

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE

PRETRIAL ORDER FOR ALL CIVIL CASES

PRETRIAL ORDER NO. 1

The above case has been assigned to Division 17, and the Court has determined that a Pretrial Order setting forth procedures to be followed in Division 17 will assist the parties in preparing and presenting the case to the Court and/or Jury, the Court hereby enters the following Pretrial Order:

DISCOVERY ISSUES

- 1.) No written discovery motions are to be filed until after counsel have made the efforts to resolve the dispute required by Local Rule 33.5.
- 2.) When a discovery dispute requires a motion to enforce discovery to be filed by a party, the party shall comply with Local Rule 33.5.
- 3.) In situations where a party has objected to the disclosure of documents or information on the basis that it is protected by the attorney/client privilege, the insurer/insured privilege, some other privilege, or that it is work product, the objecting party shall file and serve on each other party a Privilege Log identifying each document or other item, or the other information sought to be protected, by author, date, purpose for which the information was created and a sufficient description of the subject matter for the other parties and for the Court to be able to determine whether or not the document or information is in fact not subject to disclosure, *State ex rel. The Atchison, Topeka And Santa Fe Railway Company v O'Malley*, 898 S.W.2d 550 (Mo.banc 1995). The Privilege Log shall be in the form required by the Court, which is posted on the Division 17 portion of the 16th Judicial Circuit Court home page, located at <http://www.16thcircuit.org> (under the "Divisions & Judges" link). Within ten (10) days after filing and service of the Privilege Log on each other party, counsel of record and any unrepresented parties shall meet and discuss the documents that are claimed to be privileged for the purpose of making such agreements as are possible regarding disclosure or nondisclosure of the documents. If there are documents with regard to which the parties cannot agree on disclosure or nondisclosure, then a conference shall be scheduled with the Court to discuss the contested documents.
- 4.) The Court will, in proper cases, upon its own motion or the motion of a party, appoint a special master or discovery commissioner to preside over discovery. The order appointing such a special master or discovery commissioner will designate an appropriate cost deposit to be paid by one or more of the parties, in trust, to the Court Administrator to assure that the special master or discovery commissioner is compensated in a timely manner for services rendered in presiding over discovery. *State ex rel. Madlock v O'Malley*, 8 S.W.3d 890 (Mo 1999).

RULING OF MOTIONS

- 5.) It is the policy of Division 17 to attempt to rule all motions promptly upon their becoming ripe for ruling unless justice requires a delay in ruling upon the motion. If a motion is ripe, but has not been ruled, the Court requests that counsel bring that to the attention of the Division 17 law clerk so that the Court is aware that the motion has not been ruled.

TRIAL SETTINGS

- 6.) At the Case Management Conference the Court will enter an order scheduling the matter. If the trial date is selected by the parties at a Case Management Conference, the Court will be very reluctant to continue the case. Good cause will be required to continue a trial setting selected by the parties.
- 7.) On the date your case is scheduled for trial, please appear at 9:00a.m., unless the Judicial Administrative Assistant has called and indicated you need not appear. All witnesses shall be available.

CONTINUANCE OF A TRIAL SETTING

- 8.) Continuances from a trial date selected by the parties will be granted only for good cause shown with Court approval. **Continuances will rarely be granted if the parties selected the court date.**
- 9.) All applications for continuance shall be filed on or before Wednesday of the week prior to the trial setting. Applications for Continuance shall comply with Supreme Court Rule 65 and 16th Circuit Rules 34.1 and 34.4.
- 10.) It is the Court's policy to rule on all Applications for Continuance that have been timely filed, providing they have been received in the Division before 5:00 p.m. on the Wednesday prior to the trial setting. The Court's Judicial Administrative Assistant will attempt to advise counsel whether or not a continuance has been granted by 5:00 p.m. on the Thursday prior to the trial setting. Assume that if a continuance has not been expressly granted, it is denied.
- 11.) When a continuance has been granted, the Court will enter an Order scheduling the matter for an additional Case Management Conference. All counsel familiar with the status of the case, the settlement efforts that have occurred, any remaining issues that require Court attention, and the availability and calendar of trial counsel, are required to attend. At the Case Management Conference, counsel should be prepared to address at least the following:
 - a. A new trial setting;
 - b. Any issues which require input or action by the Court;
 - c. The status of settlement negotiations; and
 - d. Whether or not the Court should order mediation or other dispute resolution.
 - e. Discovery.

