

(Style of Case)**PRETRIAL AGREEMENTS WITH OPPOSING COUNSEL**

Here is a list of pretrial agreements to try to reach with the other side before discovery begins. These agreements will make life easier for both sides and do not advantage one side over the other. Waiting until you are in the heat of battle to try to reach these agreements, one side or the other will feel disadvantaged. Place a check mark in the "Agreed" column for all the agreements that are reached. Any modifications or additions should be noted.

Item No.	Description	Agreed	Source of Agreement
1.	As to any discovery dispute, the lead lawyers will try to resolve by phone and no one will write letters to the other, including letters attached as pdf's to emails: just e-mails and phone calls.		
2.	Depositions will be taken by agreement, with both sides alternating and trying in advance to agree upon the dates for depositions, even before the deponents are identified. In jurisdictions where there is no limit to the length or number of depositions, each side gets 10 lasting for 6 hours each.		
3.	The parties will use the same court reporter/videographer, who agrees to provide specified services at discounted prices for the right to transcribe all depositions.		
4.	All papers will be served on the opposing party by e-mail.		
5.	Documents will be produced on a rolling basis as soon as they have been located and numbered; if copies are produced, the originals will be made available for inspection upon request.		
6.	Each side must initially produce electronically stored information from the files of 5 custodians selected by the other side during an agreed period of time. Only documents which have a lawyer's name on them can be withheld from production and only if they are in fact privileged. Production does not waive any privilege and documents can be snapped back whenever the producing party recognizes they are privileged. After		

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	<p>analyzing the initial production, each side can request electronic files from 5 other custodians. Beyond that, good cause must be demonstrated.</p> <p>We will produce ESI in the native format kept by the producing party, or in a common interchange format, such as Outlook/PST, Concordance or Summation, so it can be searched by the other side. If any special software is required to conduct a search in native format and is regularly used by the producing party, it must be made available to the other side. We will produce a Bates numbered file listing of the file names and directory structure of what is on any CDs or DVDs exchanged. Either side may use an e-mail or an attachment to an e-mail that came from one of these previously produced disks by printing out the entire e-mail (and the attachment if they are using a file that came with an e-mail) and marking it at the deposition or trial, and either side may use application data (which was not an attachment to e-mail—so it's stand-alone on a CD or DVD) as long as the footer on the pages or a cover sheet indicates (1) the CD or DVD from whence it came, (2) the directory or subdirectory where the file was located on the CD or DVD, and (3) the name of the file itself including the file extension.</p>		
7.	If agreement cannot be reached on the form of a protective order within 48 hours of the time they are exchanged, both sides will write a letter to the Court including each other's preferred version and, without argument, ask Court to select one or the other ASAP.		
8.	All deposition exhibits will be numbered sequentially X-1, X-2, etc., regardless of the identity of the deponent or the side introducing the exhibit and the same numbers will be used in pretrial motions and at trial.		
9.	The parties will share the expense of imaging all deposition exhibits.		
10.	Neither side will be entitled to discovery of communications between counsel and expert witnesses or to drafts of experts' reports.		
11.	The production of a privileged document does not waive the privilege as to other privileged documents.		

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	Documents that the other side claims are privileged can be snapped back as soon as it is discovered they were produced without any need to show the production was inadvertent.		
12.	Each side has the right to select 20 documents off the other's privilege list for submission to the court for in camera inspection.		
13.	Demonstrative exhibits need only be shown to the other side before shown to the jury and need not be listed in any pretrial order.		
14.	We will agree upon jury questionnaire.		
15.	We will ask the Court to allow the jurors to take notes and ask questions (by delivering the same to the Court anonymously)		
16.	We will agree upon a juror notebook possibly containing a cast of characters, list of witnesses (and their photos), time-line, glossary, dispositive documents, etc.		