

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS, SPRINGFIELD DIVISION

IN RE: STANDING ORDER ON)	
FINAL PRETRIAL CONFERENCES,)	
EXHIBITS, VOIR DIRE, JURY)	Standing Order
INSTRUCTIONS, and TRIAL)	23-mc-3002
PROCEDURES IN CIVIL CASES)	

I. FINAL PRETRIAL CONFERENCE

Unless the Court orders otherwise, the parties shall submit a proposed Final Pretrial Order and any trial motions not less than seven days before the Final Pretrial Conference. The proposed Final Pretrial Order should be submitted on the form provided (see under Springfield heading at <https://www.ilcd.uscourts.gov/forms/all-forms>) and shall contain the following:

1. the names and contact information of lead counsel at trial (contact information of one or more trial counsel for each party should be provided so the Court may contact counsel when the Court is in recess, if necessary);
2. an agreed statement of the case;
3. a jurisdictional statement of the case;
4. any uncontroverted facts;
5. issues of law;
6. witness lists (on forms attached to final pretrial order) noting if the witness is being presented as an adverse or expert witness;
7. exhibit lists (on forms attached to final pretrial order), noting whether the exhibit will be admitted without objection,

whether authentication is waived, whether there is an objection to the exhibit, and whether any exhibits are intended to be used as demonstrative aids at trial;

8. an itemized statement of all damages, including special damages;

9. whether a request is being made for the trial to be bifurcated and, if so, why;

10. a list of any pretrial motions the Court has not addressed;

11. a submission of any trial briefs on complex or difficult factual or evidentiary issues and each party's theory of liability or defense;

12. joint jury instructions, plaintiff's jury instructions, and defendant's jury instructions;

13. the proposed number of jurors and anticipated length of trial;

14. any nonroutine proposed voir dire questions (for jury trials);

15. Any other matters that affect the proceedings.

The above information must comply with CDIL-LR 16.1(F) (standard civils cases) or CDIL-LR 16.3(I) (pro se prisoner or detainee cases).

Unless the Court orders otherwise, witness and exhibit lists; jury instructions; additional voir dire questions; and any objections thereto shall be submitted at least seven days prior to the final pretrial conference. All motions in limine or other pretrial motions

(including responses) should be made in writing, with citation to legal authority, at least seven days prior to the final pretrial conference.

Counsel may seek leave to amend the witness or exhibit lists after the final pretrial conference only with good cause.

II. EXHIBITS

1. Pursuant to District Local Rules, exhibits must be pre-marked and exchanged with opposing counsel. Exhibits shall be brought to the final pretrial conference, if there are objections. A copy of all exhibits shall be provided to the Court in a binder the first day of trial.

2. Group exhibits are not favored. If a group exhibit is used, counsel should be prepared to explain why there is good cause.

III. JURY SELECTION

1. The Court will conduct voir dire. If voir dire questions are to be tendered, they shall be submitted with the Final Pretrial Order.

2. Standard voir dire questions are attached hereto as Exhibit A. Counsel should not duplicate the questions, but may object to the questions and offer alternatives.

3. If the parties are provided the responses to juror questionnaires, they must not duplicate the responses or retain any information that could be used to contact a juror during or after the trial.

4. Responses to jury questionnaires may not be removed from the courtroom without prior approval of the Court.

5. All responses to jury questionnaires and any information collected by counsel that could be used to contact jurors must be returned to the courtroom deputy immediately after the selection of

the jury.

6. Typically, a civil jury will be composed of eight jurors. After challenges for cause are made, each side will have 3 strikes. If there are multiple plaintiffs represented by separate counsel or multiple defendants represented by separate counsel, each side may be given more peremptory challenges, which will be determined at the final pretrial.

7. If the parties indicate the jury trial will be longer than five days, more than eight jurors may be empaneled.

8. All jurors seated will deliberate; there are no alternate jurors.

9. Absent unusual circumstances, peremptory challenges will be made from the panel as a whole. Back strikes are permitted. The parties are not required to use all of their peremptory strikes, but once a strike is surrendered, it is forfeited. If a party forfeits the first and/or second peremptory strike, it may use the third peremptory strike. The first eight jurors left after peremptory strikes have been made will be seated as the jury.

IV. JURY INSTRUCTIONS

1. Jury instructions should be double-spaced and in Bookman Old Style typeface, size 16 font with 1" margins; tabs set at ½." Multi-page instructions must be paginated and paper-clipped together.

