

<b>STATE OF MICHIGAN</b> 6th Judicial Circuit	<b>CASE MANAGEMENT ORDER</b>	<b>CASE NO.</b>
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Court address:  
1200 N. Telegraph Road, Dept 404, Pontiac, MI 48341-0404

Court Telephone No.  
(248) 858-0337

Plaintiff

V

Defendant(s)

At a session of the Court, held in the Courthouse in the City of Pontiac,  
County of Oakland, State of Michigan on \_\_\_\_\_  
PRESENT: HONORABLE PHYLLIS C. MCMILLEN, CIRCUIT JUDGE

IT IS ORDERED that:

- A. A proposed Joint Final Pretrial Order ("JFPO") shall be submitted to Chambers no later than the settlement conference date. The proposed JFPO 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. **Statement of Claims and Defenses:** Each claim for affirmative relief (by plaintiff or counter-plaintiff) must be separately stated. As to each claim, the proposed JFPO must state; (i) the nature and elements of the claim; (ii) every fact in support of the claim, both as to liability and damages, indicating whether the fact is contested or uncontested; (iii) the controlling or most appropriate legal authority in support of every element of the claim; (iv) the nature and elements of every defense to the claim; (v) every fact in support of the defense, both as to liability and damages, indicating whether the fact is contested or uncontested; and (vi) the controlling or most appropriate legal authority in support of every element of the defense.
  2. **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. In addition, the expert's opinions, grounds therefor and underlying facts must be set forth with particularity.
  3. **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. The subject matter of every witness' testimony shall be set forth with particularity, indicating the specific factual issues about which the witness will testify.
  4. **Depositions:** A list of all de bene esse depositions to be used. Depositions shall be purged at a hearing not later than the Wednesday 14 days before trial, or the objections shall be deemed to have been waived, unless the Court, for good cause, allows a late objection.
  5. **Exhibits:** The parties shall prepare a 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 JFPO 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.
  6. **Jury Instructions/Verdict Form/Voir Dire:** All proposed jury instructions and verdict form must be jointly submitted to Chambers with the proposed JFPO. The parties shall jointly prepare two packets: (i) a packet of agreed upon instructions; (ii) a packet of disputed 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 compact disc (CD ROM) in Word format, to be used if changes need to be made. Voir dire questions must be served on all parties and submitted to Chambers at least 24 hours before trial.
  7. **Proposed Findings of Fact and Conclusions of Law:** In bench trials, each party must serve on all other parties and submit to Chambers, at the time the proposed JFPO is submitted, proposed findings of fact (identifying the witnesses and exhibits in support of each finding) and conclusions of law (citing supporting authorities).
- B. **Motion Practice:** All pretrial motions (other than dispositive motions) must be filed and heard on a Wednesday morning at least 14 days before trial. Failure to file timely any such motion shall be deemed a waiver of the requested relief, unless the Court, for good cause, allows a late motion. Motions to exclude or limit expert testimony must be filed and served at least 14 days before the hearing date; responses are due 7 days before the hearing date. For cases not subject to e-filing, a Judge's copy of all motions, responses and briefs shall be submitted to Chambers upon the filing of such papers. For cases subject to e-filing, a paper copy of motions for summary disposition and motions to limit or exclude testimony, as well as responses and briefs relative to such motions, shall be submitted to Chambers upon e-filing the papers.
- C. A settlement conference shall be conducted on \_\_\_\_\_ at \_\_\_\_\_. The settlement conference must be attended by trial counsel, all parties who are natural persons, a representative of any other party, and representatives of lien holders and insurance companies with an interest in this action. All attendees must have the information and settlement authority described in MCR 2.401(F)(2).
- D. FAILURE TO COMPLY STRICTLY WITH ALL OF THE TERMS OF THIS ORDER MAY RESULT IN DISMISSAL, DEFAULT JUDGMENT, REFUSAL TO LET 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.

## Civil Jury Instructions

### **Preliminary Instructions**

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 (not taking is allowed)
M Civ JI 2.14	Reference documents (only if reference books are presented <b><u>without contest</u></b> at the time of the final pretrial conference.

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 Instructions**

The Court will read the following final 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 3.08	Judge's Opinion to Facts to be Disregarded
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 4.06	Witness Who has Been Interviewed by a Lawyer
M Civ JI 4.07	Weighing Conflicting Evidence – Number of Witnesses
M Civ JI 60.01	Jury Deliberations

Deposition summaries will only be read if they are stipulated to by the parties.

All of the instructions must be requested by the parties. 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.