall jointly prepare the Pretrial Order. Trial Counsel for each party must appear in Court to submit the original and a courtesy copy on the day set by the Court for the filing. The Pretrial Order must be signed by counsel for all parties and contain the following:

1. The caption of the case and the title FINAL PRETRIAL ORDER. It shall recite: "This Order shall control the course of the trial and may not be amended except by consent of the parties or by order of the Court to prevent manifest injustice."
2. Jurisdiction. A statement of the basis alleged for the Court's jurisdiction, and if jurisdiction is disputed, the nature and basis of the dispute.
3. Case statement. A concise joint statement of the case, including the names of the parties and the attorneys who will be representing them at trial; the nature of the case; the claims, counterclaims and cross-claims; and the defenses raised to those claims. In a jury case, this statement will be read to the jury during *voir dire*.
4. Stipulations. A statement of any stipulations reached by the parties. (*See Section II.10 below.*)

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In a jury case, stipulations of fact will be read to the jury.

5. Witness lists. A separate list of witnesses for the plaintiff and the defendant providing the name and address of each witness, including experts, divided into three categories: (a) witnesses who **will** be called to testify; (b) witnesses who **may** be called to testify; and (c) witnesses whose testimony will be presented by deposition or other prior testimony (indicating whether the presentation will be by transcript or video). In a jury case, these names will be made available to the jury during *voir dire*.

All experts who will or may be called must be included on the witness list. A brief statement of the topic of each expert's testimony must be provided. Any objections to the calling of any witness and the reasons for the objection must be stated in the Pretrial Order.

6. Estimate of total trial time. A statement of whether the case will be a jury or bench trial, and a realistic estimate of the length of the trial. In a jury case, expected to last 5 days or less, 7 jurors will be selected. In a jury trial of more than 5 days, 8 jurors will be selected. *See* Fed. R. Civ. P. 48.

7. Damages and relief. An itemization of damages and any other relief sought.

8. Electronic equipment. Identify any video, computer or electronic equipment that will be used during the trial and whether there is any objection to the use of that equipment. It is the responsibility of the party seeking to use the equipment to procure it and to make arrangements for its set up and use.

9. Exhibit list. Each party shall prepare a list of its exhibits, in substantially the form that is attached to this standing order. The list shall include any demonstrative exhibits or summaries. All exhibits shall be pre-numbered with identifying prefixes, for example, "JX" for joint exhibits; "PX" for plaintiff's exhibits; "DX" for defendant's exhibits. The list must include: (a) the exhibit number; (b) the date of the exhibit and a brief description; (c) whether there is an objection to the exhibit; (d) if so, the nature of the objection; (e) if there is an objection, the asserted basis for admissibility; and (f) a column for noting whether the exhibit was admitted. Relevance objections need not be listed; they are reserved for trial. Any other objection not listed is waived. Copies of exhibits must also be provided to the Court and opposing counsel with the pretrial order. The copies for the Court must be assembled in tabbed, three-ring binders. (*See Section V, below*)

10. Motions in limine. A list of all motions in limine filed by each party. A motion in limine must be filed as a separate document from the Pretrial Order. Each motion in limine must be filed as a separate motion and each must cite authority supporting the relief sought. Many motions in limine can be avoided by stipulation by counsel. Therefore, each motion in limine must also contain a statement of efforts to reach an accord regarding that motion containing the recitations that L.R. 37.2 requires for discovery motions. Any motion in limine not containing such a statement is subject to being stricken. Any motion in limine must be filed on or before the date that the Pretrial Order is submitted. Any response to a motion in limine must be filed no later than 14 days after the submission of the Pretrial Order; no replies will be permitted.

11. Counsel's pretrial conference. State the date, time, and method (*e.g.*, telephone, in person) that the conference among counsel required by this Order as described below was held.

12. Signature lines for counsel for all parties and the Court.

Plaintiff's counsel must prepare the first draft of the Pretrial Order and assemble the final draft; however, it is the responsibility of all counsel to cooperate in the drafting so that the Final

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Pretrial Order can be submitted on time.

