

May 23, 2023

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**BY: J. Galindo-Beaver  
DEPUTY**AMENDED STANDING ORDER ON PRETRIAL  
PROCEDURES AND REQUIREMENTS IN CIVIL CASES**

**IT IS ORDERED** the parties in civil cases shall comply with the following pretrial procedures and requirements:

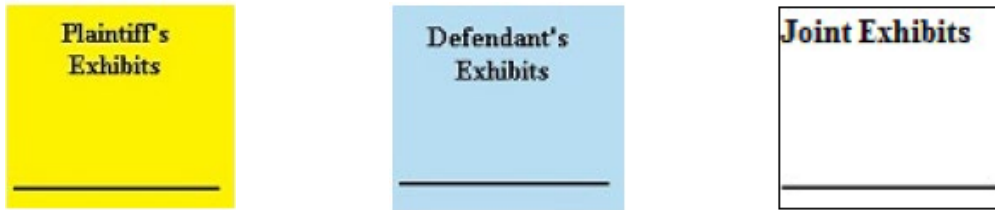
**A. Joint Pretrial Order**

1. The joint pretrial order, including all required attachments, shall be filed on or before the date set forth in the scheduling order. Within one week after the filing of the joint pretrial order, any objections to the proposed exhibits, witnesses, or jury charge shall be filed, as directed in the scheduling order.
2. Counsel shall confer concerning the contents of the joint pretrial order well in advance of the due date. Joint pretrial orders shall be signed by all counsel. In the event the parties cannot agree to a joint submission on any component of the pretrial order set forth in (d), a party shall submit a separate document with their proposal as part of the joint pretrial order.
3. Failure to appear and/or timely file the joint pretrial order will subject counsel and his or her client to sanctions, including dismissal for want of prosecution and/or other appropriate judgment.
4. The Joint Pretrial Order shall contain the following as separate attachments: appearance of counsel, joint statement of the case, contentions of the parties, exhibits/exhibit list, witness/witness list, agreed jury charge (or agreed charge with disputed language notated as directed by this Order), proposed voir dire questions (if applicable), memoranda on disputed issues of law (if applicable), and proposed findings of fact and conclusions of law (if applicable).

**B. Required Attachments to the Joint Pretrial Order****1. Exhibit List and Exhibits**

- a. Counsel for each party shall assemble all documents, photographs, or other materials expected to be used at trial. Plaintiff's exhibits shall be marked using yellow labels as "Plaintiff's Exhibit 1," et seq., and Defendant's exhibits shall be marked using blue labels in a similar manner. Such documents or copies shall be made available to opposing counsel on or before the date the joint pretrial order is due. This rule does not apply to

rebuttal exhibits or those the use of which cannot be anticipated. The court encourages counsel to agree upon joint exhibits to avoid duplication.



- b. If joint exhibits are agreed upon, they shall each be identified as such and marked with the case name, case number, and exhibit number as "Joint Exhibit 1," et seq. If no agreement can be reached, the offering party shall mark his or her own exhibits with the party's name, case number, and exhibit number on each exhibit to be offered.
- c. The pages within each exhibit shall be consecutively paginated.
- d. Counsel requiring authentication of an exhibit shall notify offering counsel in writing within fourteen (14) days after the exhibit is produced or made available for examination. Failure to do so may be deemed by the Court to be an admission of authenticity.
- e. The Joint Pretrial Order shall be formatted in accordance with the local rules.
- f. Counsel shall attach the list(s) of all exhibits to be offered to the joint pretrial order.

## **2. Witness Lists**

- a. Counsel shall attach to the joint pretrial order copies of each party's witness list, listing the witnesses in the order in which they will be called and stating the estimated time for examination. Within one week after the filing of the joint pretrial order, any objections to the proposed witnesses shall be filed as directed in the scheduling order. Any objections to a witness's proposed testimony will be ruled upon at the final pretrial conference if not already determined.

## **3. Digital Submissions**

- a. Counsel shall submit an editable, digital version of exhibit lists, witness lists, and objections in Microsoft Word format and a copy of the exhibits in PDF to the court via email to [TXWDml\\_LawClerks\\_JudgeAlbright@txwd.uscourts.gov](mailto:TXWDml_LawClerks_JudgeAlbright@txwd.uscourts.gov).
- b. Parties shall read the Jury Evidence Recording System (JERS) Requirements on the Court's website.