2. Jury instructions are to be numbered as either joint, plaintiff's or defendant's instruction at or near the bottom left of the page (do not use letters of the alphabet). Directly under the joint or party jury instruction number, there should be an annotation of

whether it is a pattern instruction (indicating the jurisdiction in which the pattern instruction was obtained), a modified pattern instruction, or provide other appropriate legal authority. On the right lower portion of the page, the instruction should contain a designation so the Court can mark at the instruction conference whether the instruction will be given, refused, withdrawn, or given as modified.

3. Parties may submit alternative instructions to their own submitted instructions. Alternate instructions must be numbered to clearly identify the relevant instruction. For example, a proposed alternate instruction by a plaintiff would be labeled “Plaintiff’s 6A, alternate to Plaintiff’s 6.”

4. After the jury instruction conference, counsel should also be prepared to provide clean copies of jury instructions which the Court has determined it will give.

5. Standard preliminary instructions are attached to this Standing Order as Exhibit B. Counsel should not duplicate these instructions, but may object to them and offer alternatives.

6. In *pro se* prisoner and detainee cases, the Court will provide jury instructions to the parties. The parties may submit objections to the Court’s instructions and submit additional or alternate instructions. Alternate instructions must be numbered to clearly identify the relevant Court’s instruction. For example, a proposed alternate instruction by defendant to Court’s 12 would be labeled “Defendant’s 12A, alternate to Court’s 12.”

V. CONDUCT DURING TRIAL

1. All electronic devices used in the courtroom by counsel must be on silent mode, unless prior Court permission is granted.

2. Unless otherwise directed, parties and counsel must stand when addressing the Court or when the jury enters the courtroom.

3. Appropriate attire and etiquette are required in the courtroom at all times.

4. Parties, counsel, witness, and jurors may consume water, but other drink and food is strictly prohibited in the courtroom. Water will be provided at counsel table.

5. When a jury trial has been scheduled, the parties and their counsel are not to have any contact with any juror or potential juror outside the courtroom during the pendency of this case.

6. Once a jury has been empaneled, should a party or counsel have contact with a juror outside the courtroom, while arriving or departing the courthouse, or during a break or at lunch, the encounter must be reported immediately. Parties and counsel are not to speak, smile, or communicate with members of the jury, since even an innocent, polite gesture could be misconstrued.

7. Legal arguments at a side bar or in the presence of the jury are to be made to the Court and not directed at opposing counsel.

8. Objections should be short and specific, preferably with reference to the rule of evidence and without being argumentative or suggesting to the witness any response.

9. Counsel should ask to approach a particular witness once. After this request is granted, counsel need not make the request again unless directed to do so by the Court.

10. During cross-examination, counsel are to use proper impeachment or refreshing recollection procedures. All persons using these techniques should be familiar with the difference.

11. At trial, an exhibit must always be shown to opposing counsel prior to presenting it to a witness.

12. If counsel intends to publish an exhibit to the jury, the exhibit must first be admitted into evidence by the Court. Exhibits may not be published before they are admitted into evidence.

13. Disputes over the admissibility of exhibits are to be raised outside the presence of the jury, preferably in a motion in limine.

14. After an exhibit is admitted and counsel has concluded examining the witness, counsel must return the marked exhibit to the courtroom deputy. The courtroom deputy will maintain admitted exhibits throughout trial. Counsel may request the exhibits when necessary. If exhibits are used during closing argument, counsel must return them to the courtroom deputy.

15. When a verdict is read, parties and counsel are to remain composed and stoic until after the Court announces it is in recess.

16. After a verdict has been read, parties and counsel may not approach or speak with members of the jury without prior approval of the Court.

ENTERED: 2/15/2023

/s/ Karen L. McNaught
KAREN L. McNAUGHT
UNITED STATES MAGISTRATE JUDGE

VOIR DIRE QUESTIONS

NOTE: If, at any time, you wish the answer a question outside the presence of other prospective jurors, let Judge McNaught know.

