

(FOR USE IN BENCH TRIALS)
OUTLINE REQUIREMENTS
U.S. District Judge Rebecca F. Doherty

On the date contained in the scheduling order, plaintiff(s) shall provide all counsel with an outline of claims.¹ Plaintiff's outline will specifically identify each and every claim plaintiff intends to assert (*i.e.* unlawful retaliation in violation of Title VII; breach of contract, negligence etc.). After identifying his first claim, the plaintiff will identify the basis in law (*i.e.* statutory, jurisprudential or contract) upon which the claim is founded, together with any pertinent jurisprudential gloss on the applicable law. Plaintiff must then list all elements required to prove that claim (*i.e.* duty, breach, etc.). Next, plaintiff is to identify specifically each and every remedy he seeks to recover if he succeeds in proving the merits of his claim (*i.e.* punitive damages, attorney fees, etc.). As to each remedy, the plaintiff will again identify the basis in law, together with any applicable jurisprudential gloss. Each reference or citation to a statute must be cited to the specific language upon which plaintiff relies and its location. Plaintiff is to then list a very brief recitation of the facts that he will use to prove that claim. Plaintiff is to then list each witness he intends to call in support of that claim and a very brief synopsis of their anticipated testimony. He is to list any evidence he will submit in support of that claim. Next, plaintiff is to list his second claim and provide all of the information above, following the same format. He is to do this for each and every claim he is bringing before this Court.

ANY CLAIM NOT INCLUDED ON THE OUTLINE DESCRIBED HEREIN SHALL BE DEEMED WAIVED AND ABANDONDED. HOWEVER, THE OUTLINE MAY NOT BE USED AS A TOOL TO EXPAND THE CLAIMS IDENTIFIED IN THE COMPLAINT.

On the date contained in the scheduling order, defendant(s) shall provide all counsel with an outline containing: (a) specific responses to plaintiff's outline; and (b) any affirmative defenses he is asserting. As to the specific responses, defendant shall, with regard to each claim, set forth each and every element of his response to the claim. For instance, if defendant agrees that a specific claim asserted by plaintiff presents a viable theory in law, but disagrees that the facts of this particular case permit plaintiff to recover under that theory, he is to so state and include any evidence and/or argument in support of his position. If defendant does not agree with any statement of law or fact, he is to respond with the same level of specificity and detail required of the plaintiff as described in the above paragraph. In addition to responding to plaintiff's claims and assertions, defendants shall identify each and every affirmative defense he intends to assert in response to plaintiff's claims. With regards to these defenses, defendant is to provide the same type of information and level of detail required by plaintiff as described in the foregoing paragraph. Defendant is to follow plaintiff's format as closely as possible for ease of reference for all parties and the Court, unless doing so would prejudice defendant.

ANY AFFIRMATIVE DEFENSES NOT INCLUDED IN THE OUTLINE DESCRIBED HEREIN SHALL BE DEEMED WAIVED AND ABANDONDED.

On the date contained in the scheduling order, plaintiff will be permitted to respond (in the same manner set forth above for the defendant's response to plaintiff's claims) to those portions of the defendant's outlines that identify the affirmative defenses defendant intends to assert in this matter. Again, the format is to be kept as consistent as possible with the previous outline and response.

All outlines are to be filed with the Clerk of Court no later than ten days before the Pretrial Conference.

¹ This requirement applies to all counterclaims, cross-claims, third party claims, and interventions. The parties shall state whether they have stipulated to any intervention.

Also ten days before the pretrial conference, but under separate filing, the Parties are to jointly submit a document containing:

1. Procedural History and Posture:

The parties shall set out the procedural history of the case, including (a) disposition of motions filed; and (b) a list of any pending motions.

2. Issues of Law:

Identify any TRUE issues of LAW which remain unresolved as of the pretrial conference.

3. Witnesses:

Each party shall set out a **will call**² witness list, which conforms with the privacy concerns addressed at FED. R. CIV. P. art. 5.2. The list shall designate those witnesses whose testimony is expected to be presented by means of a deposition. Additionally, the parties are to give a brief description of the testimony of each witness.

4. Exhibits:

Each party shall set out an exhibit list, which conforms with the privacy concerns addressed at FED. R. CIV. P. art. 5.2., and identify the exhibits the party **will use**³ at trial. The parties shall sufficiently identify each document or other exhibit for the opposing party and the Court.

5. Objections to Witness and Exhibit Lists:

List here any objections, other than relevance, to the witness or exhibit lists of another party, including those objections contained in FED. R. CIV. P. 26(a)(3). For all such objections, the parties must submit copies of the disputed exhibit. Any objections not specifically stated in the Pretrial Order are deemed waived unless excused by the court for good cause shown.

6. Stipulations:

List here any matters to which the parties can stipulate. Counsel are encouraged to stipulate to as many factual and legal issues as possible in the interests of reducing costs and delays at trial. In jury trials, counsel shall state whether the stipulations are to be read to the jury.

7. Affirmation:

The Pretrial Order shall contain the following affirmations:

- a. Trial counsel shall affirm, absent permission otherwise: (1) they will download their trial documents and exhibits to their personal equipment (or to an outside party's equipment hired for these purposes) and counsel will meet with the courtroom technology coordinator no later than seven days before trial, noting the scheduled date; or, (2) counsel will provide a CD-ROM containing the documents to the Courtroom Deputy and counsel will meet with the courtroom technology coordinator no later than seven days before trial, noting the scheduled date; or (3) counsel will affirm he or she is familiar with the Visual Presenter.

² The Court defines "will call" witnesses as those a party intends to call in its case-in-chief.

³ The Court defines "will use" exhibits as those a party intends to submit in its case-in-chief.

- b. The parties shall affirm they have complied with the supplementation requirements of FED. R. CIV. P. 26(e).
- c. All counsel, including intervenors, shall affirm final good faith settlement negotiations have been completed.
- d. Counsel shall affirm their understanding that failure to comply with any requirement of the Federal Rules of Civil Procedure, the Scheduling Order, or other orders of this court, will risk the imposition of the sanctions provided for by the Federal Rules of Civil Procedure.
- e. Counsel shall affirm their need, if any, for handicap provisions which are provided by the court.
- f. Counsel shall affirm they have provided the real time glossary to the court reporter.