#### **4. Demonstrative Evidence**

- a. In the event parties intend to use demonstrative evidence during trial, counsel shall contact the law clerk assigned to the case in order to determine logistics and any logistical and safety concerns associated said exhibit.

### **C. Additional Attachments Required For Jury Trials**

#### **1. Agreed Jury Charge**

- a. Two (2) versions of an agreed jury charge, including proposed jury instructions, definitions, and interrogatories, shall be attached to the joint pretrial order and filed.
- b. One version shall be marked “requested” and shall include citation of authority for each proposed instruction in the charge.
- c. The other version shall be marked “charge and interrogatories,” and counsel shall omit from it all citations and authorities while adding a line for the jury foreperson’s initials and date.
- d. The court expects the parties to resolve their differences concerning the jury charge. If the parties cannot agree on a particular instruction or issue, however, such disagreement and alternate requests shall be noted on the joint jury charge. The plaintiff’s version of the disputed charge will be in **RED** text, while the Defendant’s version will be in **BLUE** text. A dispute concerning the jury charge, if any, will be resolved at the final pretrial conference or at a charge conference.
- e. In addition to the versions of the jury charge that shall be attached to the joint pretrial order and filed and the color-coded disputed charge, counsel shall submit an editable, digital version of the jury charge(s) in Microsoft Word to the court via e-mail to [TXWDml\\_LawClerks\\_JudgeAlbright@txwd.uscourts.gov](mailto:TXWDml_LawClerks_JudgeAlbright@txwd.uscourts.gov).
- f. Within one week after the filing of the joint pretrial order, any objections to the proposed jury charge shall be filed as directed in the scheduling order.

#### **2. Pretrial Conference**

- a. The Court will resolve all pending motions at the Pretrial Conference. By default, the Court will hold the Pretrial Conference in person but will hold it by videoconference if any party gives timely notice of COVID concerns.

### **3. Proposed Questions for Voir Dire Examination**

- a. A copy of each party's proposed questions for the judge to use in voir dire examination shall be attached to the joint pretrial order.

### **4. Memoranda of Law on Disputed Issues of Law**

- a. If the parties dispute any issues of law, each party shall attach to the joint pretrial order a memorandum addressing those issues.

### **5. Pending Motions**

- a. Two weeks before the Pretrial Conference, the parties shall jointly contact the Court's law clerk for a Box link to submit unredacted copies of all pending motions and their exhibits to chambers. Paper copies of pending motions are no longer required. The parties shall also jointly send a courtesy email to [TXWDml\\_LawClerks\\_JudgeAlbright@txwd.uscourts.gov](mailto:TXWDml_LawClerks_JudgeAlbright@txwd.uscourts.gov) providing the clerks with a list all pending motions by docket number and movant.

### **6. Motions in Limine**

- a. A copy of each party's Motion in Limine shall be attached to the joint pretrial order. Any Motions in Limine will be addressed at the final pretrial conference or immediately before the start of trial.
- b. Two weeks before the Pretrial Conference, the parties shall jointly email to [TXWDml\\_LawClerks\\_JudgeAlbright@txwd.uscourts.gov](mailto:TXWDml_LawClerks_JudgeAlbright@txwd.uscourts.gov) a text-editable chart listing each Motion in Limine with space beside each Motion in Limine for the Judge to write in each ruling. The chart shall first list all of Plaintiff's Motions in Limine, followed by Defendant's Motions in Limine. After the Pretrial Conference, the parties shall jointly email their understandings of the rulings to the law clerks.

## **D. Additional Documents Required For Non-Jury Trials**

1. Proposed findings of fact and conclusions of law shall be in a form suitable for ruling from the bench after closing arguments. Counsel shall separate agreed findings and conclusions from those that are in dispute. Conclusions of law shall cite supporting authority. Each party shall submit proposed final findings of fact and conclusions of law via email, in Microsoft Word format, to [TXWDml\\_LawClerks\\_JudgeAlbright@txwd.uscourts.gov](mailto:TXWDml_LawClerks_JudgeAlbright@txwd.uscourts.gov), at least three days before the final pretrial conference.
2. After the non-jury trial, counsel shall submit proposed final findings of fact and conclusions of law, with record citations supporting each finding of fact and conclusion of law, as applicable. Each party shall submit proposed final

findings of fact and conclusions of law via email, in Microsoft Word format, to [TXWDml\\_LawClerks\\_JudgeAlbright@txwd.uscourts.gov](mailto:TXWDml_LawClerks_JudgeAlbright@txwd.uscourts.gov).

