

STATE OF MICHIGAN
IN THE 41-A DISTRICT COURT

Plaintiff,

Case No.

vs.

Hon. Eric D. Shepherd

Defendant.

FINAL PRETRIAL ORDER

At a session of the Court, held in the Courthouse
in the City of Sterling Heights, Macomb County,
Michigan on: _____

Present: Hon. Eric D. Shepherd

IT IS HEREBY ORDERED that:

A. A Joint Final Pretrial Statement (“JFPS”) shall be submitted to Chambers no later than the settlement conference date. The proposed JFPS shall be one document prepared jointly and signed by the parties or their counsel. Plaintiff shall be responsible for submitting the document, which shall contain the following:

1. **Plaintiff’s Claims:** A short, concise statement of each claim upon which Plaintiff seeks to recover damages, including the nature, elements, and factual basis for each claim.
2. **Defendant’s Defenses:** A short, concise statement of each defenses upon which the Defendant relies, including the nature, elements, and factual basis for each defense.
3. **Uncontested Facts:** A short, concise statement of all uncontested facts.
4. **Contested facts:** A short, concise statement of all contested facts.
5. **Contested Law:** A recitation of the contested law from each party with citations to the most appropriate legal authority concerning the contested legal position.
 - A. **Contested Law by Plaintiff:**
 - B. **Contested Law by Defendant:**
6. **Waivers:** Any claims or defenses that have been waived.
7. **Expert Witnesses:** The name, address and area of expertise of every expert

witness whom each party intends to call to testify. Absent good cause, only those witnesses who are listed will be permitted to testify.

8. Other witnesses: The name and address of every other witness whom each party intends to call. Absent good cause, only those witnesses who are listed will be permitted to testify. Generic categories of witnesses are not permitted. Absent good cause, rebuttal witnesses must be listed.

A. Plaintiff:

B. Defendant:

9. Depositions: A list of all de bene esse depositions to be used. Depositions shall be purged at a hearing not later than 14 days before trial, or the objections shall be deemed to have been waived, unless the Court, for good cause, allows a late objection.

10. Exhibits: The parties shall list of all exhibits that will be offered in evidence and identify those exhibits, if any, to which any objection will be made. The objecting party must set forth the specific basis for the objection. The failure to object will be deemed a waiver of the objection, unless the Court, for good cause, allows a late objection. Absent good cause, only those exhibits that have been listed in the proposed JFPS may be offered into evidence. A copy of all exhibits shall be provided to the Court by 8:30 a.m. on the first day of trial. Exhibits submitted shall be marked before trial, numerically for plaintiff and alphabetically for defendant.

A. Plaintiff's Exhibits:

B. Defendant's Objections:

C. Defendant's Exhibits:

D. Plaintiff's Objections:

11. Admissions: A statement of any admissions made by either party.

12. Damages: A statement of each category of damages sought by plaintiff and the amount claimed in each category.

13. Jury Instructions/Verdict Form/Voir Dire: The preliminary and final jury instructions that the Court will read in all cases are set forth below. All proposed jury instructions and a proposed verdict form must be jointly submitted to Chambers with the proposed JFPS. If the parties are unable to agree on a verdict form, each party shall submit their own verdict form along with their legal basis for requesting that form. The parties shall jointly prepare four (4) packets of jury instructions: (i) a packet of agreed upon preliminary instructions; (ii) a packet of disputed preliminary instructions with supporting

authority for each party's position; (iii) a packet of agreed upon final instructions; (ii) a packet of disputed final instructions with supporting authority for each party's position. The instructions shall be submitted in the following form: (i) one instruction per page, plain paper only, completely typed out with blanks completed ready for submission to the jury; and (ii) on a flash drive in Word format, to be used if changes need to be made.

FAILURE TO COMPLY STRICTLY WITH ALL OF THE TERMS OF THIS ORDER MAY RESULT IN DISMISSAL, DEFAULT JUDGMENT, REFUSAL TO ALLOW WITNESSES TESTIFY, REFUSAL TO ADMIT EXHIBITS, OR OTHER SANCTIONS, INCLUDING THE ASSESSMENT OF COSTS AND EXPENSES INCLUDING ATTORNEY FEES. TO THE EXTENT ANY DATES OR REQUIREMENTS SET FORTH IN THIS ORDER ARE INCONSISTENT WITH ANY PRIOR ORDER, THE CONTENTS OF THIS ORDER SHALL GOVERN.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

Civil Jury Instructions

Preliminary Instructions Before Jury is Sworn:

The Court will read the following Preliminary Instructions. No copies need to be supplied of the listed instructions.

M Civ JI 1.01	Introductory Comments
M Civ JI 1.02	Defining Legal Names of Parties and Counsel
M Civ JI 1.03	Explanation of Jury Selection and Voir Dire
M Civ JI 1.04	Juror Oath Before Voir Dire
M Civ JI 1.05	Prospective Jurors - Health and Other Problems
M Civ JI 1.10	Juror Oath Following Selection

Preliminary Instructions After Jury is Sworn:

The Court will read the following Preliminary Instructions. No copies need to be supplied of the listed instructions, however, M Civ JI 2.02 must be prepared by the parties as set forth below and a copy supplied to the court at the final pretrial conference.

M Civ JI 2.01	Responsibility of Judge and Jury
M Civ JI 2.03	Jury Deliberation; Jurors as Triers of Fact
M Civ JI 2.04	Jury Must Only Consider Evidence; What Evidence is
M Civ JI 2.06	When Jurors May Discuss Case (with Alternate B)
M Civ JI 2.08	Objections; Out-of-Presence Hearings
M Civ JI 2.09	Court to Instruct on Law
M Civ JI 2.10	Inability to Hear Witness or See Exhibit
M Civ JI 2.11	Questions by Jurors Allowed (questions are allowed)
M Civ JI 2.13	Note Taking by Jurors Allowed (note taking is allowed)

M Civ JI 2.02 must be prepared jointly by the parties and submitted at the time of the final pretrial conference. The burden is on the plaintiff to ensure that this is accomplished. Interim commentary will not be allowed absent extraordinary circumstances. The sentence referencing interim commentary should not be included in 2.02 without permission of the Court.

Final Jury Instructions:

The Court will read the following Final Jury Instructions:

M Civ JI 3.01	Faithful Performance of Duties; Jury to Follow Instructions
M Civ JI 3.02	Facts to be Determined from Evidence
M Civ JI 3.03	Admission of Evidence
M Civ JI 3.04	Lawyer's Statements Not Evidence; Admission by Lawyer
M Civ JI 3.09	Jury to Consider all the Evidence
M Civ JI 3.10	Circumstantial Evidence
M Civ JI 3.11	Jurors May Take into Account Ordinary Experience and Observations
M Civ JI 3.15	Prior Inconsistent Statements of Witness
M Civ JI 4.01	Credibility of Witness
M Civ JI 60.01	Jury Deliberations

With the exception of those instructions that cannot be settled prior to the closing of proofs, instructions must be settled and submitted to the Court at the time of the final pretrial conference. Plaintiff is responsible for supplying a complete copy of the final instructions (including those that will be read without request) to be given to the jury at the time they begin deliberations.