1. Your name
2. City and county of residence
3. Marital status (single, married, divorced, widow/widower)
4. Extent of your formal education
5. Your occupation, trade, or employment
6. City where you work
7. Length of time you have been with your employer
8. If you have been with your present employer less than 5 years, what you did before
9. If married or spouse is deceased, name of spouse
10. Spouse's occupation, trade, or employment or any former employment of spouse in the last 5 years
11. City where your spouse is/was employed
12. Number and ages of any children
13. If children are employed, the name of the employer
14. Do you have any legal training?
15. Public offices, civic, or community organizations
16. Affiliation with any trade unions, professional associations, work-related organizations
17. Major interests and/or hobbies
18. How you obtain reports of any news (newspapers, news on line, TV, radio)
19. Identify any newspapers or magazines you regularly read
20. State any TV shows you regularly watch or radio programs to which you regularly listen
21. State any podcasts, internet websites, blogs, or other social media to visit
22. If you have any bumper stickers on your vehicle, state what the bumper sticker says
23. Military experience
24. Prior jury service or Grand Jury experience (County/State or federal)
 - A. Was the prior jury service in county/state or federal court
 - B. Was the prior jury service a criminal matter or a civil case
 - C. Did you reach a verdict
 - D. Did anything occur in that case which might influence your judgment in this case
25. Prior involvement in a lawsuit or legal proceeding (includes being a party, employment, deposition)
26. Any relatives or close friends who are attorneys
27. Any relatives or close friends who are affiliated with law enforcement
- 28.



**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS**

KAREN L. McNAUGHT
MAGISTRATE JUDGE

STANDARD PRELIMINARY JURY INSTRUCTIONS
CIVIL CASES

Court's Preliminary Instruction #1
Seating of Jury and Nature of Oath

Ladies and gentlemen, you are the jury in this case. If anything should happen from this time until the time that your service is concluded in this case that may impair your ability to be fair and impartial, you are required under the oath that you took to inform the Court immediately, so the Court can properly deal with the circumstance.

Court's Preliminary Instruction #2
Jurors as Judges of the Facts

You—and you alone--are the judges of the FACTS. It is your job to be the judges of the facts and to follow the law given by the Court from the evidence produced in court.

**Court's Preliminary Instruction #3
Paying Attention**

Pay close attention to the testimony. At the end of the trial, you must make your decision based upon what you recall of the evidence. You will not have a written transcript to consult. For that reason, it is especially important that you pay close attention to the testimony of every witness as it is given.

**Court's Preliminary Instruction #4
Order of the Trial**

After the evidence has been presented, I will give you detailed instructions that will control your deliberations. However, before the trial begins, I will give you an overview of what will happen and I will give you preliminary instructions so you can better understand what will be presented to you and what will be expected of you so you have an understanding of how you should conduct yourself during the trial. You should not take anything I say or do during the trial as indicating what I think of the evidence or what your verdict should be.

The trial will proceed in the following manner:

- A. First, counsel for the plaintiff may make an opening statement. The lawyers for the defendant(s) may then make an opening statement.
- B. An opening statement is NOT evidence, but is simply a summary or an overview of what counsel expects the evidence to be.
- C. After the opening statements, the plaintiff will put on his evidence through witnesses, exhibits, and any stipulations.
- D. When the plaintiff closes his part of the case, the defendant(s) will elicit evidence through their witnesses, exhibits, and any stipulations.

- E. There is a caveat to this procedure: witnesses may need to be taken out of order based upon scheduling and the parties have agreed to ask certain witnesses questions beyond the scope of what the other party asked during questioning. This often helps speed up the trial so that witnesses do not have to be called multiple times. You should not concern yourself with which party elicits the evidence.
- F. After the defendant closes his case, the plaintiff may put on rebuttal evidence.
- G. When all of the evidence has been presented, counsel has the opportunity to make closing arguments—first the plaintiff, then the defendant, and the plaintiff may make a rebuttal argument. Closing arguments are NOT evidence—they are summations of what the lawyers think the evidence was and how that evidence applies to the law that I will give you.
- H. After closing arguments have been presented, I will give you final instructions on the law which you are to apply in reaching your verdict. You will then retire to the jury room to commence your deliberations. When you have reached a unanimous verdict, you will return to the courtroom and the verdict will be announced to the parties. After I read the verdict, you may be asked individually in open court by the courtroom deputy if this is your verdict.

**Court's Preliminary Instruction #5
Communications Outside the Courtroom**

I have directed the parties and their counsel not to have any contact with you outside the courtroom during the pendency of this case. Should you have contact with a party, witness, or counsel as you come into or leave the courthouse or during a break or at lunch, please report it immediately to me or a member of the court staff. Do not speak, smile, or communicate with parties, witnesses, or

counsel outside of the courtroom, since even an innocent, polite gesture could be misconstrued.