Plaintiff's counsel shall provide to defendant's counsel an initial draft of the Pretrial Order, including the lists of plaintiff's witnesses and exhibits, no later than 21 days before the Pretrial Order is due. Defendant's counsel shall respond within 7 days thereafter, providing the defendant's information including lists of the defendant's witnesses, exhibits, and motions in limine and any objections the defendant will raise to the plaintiff's witnesses or exhibits. Within 7 days thereafter, plaintiff's counsel shall list any objections that the plaintiff will raise to the defendant's witnesses or exhibits. **Counsel for all parties are required to confer in person or in a telephone conference and attempt to resolve any differences or objections.**

III. DEPOSITIONS TO BE USED AT TRIAL. Each party must list in the Pretrial Order the depositions it intends to use at trial. (See Section II.5 above.) It is not necessary to list the pages and lines to be read. Instead, the party intending to read the deposition shall highlight the passages it intends to read on a copy of the transcript, and provide it to the opposing counsel, who shall highlight the passages it intends to read. The parties shall also note in the margin any objections to any passages. The marked copy must be submitted to Judge Brown's courtroom deputy no later than 14 days prior to trial.

IV. PRETRIAL CONFERENCE. The Court will schedule a pretrial conference after the Final Pretrial Order has been submitted for ruling on motions in limine and other matters. This is not a settlement conference. It is to simplify trial and avoid surprises. **Trial counsel fully prepared and with authority to discuss all aspects of the case must attend.**

V. TRIAL.
In a bench trial, at least 14 days before the trial, each party must file an opening statement, not to exceed 5 pages, stating what it believes the evidence will show, and a memorandum of authorities, not to exceed 3 pages. This is in lieu of an oral opening statement. A courtesy copy must be delivered to Judge Brown's courtroom deputy at the time of filing. Following the trial, each party shall submit proposed findings of fact and conclusions of law, in separately numbered paragraphs.* The findings shall include specific citations to evidence in the record supporting the facts set forth in each paragraph, and the conclusions shall include citations to authority. It is not sufficient for the defendant merely to state that it objects or disagrees with the plaintiff's proposed findings.

In a jury trial, at least 14 days before the trial, each party must file any *voir dire* questions that it proposes in addition to Judge Brown's standard *voir dire* questions. These should be exchanged in advance of filing, so that agreement can be reached if possible. A courtesy copy must be delivered to Judge Brown's courtroom deputy at the time of filing.

Jury instructions. At least 14 days before the trial, the proposed jury instructions, verdict forms and special interrogatories, if any, must be filed.* Each instruction shall be numbered, *e.g.*, "Plaintiff's Proposed Instruction 5," "Joint Proposed Instruction 2," etc. Each proposed instruction must include citations to supporting authority. In order to facilitate agreement, the plaintiff's counsel shall provide a proposed set of instructions, etc., to the defendant's counsel at least 28 days prior to the trial date, and the defendant's counsel shall respond to those proposed instructions within 7 days thereafter. At least 14 days before the trial, the plaintiff shall file any agreed or joint instructions, etc., and each party shall

* Along with a paper courtesy copy of the proposed findings of fact and conclusions of law or jury instructions, counsel must submit word-processing versions (WordPerfect or Microsoft Word) of those documents to Judge Brown's Courtroom Deputy by e-mail (nicole_fratto@ilnd.uscourts.gov) or on a CD. If submitted by CD, it must be marked with the caption of the case and the name of the document, *e.g.*, "Defendant's proposed jury instructions." Counsel should notify the Court if this requirement poses a substantial hardship.

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file its proposed version of any instructions, etc., as to which there is a dispute, as well as any objections to any other party's proposed instructions, verdicts or interrogatories. All objections shall be in writing and include citations to authority. Failure to object may constitute waiver of any objection.

Judge Brown has standard preliminary jury instructions which are available from her courtroom deputy. Counsel must state any objection to those instructions at the Pretrial Conference.

As part of the jury instructions, the parties must submit preliminary substantive jury instructions outlining the elements of the claims and defenses. These will be read to the jurors before opening statements.

Trial briefs are not necessary unless specifically ordered by the Court.

Each party must have sufficient copies of its exhibits, premarked, for the Court, opposing counsel, the witness and the jurors in a jury trial. The copies for the Court must be assembled in tabbed, three-ring binders. Counsel shall advise the Court in advance how they intend to publish exhibits to the jury. Counsel for each party shall retain the original of its exhibits, subject to Local Rule 79.1. Counsel shall have witnesses available so that there is not unnecessary delay in the presentation of evidence.

ENTER:

GERALDINE SOAT BROWN
United States Magistrate Judge

