(Leave a 4-inch margin **on first page only** for signature by Judge)

**[ This is a SAMPLE of a Final Pretrial Order.]**

**UNITED STATES BANKRUPTCY COURT   
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](https://www.law.cornell.edu/uscode/text/28/1334), [28 U.S.C. § 157](https://www.law.cornell.edu/uscode/text/28/157), 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)](https://www.law.cornell.edu/uscode/text/28/157) 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](https://www.law.cornell.edu/uscode/text/28/1408) – [1412](https://www.law.cornell.edu/uscode/text/28/1412);

E. This action is brought under 11 U.S.C. § [523](https://www.law.cornell.edu/uscode/text/11/523)(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, 2020.

3. Defendants are co-makers of a $50,000 promissory note in favor of Plaintiff, dated October 14, 2015.

4. Plaintiff refinanced the obligation on January 20, 2019, 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:

1. During the period between the initial loan and refinancing of the note, Defendants' liabilities increased significantly while their assets decreased in number and value.
2. 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:

1. Did Defendants intentionally misrepresent their financial situation to induce Plaintiff to refinance their note?

B. Defendants:

1. Facts:

1. 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.
2. 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:

1. 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 |
| 1 | 1991 Financial Statement | Relevance | FRE 402 |
| 2 | Note dated  October 14, 2015 | Relevance | FRE 402 |
| 3 | Renewal note dated January 20, 2019 | None |  |
| 4 | 2012 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 leading procedures |
| Same Flake | 555 Easy Street  Moore, Oklahoma | Facts surrounding Jefferson Bank loan |
| Mike Otereo | 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 2019-2020 |

**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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Attorney Name - Bar number

Address

Phone Number

Fax Number

Email address]

Counsel for Plaintiff

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Attorney Name - Bar number

Address

Phone Number

Fax Number

Email address]

Counsel for Defendant

Appendix to Final Pretrial Order

SAMPLE CHRONOLOGY

Oct. 1, 2019 Defendants applied for a loan from Plaintiff and submitted a 2019 Financial Statement.

Oct. 14, 2019 Defendants executed a note in favor of Plaintiff in the amount of $50,000, and Plaintiff advanced that amount to Defendants.

Jan. 14, 2019 Defendants sought to refinance the obligation they owed Plaintiff. Defendants submitted their 2012 Financial Statement prior to the refinancing.

Jan. 20, 2019 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, 2020 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, 2020 Plaintiff filed this adversary proceeding to except its debt from discharge.