Court's Preliminary Instruction #6
What Is Evidence and Credibility of a Witness

It will be your job to determine the facts in this case. An important part of that job will be to make judgments about the testimony of the witnesses and the exhibits received into evidence. Evidence consists of the testimony of the witnesses, documents or exhibits received by the Court, and stipulations made by the parties.

You will have to decide which witnesses to believe and which witnesses not to believe. You may believe everything a witness says or only a part of the testimony of the witness, or none of it. You also have to decide what weight, if any, you give to the testimony of each witness including how important the testimony was and how it fits with the other evidence in the case. In deciding these things, you may consider a number of factors, including the ability of the witnesses to see or hear or know the things the witness testified to; the quality of the witness' memory; the manner of the witness while testifying; any interest the witness may have in the outcome of the case; any motive, bias, or prejudice of the witness; any contradiction of the witness by anything the witness said or wrote before trial; and the reasonableness of the testimony of the witness when considered in the light of the other evidence which you believe.

You are not required to decide what to believe just because there are more witnesses on one side of that point. Your job is to think about the testimony of each witness and to decide what to believe.

In reaching your verdict, you may consider only the stipulations, the testimony of the witnesses, and the exhibits received into evidence. Certain things are NOT evidence and you may not consider them in deciding what the facts are: arguments and statements by lawyers are not evidence; questions and objections by lawyers are not evidence; testimony or exhibits ordered stricken by the court is no longer evidence in this cases and must be entirely disregarded; testimony or exhibits that I have instructed you to disregard; and

anything you may have seen or heard when the court is not in session, even if what you see or hear is done or said by one of the parties or by one of the witnesses. Each of these is not evidence and must be totally disregarded.

**Court's Preliminary Instruction #7
Expert Witnesses**

There may be testimony from expert witnesses in this case. You should judge the testimony of an expert witness just as you judge the testimony of any other witness. In the case of an expert witness, you also should evaluate the training, qualifications, and knowledge of the subject matter upon which the expert is testifying and whether the opinions are based upon sound reasoning, judgment, and information.

The fact that an expert has given an opinion does not mean you are required to accept it. You may accept or reject the opinion of an expert in whole or in part, just as you do with any other witness.

**Court's Preliminary Instruction #8
Direct and Circumstantial Evidence**

There are two kinds of evidence: "direct evidence" and "circumstantial evidence." Direct evidence testimony by a witness who claims to have personal knowledge of something, such as, something that a witness personally saw or heard or did. Circumstantial evidence is proof of one or more facts which tend to show whether something else is true. As an example, direct evidence that it is raining is testimony from a the witness who says, "I was outside a minute ago and I saw it raining." Circumstantial evidence that it is raining is the observation of someone entering a room carrying a wet umbrella. You should consider all of the evidence in this case, both direct and circumstantial. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

**Court's Preliminary Instruction #9
Inferences**

You are to consider only the evidence in this case. However, in our lives, we often look at one fact and conclude from it that another exists. In the law, we call this an “inference.” A jury is allowed to make reasonable inferences, based upon the evidence in the case. You should use common sense in weighing the evidence, and consider the evidence in light of your own observations in life.

**Court's Preliminary Instruction #10
Types of Burdens of Proof**

When I say a particular party must prove something by a “preponderance of the evidence,” this is what I mean: when you have considered all of the evidence in this case, you must be persuaded that it is more probably true than not true. When I say that a particular party must prove something by “clear and convincing evidence,” this is what I mean: when you have considered all of the evidence, you are convinced that it is highly probable that it is true. Those of you who have been jurors in a criminal case may have heard of “proof beyond a reasonable doubt.” This requirement does not apply to a civil case and you should, therefore, put that standard out of your mind.

