

Rule 7016-1: Joint Pretrial Statement

(a) Contents of Joint Pretrial Statement. Unless the court orders otherwise, upon the initiative of counsel for the plaintiff or movant, counsel who will try the case and who are authorized to make binding stipulations shall confer and prepare a written pretrial statement, signed by each counsel, to be filed by the plaintiff or movant within the time set by the court or, if no time is set, then not less than seven days prior to the date of trial. Such pretrial statements shall contain the following:

(1) A brief statement of the nature of the case, including a reference to any particular sections of the Code that are involved;

(2) The uncontested facts deemed material;

~~(3) Such contested issues of fact and law as counsel can agree~~(3) Disputed facts that are material or applicable; as to each such issue (and those identified in paragraph (4) below), the parties shall state their respective positions as to what they want the court to find or conclude;

~~(4) A separate statement by each party of other issues of fact or law which that party believes to be material. As~~ as to each statement of fact, each opposing party shall state whether it contends that the statement is accurate, material and relevant;

~~(5)~~(4) Agreed issues of law that are material to the case;

(5) A separate statement by each party of disputed issues of law which that party believes to be material;

(6) A list of the witnesses intended to be used by each party during the trial. No witness shall be used at the trial other than those listed, except for good cause shown- or for the sole purpose of impeachment. For each witness the opposing party shall set forth, immediately following the summary of the testimony, the legal basis for any objection to the witness testifying. The joint pretrial statement must identify those witnesses whose testimony will be received by declaration or deposition testimony, and those witnesses who reside out-of-state but will be testifying live, witnesses shall not be permitted to appear telephonically without prior leave of Court and when leave is granted these appearances shall not involve the witnesses' use of wireless devices;

~~(67)~~ A list of all witness declarations that each party has filed or intends to introduce at trial. Any declaration not previously filed must be attached to the joint pretrial statement. As to each declaration, each opposing party shall indicate whether it may be received in evidence as is, whether it may be received in evidence only on the condition that the declarant is available at trial for cross-examination, or whether the opposing party will require that the witness testify live on direct examination;

(7)(i) Unless otherwise ordered, the direct testimony of any expert witness shall be by written declaration and the witness shall appear in person at the hearing and shall be subject to cross examination.

(8) A statement by each party identifying any depositions to be offered at trial and indicating the specific portions to be offered and the party or parties against whom they will be offered;

(89) Each party's estimate of the time required for trial; and

(910) A certification by each party that all listed exhibits have been exchanged or made available to all other parties for inspection and copying. Any party that identifies more than ten exhibits shall arrange to have them marked in advance of trial and provide exhibit books for the witness, the court, and opposing counsel. No exhibits shall be used during the trial other than those listed, except for good cause shown.

(i) The plaintiff's or movant's exhibits should be identified by numbers; defendant's exhibits should be identified by alphabet. The courtroom deputy shall be provided with an Exhibit List prior to the start of trial.

(ii) The parties shall meet and confer as to how best to combine all exhibits on the same flash drive. At the time of trial/evidentiary hearing counsel should provide to the court two thumbdrive/flashdrives that contain the exhibits of both parties. One will be retained by the Clerk as part of the official court record; the other will be used by the judge. The flashdrive should be presented to the courtroom deputy prior to trial.

(iii) All exhibits presented at trials or evidentiary hearings are to be presented electronically. Unless otherwise authorized by the court. This does not apply to pro se parties.

(b) Draft. Unless otherwise agreed by the parties, counsel for plaintiff or movant will provide a draft of the joint pretrial statement to the other parties no later than one week prior to the deadline for filing the joint pretrial statement. All other parties shall provide input to the drafting party at least one full business day in advance of the deadline for the joint pretrial statement. If the plaintiff or movant is appearing pro per and another party is represented by counsel, counsel shall timely prepare and distribute the first draft of the joint pretrial statement.

(c) Unilateral Pretrial Statement. Any party who does not cooperate in a timely manner in preparing the joint pretrial statement may be precluded from calling any witnesses or submitting any exhibits at trial. If a party does not cooperate, any other party may file a unilateral pretrial statement by the deadline, together with a motion for authority to file a unilateral statement, explaining the details of the other party's lack of cooperation, including dates when drafts were distributed, and shall lodge an appropriate form of order granting the motion.

(d) Unrepresented Parties. Any party that is not represented by counsel shall be responsible for complying with the requirements of this Local Rule except the requirement that exhibits be presented electronically, and any reference in this Local Rule to counsel for such party shall be deemed to refer to such party.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~