PRETRIAL CONFERENCES

- 12.) A Pretrial conference will generally be set at the Case Management Conference. Additional Pretrial conferences may be scheduled by calling **Cheryl Raines**, the Judicial Administrative Assistant for Division 17, at **(816) 881-4417**.
- 13.) Pretrial conferences are encouraged by the Court regarding issues on which the Court can be of assistance to the parties.

PRETRIAL ISSUES

- 14.) **Dispositive Motions.** All Dispositive motions shall be filed as least sixty (60) days prior to the date of the trial, unless by statute or court rule, they must be filed at an earlier time.
- 15.) **Identification of Designated Portions of Depositions to be Read.** The parties shall file an identification of any designated portion(s) of depositions to be read or shown to the jury at least twenty (20) days before the trial date. Counter designations and objections to any designated portion(s) of depositions to be read or shown to the jury shall be filed on the Monday before the case is scheduled for trial. Failure to comply will likely lead to exclusion of the evidence.

- 16.) **Pretrial Motions.** The parties shall file any motions in limine, and any trial briefs with the Court and the opposite party at least twenty (20) days before the trial date.
- 17.) **Jury Instructions.** Each party who has the burden of proof on a claim or defense shall deliver proposed jury instructions to the Court and to the other parties twenty (20) days prior to the commencement of the trial. Proposed converse or responsive jury instructions shall be delivered to the fifteen (15) days later. Proposed jury instructions shall be provided to the Court in hard copy (both clean and with citations of authority) and electronically, either by attachment to an e-mail to the Division Law Clerk, or on a floppy disc or CD-ROM. Plaintiff shall also provide a proposal for the numerical order that the instructions should be read to the jury. The Court requires that the electronic copy of the proposed jury instructions be provided in **Microsoft Word** format, which is the state standard required by the Missouri Supreme Court. WordPerfect format will no longer be accepted.
- 18.) **Exhibits Shall Be Marked Prior to Trial.** The parties on cases set for trial shall be responsible for providing the Court Reporter with an Exhibit List at least five (5) days before trial. This Exhibit List may be faxed to the Court Reporter at **(816) 881-4693**. The Exhibit List for Division 17 shall be in the form required by the Court, which is posted on the Division 17 portion of the 16th Judicial Circuit Court home page, located at <http://www.16thcircuit.org> (under the "Divisions & Judges" link). The parties shall mark all of their exhibits prior to the beginning of the trial. The parties shall meet with the Court Reporter on the morning of the trial date to verify that all exhibits have been marked and that the Court and the Court Reporter have an accurate Exhibit List prior to the commencement of jury selection. Exhibits shall be marked in numerical order as required by Local Rule 24.1, with the Plaintiff's exhibits being marked first, and then each other party's exhibits shall be marked. The numbers for a Defendant's exhibits shall begin with a number sufficiently larger than where the Plaintiff's numbers end to allow for Plaintiff to mark additional exhibits during trial. Defendants shall mark their respective exhibits in the order that they are named in the Petition. *Designation of exhibits as A, B, C, etc., is not permitted.*
- 19.) **Witness List.** The parties on cases set for trial shall be responsible for providing the Court Reporter with a Witness List no later five (5) days before trial. This Witness List may be faxed to the Court Reporter at (816) 881-4693. The Witness List shall be in the form required by the Court which is posted on the Division 17 portion of the 16th Judicial Circuit Court home page, located at <http://www.16thcircuit.org> (under the "Divisions & Judges" link). The purpose of the Witness List is to enable the Court Reporter to put all names into the database for the record being made by the Court Reporter. It is not necessary that the Witness Lists required by this order be exchanged between the parties.
- 20.) Any document, object or thing that will be referred to in the course of the trial shall be marked as an exhibit before it is referred to in the evidence. This includes demonstrative exhibits or aids that will be referred to at any time, whether or not they will actually be offered into evidence.
- 21.) **Proper Dress for Court.** The Court En Banc has adopted a policy regarding proper dress for Court. This policy is stated on the summons. Counsel shall advise the party they represent, and witnesses that party intends to call in the case, of the Court En Banc's policy regarding proper dress for Court.

JACK R. GRATE
Circuit Judge