

FORM OF FINAL PRETRIAL ORDER USED BY:
HON. BRIAN R. MARTINOTTI, USDJ

This form is to be retyped in full (including all instructions) and all material inserted in proper sequence and not by means of attached riders except as provided below.

PLEASE NUMBER ALL PAGES

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Plaintiff	:	Civil Action No.:
	:	
v.	:	FINAL PRETRIAL ORDER
	:	
Defendant	:	

This matter having come before the Court for a pretrial conference pursuant to Fed. R. Civ. P. 16; and _____ having appeared for plaintiff, and having appeared for defendant; the following Final Pretrial Order is hereby entered:

1. **JURISDICTION** (set forth specifically).
2. **PENDING/CONTEMPLATED MOTIONS** (Set forth all pending or contemplated motions, whether dispositive or addressed to discovery or to the calendar. Also, set forth the nature of the motion and the return date. If the Court indicated that it would rule on any matter at pretrial, summarize that matter and each party's position).
3. **STIPULATION OF FACTS** (Set forth in narrative form a comprehensive listing of all uncontested facts, including all answers to interrogatories and admissions, to which there is agreement among the parties).
4. **PLAINTIFF'S CONTESTED FACTS** (State separately for each plaintiff. Proofs shall be limited at trial to the matters set forth below. Failure to set forth any matter shall be deemed a waiver thereof).
 - A. Plaintiff intends to prove the following contested facts with regard to liability:
 - B. Plaintiff intends to prove the following contested facts with regard to damages: (This must include each item of damages, the amount of each item, the factual basis

for each item and, if punitive damages are claimed, the facts upon which plaintiff will rely to establish punitive damages).

5. **DEFENDANT'S CONTESTED FACTS** (State separately for each defendant. See instructions above).

A. Defendant intends to prove the following contested facts with regard to liability.

B. Defendant intends to prove the following contested facts with regard to damages. (This statement must include the factual basis for each defense against plaintiff's claims for damages).

6. **PLAINTIFF'S WITNESSES** (Aside from those called for impeachment purposes, only those witnesses whose names and addresses are listed below will be permitted to testify at trial).

A. On liability, plaintiff intends to call the following witnesses who will testify in accordance with the following summaries:

B. On damages, plaintiff intends to call the following witnesses who will testify in accordance with the following summaries:

C. Defendant objects to the following witnesses for the reasons stated:

7. **DEFENDANT'S WITNESSES** (See instructions above).

A. On liability, defendant intends to call the following witnesses who will testify in accordance with the following summaries:

B. On damages, defendant intends to call the following witnesses who will testify in accordance with the following summaries:

C. Plaintiff objects to the following witnesses for the reasons stated:

8. **EXPERT WITNESSES** (No opposing counsel shall be permitted to question the expert's qualifications unless the basis of an objection is set forth herein).

A. Plaintiff's expert witnesses are:

B. Defendant's objections to the qualifications of plaintiff's experts are:

C. Defendant's expert witnesses are:

D. Plaintiff's objections to the qualifications of defendant's experts are:

9. **PLAINTIFF'S EXHIBITS** (Except for exhibits the need for which could not reasonably have been foreseen or which are used solely for impeachment purposes, only the exhibits set forth on the exhibit list attached hereto may be introduced at trial. Any objection to an exhibit, and the reason for said objection, must be set forth below or it shall be deemed waived. All parties hereby agree that it will not be necessary to bring in the custodian of any exhibit as to which no such objection is made).

A. Plaintiff intends to introduce into evidence the exhibits listed on the attached exhibit list (list by number with a description of each):

B. Defendant objects to the introduction of plaintiff's exhibits (set forth number of an exhibit and grounds for objection):

10. **DEFENDANT'S EXHIBITS** (See instructions above).

A. Defendant intends to introduce into evidence the exhibits listed on the attached exhibit list (list by number with a description of each):

B. Plaintiff objects to the introduction of defendant's exhibits (set forth number of exhibit and grounds for objection):

(Copies of exhibits are to be made for opposing counsel, and a bench book of exhibits is to be delivered to the Judge at the start of trial. If counsel desires to display exhibits to the jury, sufficient copies should be available to provide each juror with a copy; alternatively, enlarged photographic or projected copies may be used).

11. **PLAINTIFF'S LEGAL ISSUES**

12. **DEFENDANT'S LEGAL ISSUES**

13. **CHOICE OF LAW:** (If there is any issue as to what state's law is applicable to any count of the complaint, set forth the choice of law question. This issue shall be separately briefed in accordance with an order to be entered herewith).

14. **MISCELLANEOUS** (Set forth any other matters which require action by, or should be brought to the attention of the Court).

15. **JURY TRIALS** - Not later than _____.

A. Each side shall submit to the Judge and to opposing counsel a trial brief or memorandum in accordance with Local Civil Rule 7.2B, with citations to authorities and arguments in support of its position on all disputed issues of law. In the event a brief shall not be filed, the delinquent party's complaint or defense may be stricken.

B. Counsel for each party shall submit to the Judge, with a copy to opposing counsel,

written requests for instructions to the jury. Supplemental requests for instructions may be submitted at any time prior to argument to the jury. All requests for instructions shall be plainly marked with the name and number of the case, shall contain citations of supporting authorities, if any, and shall designate the party submitting same. In the case of multiple requests by a party, these shall be numbered in sequence and each request shall be on a separate sheet of paper.

C. Joint proposed verdict form/special interrogatories are to be submitted to the trial judge.

D. Proposed voir dire are to be submitted to the trial judge.

16. **NON-JURY TRIALS** - Not later than _____.

A. Each side shall submit to the Judge and opposing counsel a trial brief or memorandum in accordance with Local Civil Rule 7.2B with citation to authorities and arguments in support of its position on all disputed issues of law. In the event a brief shall not be filed, the delinquent party's complaint or defense may be stricken.

B. Each side shall submit to the Judge and other counsel proposed written findings of fact and conclusions of law. There is reserved to counsel the right to submit additional proposed findings of fact and conclusions of law during the course of the trial on those matters that cannot reasonably be anticipated.

17. **TRIAL COUNSEL** (List the names of trial counsel for all parties).

18. **BIFURCATION** (Where appropriate, the issues relating to liability shall be severed and tried to verdict. Thereafter, all issues relating to damages will be tried).

The issues of liability and damages SHALL / SHALL NOT be tried separately.

19. **ESTIMATED LENGTH OF TRIAL**

_____ DAYS FOR LIABILITY

and

_____ DAYS FOR DAMAGES.

AMENDMENTS TO THIS PRETRIAL ORDER WILL NOT BE PERMITTED UNLESS THE COURT DETERMINES THAT MANIFEST INJUSTICE WOULD RESULT IF THE AMENDMENT IS DISALLOWED.

(ATTORNEY FOR PLAINTIFF)

(ATTORNEY FOR DEFENDANT)

UNITED STATES MAGISTRATE JUDGE

DATED: _____

(EXHIBIT LIST TO FOLLOW)