

**Unless the Court permits otherwise, this form of Pretrial Order is mandatory.**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

*BANKRUPTCY CAPTION*

*ADVERSARY CAPTION*

**PRETRIAL ORDER**

This matter having come before the Court on (date), at a pretrial conference held before the Hon. \_\_\_\_\_, and (name) having appeared as counsel for the Plaintiff(s) and (name) having appeared as counsel for the Defendant(s), the following action was taken:

1. Jurisdiction, Venue, and Parties.

(a) This is an action for \_\_\_\_\_. Jurisdiction of the Court is invoked under \_\_\_\_ U.S.C. § \_\_\_\_\_. The jurisdiction of the Court is not disputed, and is hereby determined to be present. *(Or, if disputed:)* The question of jurisdiction was decided as follows: *(Appropriate recitation of resolution of jurisdiction issues.)*

(b) There are no challenges to venue. *(Or, if challenged, state the nature of such challenge.)*

(c) There is no remaining question as to propriety of the parties. *(Or, if there is, state the nature of the dispute.)*

(d) This is a core proceeding. *(Or:) This is a non-core proceeding. (Or:) There is a dispute as to whether this adversary proceeding is a core proceeding or non core proceeding. (Or:) List claims the parties agree are core and claims for which there is a dispute as to whether the claims are core or non-core.*

*[Include if the parties have not previously filed a written statement specifying whether they consent to the Court entering final orders and judgments.] All parties to this adversary proceeding consent to the bankruptcy court hearing and determining all claims and issues in this adversary proceeding and entering final orders and judgments on all claims including money judgments as appropriate, subject to review under 28 U.S.C. § 158. (Or:) If all parties do not consent, specify what consent, if any, is given by each party.*

2. General Nature of the Claims and Defenses. Plaintiff(s) and Defendant(s) shall provide a brief summary of claims and defenses. They shall also include a concise statement of (i) factual contentions and (ii) damages or other relief sought. The parties shall include references to specific statutes and applicable rules. This section of the order is designed to give sufficient notice of each party's claims and defenses. Failure to cite section of the Bankruptcy Code under which relief is sought will constitute a waiver of any claim under such section of the Bankruptcy Code. Failure to include an affirmative defense in the statement of claims will result in waiver of the affirmative defense. It is sufficient if citation to a section of the Bankruptcy Code, or an affirmative defense, is included in either in this paragraph 2 or in paragraph 4 below.

(a) Plaintiff claims: *(Set out brief summary of claims and defenses sufficient to give fair notice.)*

(b) Defendant claims: *(Set out brief summary of claims and defenses sufficient to give fair notice.)*

3. Uncontroverted Facts. The following facts are established by admissions in the pleadings or by stipulation of counsel: *(Set out uncontroverted facts, including admitted jurisdictional facts and all other significant facts concerning which there is no genuine issue.)*

4. Statement of Legal Issues Presented.

(a) Plaintiff's Issues:

(b) Defendant's Issues:

5. Exhibits. Unless the Court determines otherwise, on or before 21 days prior to the date of the trial on the merits the parties shall file and serve a list of exhibits, and shall exchange exhibits, except for rebuttal exhibits that cannot reasonably be anticipated. Parties shall provide three copies of the exhibits to Chambers (one for the Court, one for the Court's law clerk, and one for the witness) one day prior to commencement of the hearing. Plaintiff's exhibits are to be marked with numbers, and Defendant's exhibits with letters. Each page of any multiple-page exhibit shall be numbered. Exhibits shall be accompanied by a list of the exhibits by number or letter and a brief description or name of each exhibit. If a party intends to proffer more than five exhibits, then the exhibits shall be tabbed and bound by three-ring binders or some similar binding. Any counsel requiring authentication of any exhibit must so notify in writing the offering counsel within 14 days before the trial date, or objection to authenticity will be waived. The Court generally will exclude exhibits not exchanged as required. The parties shall be prepared to notify the Court at the beginning of trial which exhibits can be admitted into evidence by stipulation.

6. Witnesses. For each witness, list their name, provide a short identifying statement (e.g. internal auditor for ABC Corp.), and a brief description of the subject areas of anticipated testimony.

(a) Plaintiff will call or will have available at trial (*List.*) Plaintiff may call (*List.*)

(b) Defendant will call or will have available at trial (*List.*) Plaintiff may call (*List.*)

(c) The following deposition testimony will be offered at trial (*List.*) (*List name of witness, date of deposition, and page/line numbers. Any objections to the deposition testimony shall also be included, with the objection specifically stated.*)

The Court may exclude from testifying any witnesses other than those listed above, except this rule does not apply to rebuttal witnesses who cannot reasonably be anticipated, or to a witness that was unknown to the party, despite due diligence, at the time of submission of this order. Upon the discovery of such a witness, the party shall provide the witness' name, identification, and a brief description of the subject areas of anticipated testimony to the other parties as soon as possible, and file a motion to amend this order to include the additional witness.

Each party shall be responsible for informing their witnesses that they need a government-issued photo identification card to enter the Courthouse.

7. Discovery. Discovery has been completed.

8. Amendment of Pleadings. There were no requests to amend pleadings. (*Or:*) The following order was made with regard to amendment of pleadings: (*Set out.*)

9. Pretrial Submissions. The following additional matters were determined: (*set out to the extent determined by the parties any schedule for filing trial briefs, and/or proposed findings and conclusions in advance of trial.*) (Also, list any pending motions that will affect the trial, including responses and replies, and docket numbers for each).

10. Courtroom Evidence Presentation Technology. If a party desires to use evidence presentation technology, it must contact Chambers at least two weeks before trial regarding such use, and arrangements will be made if possible.

11. Order Controlling. This order will control the course of trial, and may not be

amended except by consent of the parties if approved by the Court, or other order of the Court. Any amendments to this order will be allowed only in exceptional circumstances to prevent manifest injustice. The claims and affirmative defenses set forth in the pleadings are superceded by this order; any claim or affirmative defense raised in the pleadings but not identified in this order is waived.

12. Trial setting. This case is set for trial on (date) at (time). The estimated length of trial is \_\_\_\_ hours/days.

13. Settlement. Counsel have made a good faith attempt to settle this matter. The possibility of settlement is considered (good/fair/poor).

14. Certification. By affixing our signatures to this Order, the undersigned certify that it reflects the efforts of all counsel and that they have carefully and completely reviewed all parts of this order prior to its submission to the Court.

Entry of this order is approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
United States Bankruptcy Judge

Submitted by:

\_\_\_\_\_  
xxxxxxx  
Attorneys for xxxx  
Address  
Phone  
Fax  
E-mail address

Approved:

\_\_\_\_\_  
xxxxxxx  
Attorneys for xxxx  
Address

Phone

E-mail address