**Court's Preliminary Instruction #11
Rulings on Objections**

From time to time, I will make rulings on objections posed by attorneys. There are rules of evidence which control what can be received into evidence. When a lawyer asks a question or offers an exhibit into evidence and a lawyer on the other side thinks it is not permitted by the rules of evidence, that lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered or the exhibit cannot be received. Any evidence as to which an objection is sustained by the court must be disregarded entirely. Whenever I sustain an objection to a question, ignore the question and do not guess what the answer would have been. Remember, you

must not be prejudiced for or against a lawyer or the party the lawyer represents, because the lawyer makes an objection and I either sustain or overrule the objection. Do not draw any conclusion from such objections or from my rulings. These relate only to the legal questions that I must decide and should not influence your thinking. Sometimes, I may order evidence to be stricken from the record and you must disregard or ignore the evidence. That means when you are deciding the case, you must not consider the testimony or the exhibits I told you disregard. Some of the evidence may be admitted for a limited purpose only. When I instruct you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose and for no other purpose. At times during the trial, it may be necessary for the lawyers and me to discuss certain legal matters out of your presence. The conferences are necessary to insure the law is properly applied. I will try to keep these conferences to a minimum and as brief as possible. Sometimes, I will try to do it by bench conference where the lawyers approach the bench and we whisper together or we use white noise, and the court reporter records all that we say, but it is outside your hearing. You should feel free to stand and stretch your limbs while we are so occupied. If the matter appears to require prolonged attention, I will excuse you from the courtroom for your greater comfort. Please understand we are working during these conference to make sure the case goes smoothly and fairly.

When I make a ruling on the law or procedure during the openings, evidence, or closing, do not take anything I say or do as indicating what I think of the evidence or what your verdict should be.

Court's Preliminary Instruction #12
Giving Further Instructions

During the course of the trial, I may provide you with instructions. At the conclusion of the case, I will give you the final instructions on the law that is to be applied to this case.

Court's Preliminary Instruction #13
No Deliberations Until All Evidence Has Been Presented

You are directed not to discuss this case among yourselves or with anyone else, including family members or friends, until you and the other members of this jury commence deliberations. If someone asks you about the case, you may state that you have been selected as a member of the jury and you should then state you cannot discuss the matter any further. Do not form any opinion until the evidence has concluded. You are to keep an open mind about this case until all of the evidence has been presented; the Court has instructed you as to the law; and you start your deliberations.

Court's Preliminary Instruction #14
No Independent Research

Do not read or listen to anything about this case outside of the courtroom. You, as jurors, must decide this case based solely upon the evidence presented within the four walls of this courtroom. During this trial, you must not conduct any independent research about this case or the individuals involved in the case.

You should not consult reference materials, including dictionaries, books, or other documents, if they have not been presented in court. You should not search the internet, websites, blogs, podcasts, or use your cell phone, i-Pad, computer, or any other electronic tool to obtain information about this case or to help you decide the case. You are not to communicate with anyone about this case, including but not limited to, by land line phone, cell phone, email, text messaging, Facebook, Insta-Gram, SnapChat, Twitter, Google+, LinkedIn, or You Tube.

Court's Preliminary Instruction #15
Notetaking

You may take notes, but you are not required to, during the course of the trial. It is difficult to take detailed notes and pay attention to what the witnesses are saying at the same time. If you do take notes, be sure that your note taking does not interfere with your

listening to and considering all the evidence. If you do take notes, do not discuss them with anyone or show them to anyone before you begin deliberations. At the end of the day, leave your notes on your chair. If you choose not to take notes, remember that it is your own individual responsibility to listen carefully to the evidence. You cannot give this responsibility to someone who is taking notes. We depend on the judgment of all members of the jury. You must all remember the evidence in this case and use your collective memory to decide the case.

**Court's Preliminary Instruction #16
Duty to Report Misconduct**

I expect you to inform me as soon as you become aware of another juror's violation of these or any of my instructions. A juror who violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial could result, which would require starting the entire process all over.

**Court's Preliminary Instruction #17
Breaks and Courtroom Etiquette**

We will take breaks throughout the trial—usually 15 minutes or so between 10:00 and 10:30 and 3:00 to 3:30. We will have a lunch break around the noon hour. We will start at 9:00 and will stay until about 4:00, depending upon when witnesses finish their testimony. If you need a break other than those times, please let me know.

You may bring water into the courtroom. You may not bring other food or drink into the courtroom.

I hope you find this case interesting and that your service as a juror is a pleasant experience.

**Court's Preliminary Instruction #18
First and Subsequent Breaks**

We are about to take our first break during the trial, and I want to remind you of the instruction I gave you earlier. Until the trial is over,

you are not to discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial, or anyone else. If anyone approaches you and tries to talk to you about the case, do not tell your fellow jurors but advise me about it immediately. Do not read or listen to any news reports of the trial. Finally, remember to keep an open mind until all the evidence has been received and you have heard the views of your fellow jurors. I may not repeat these things to you before every break that we take, but keep them in mind throughout the trial.