

LOCAL FORM 8
SAMPLE PRETRIAL ORDER
(Leave a 3 inch margin for signature by judge)

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

IN RE:)	
)	
JOHN DOE and JANE DOE,)	Case No. __-_____-__
)	Chapter ____
Debtor(s).)	
_____)	
)	
ANY NATIONAL BANK & TRUST,)	
)	
Plaintiff(s),)	
)	
v.)	Adv. No. __-_____-__
)	
JOHN DOE and JANE DOE,)	
)	
Defendant(s).)	

FINAL PRETRIAL ORDER

Trial Date: _____, 20__

Date of Conference: _____, 20__

Appearances: Sam P. Attorney, Norman, OK, for Plaintiff

Dave C. Lawyer, Oklahoma City, OK, for Defendant

I. STIPULATIONS

- A. All parties are properly before the Court;
- B. The Bankruptcy Court has jurisdiction of the parties and of the subject matter pursuant to [28 U.S.C. § 1334](#), [28 U.S.C. § 157](#), and the order of the district court authorizing referral of proceedings to the bankruptcy judges;
- C. This is a core proceeding pursuant to [28 U.S.C. § 157\(b\)\(2\)\(1\)](#) and, to the extent the proceeding may be non-core, the parties consent to entry of judgment by the bankruptcy judge.
- D. Venue is proper under 28 U.S.C. §§ [1408](#) - 1412;
- E. This action is brought under 11 U.S.C. § [523\(a\)\(2\)\(B\)](#) to determine the dischargeability of a debt;
- F. Facts:
 - 1. Plaintiff is an Oklahoma state chartered banking institution.
 - 2. Defendants are debtors who filed a voluntary joint petition under Chapter 7 of the Bankruptcy Code in the Western District of Oklahoma on January 29, 1993.
 - 3. Defendants are co-makers of a \$50,000 promissory note in favor of Plaintiff, dated October 14, 1991.
 - 4. Plaintiff refinanced the obligation on January 20, 1993, and at the time of filing for bankruptcy, the balance remaining due and owing was \$55,245.
- G. Legal Issue(s):
 - 1. Did Defendants submit a materially false financial statement in connection with their application to refinance the debt owing to Plaintiff?
 - 2. Did Defendants intend to deceive Plaintiff through the representations made in the financial statement?

II. CONTENTIONS

A. Plaintiff:

1. Facts:

- (a) During the period between the initial loan and refinancing of the note, Defendants' liabilities increased significantly while their assets decreased in number and value.
- (b) Defendants submitted a financial statement to obtain refinancing in which they listed more assets than they possessed and fewer liabilities than they owed.

2. Factual Issues:

- (a) Did Defendants intentionally misrepresent their financial situation to induce Plaintiff to refinance their note?

B. Defendants:

1. Facts:

- (a) Defendants did not overstate the number or value of assets and did not omit any liabilities owed in their financial statement with the intent to deceive Plaintiff.
- (b) Defendants were advised by bank officers that the bank required the financial statement primarily for audit purposes and not for the purpose of determining whether to refinance Defendants' note.

2. Factual Issues:

- (a) To what extent did Plaintiff rely upon the financial statement in deciding whether to refinance Defendants' note?

III. EXHIBITS

Exhibits not listed will not be admitted by the Court unless good cause is shown and justice demands their admission.

A. Plaintiff:

Number	Title	Objection	Evidence Rule Relied Upon
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1

1991 Financial Statement	Relevance	FRE 402	
2	Note dated October 14, 1991	Relevance	FRE 402
3	Renewal note dated January 20, 1993	None	
4	1992 Financial Statement	None	

B. Defendant:

Number	Title	Objection	Evidence Rule Relied Upon
None			

IV. WITNESSES

No unlisted witness will be permitted to testify as a witness in chief except by leave of court when justified by exceptional circumstances.

A. Plaintiff:

Name	Address	Proposed Testimony
John Jones	921 Anywhere Norman, Oklahoma	Plaintiff's lending procedures
Same Flake	555 Easy Street Moore, Oklahoma	Facts surrounding Jefferson Bank loan
Mike Otero	333 Hard Street Bethany, Oklahoma	Facts surrounding refinancing

B. Defendant:

Name	Address	Proposed Testimony
All witnesses listed by plaintiff		
Debtors	c/o counsel	Facts surrounding loans

Jan Tury

444 Long Street
Lawton, Oklahoma

Lending practices of
plaintiff in 1991 - 1992

V. CHRONOLOGICAL LISTING OF PERTINENT EVENTS

Attached, as a separate appendix, is a chart or list setting forth all pertinent events (without explanation) in the chronological order in which the events occurred.

VI. POSSIBILITY OF SETTLEMENT

Good ____ Fair ____ Poor ____

VII. ESTIMATED TRIAL TIME

All parties approve this Order and understand and agree that this Order supersedes all pleadings and shall not be amended except by order of the Court.

Name - Bar number
Address
Phone Number
Fax Number
Email address
Counsel for Plaintiff

Name - Bar number
Address
Phone Number
Fax Number
Email address
Counsel for Defendant

Appendix to Final Pretrial Order

SAMPLE CHRONOLOGY

Oct. 1, 1991 Defendants applied for a loan from Plaintiff and submitted a 1991 Financial Statement.

Oct. 14, 1991 Defendants executed a note in favor of Plaintiff in the amount of \$50,000, and Plaintiff advanced that amount to Defendants.

Jan. 14, 1993 Defendants sought to refinance the obligation they owed Plaintiff. Defendants submitted their 1992 Financial Statement prior to the refinancing.

Jan. 20, 1993 Defendants executed a renewal note in favor of Plaintiff in the amount of \$55,245, for which Plaintiff "rolled over" the balance due on the old note and advanced to Defendants an additional \$2,000.00.

Jan. 29, 1993 Defendants filed for relief under Chapter 7 of the Bankruptcy Code. The Schedules reflect assets and liabilities different from those set forth in either of Defendants' Financial Statements.

Mar. 1, 19XX Plaintiff filed this adversary proceeding to except its debt from discharge.