#### **E. Copies of Exhibits During Jury Trials**

1. The Court (Judge, law clerk, and court reporter) generally do not need personal copies of exhibits. Instead, the parties should only provide the Judge and law clerk copies of an exhibit that forms the basis for a dispute if the Court needs to examine the contents to resolve the dispute.

#### **F. Instructions for Remote Testimony**

1. Parties may have witnesses remotely testify using Zoom Webinars in Waco District Courtroom #1. The parties shall make advanced arrangements with the Courtroom Deputy to coordinate any remote testimony, including requesting access information from the Courtroom Deputy.
2. General participants of the webinar cannot talk, show their webcam, or screen share evidence unless whitelisted as a panelist. Trial parties that are requesting remote testimony via Zoom must communicate this request and send a list of people's names and email addresses to the Courtroom Deputy to be whitelisted as a panelist. This list should include anybody that will be giving remote testimony over Zoom and anyone screen sharing evidence in the courtroom.
3. If a remote witness gives any confidential testimony, then a private zoom link shall be used for the entirety of the testimony. The parties will need to inform the Courtroom Deputy which witnesses will give confidential testimony and request a private Zoom meeting for these witnesses. The private Zoom meeting will not be shared with the public. There is no need to whitelist anybody for the private zoom meetings.
4. Parties should review the [Courtroom Technology Guidance – U.S. District Court \(uscourts.gov\)](https://www.uscourts.gov/courtroom-technology-guidance) for guidance on equipment to bring. The parties may direct any questions to the Courtroom Deputy, who will forward any questions to the appropriate IT staff.
5. Parties are encouraged to arrange a time to test their equipment and plan for contingencies.

#### **G. JERS (Jury Evidence Recording System)**

1. The Court uses a software application called JERS (Jury Evidence Recording System). When the attorneys present evidence using the courtroom equipment, the Court uses this application to capture and release the admitted evidence to the jury. The parties shall refer to the JERS Exhibit Batch Import Requirements on the Court's website and may email the Courtroom Deputy with any questions about the JERS system.

2. The Court will use the JERS exhibit system regardless of the number of exhibits per side. The parties shall keep a physical backup copy of admitted exhibits and provided it to the Court only if the Court encounters technical difficulties with the JERS system.
3. All exhibit files must be uploaded to the Box.com links provided by the Courtroom Deputy. The parties may obtain contact information for the Courtroom Deputy by reaching out to the Court's law clerks.
4. All electronic evidence must be provided using the following formats:
  - a. Documents and Photographs: .pdf, .jpg, .bmp, .tif, .gif
  - b. Video and Audio Recordings: .avi, .wmv, .mpg, .mp3, .mp4, .wma, .wav, .3gpp
5. JERS has the following file size limits:
  - a. Individual file size of documents (pdf) should not exceed 50 MB.
  - b. Individual files size of audio and video should not exceed 500 MB.

Exhibits approaching or exceeding this size limit must be separated into multiple files.

PDF documents can often be reduced in size by using tools such as Adobe's "Reduce File Size" feature. Images can be significantly reduced in file size by lowering resolution, or dimensions. Parties should meet and confer if file size reduction techniques will raise issues with evidence admissibility.

6. All exhibit files must be named using the JERS naming conventions:

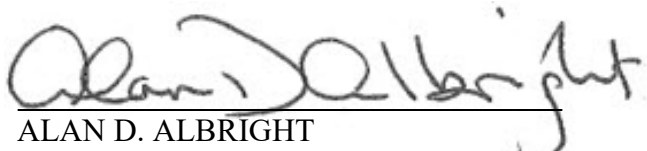
[ExhibitNumber]\_[ExhibitDescription].[FileExtension]

Example: 1\_PhotoOf789patent.PDF

#### **H. Admitting Evidence at Trial**

1. The Court will not pre-admit evidence before trial. A party seeking to admit evidence shall prove up and offer the evidence for admission during trial.

**SIGNED** this 23rd day of May, 2023.

  
ALAN D. ALBRIGHT  
UNITED STATES DISTRICT JUDGE