

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**THE WEATHER UNDERGROUND, INC.**

**Plaintiff(s),**

v.

**NAVIGATION CATALYST SYSTEMS, INC.,**

**CASE NO. 09-10756**

**Defendant(s),**

**HON. MARIANNE O. BATTANI**

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**CIVIL TRIAL MANAGEMENT ORDER**

**IT IS ORDERED** that trial counsel shall comply with the following dates and appear as scheduled in the Courtroom of Judge Marianne Battani, 277 U.S. Courthouse, 231 W. Lafayette, Detroit, Michigan.

<b>EVENT</b>	<b>DATE</b>
<b>MOTIONS IN LIMINE DUE:</b>	<b>SEPTEMBER 26, 2011</b>
<b>FINAL PRETRIAL CONFERENCE</b>	<b>SEPTEMBER 26, 2011 @ 2:00 P.M.</b>
	<b>(BENCH BOOK DUE)</b>
<b>TRIAL DATE:</b>	<b>OCTOBER 3, 2011 @ 9:00 a.m. (Motions heard morning of trial).</b>

**IT IS FURTHER ORDERED** that counsel shall jointly prepare a **BENCH BOOK** for use by the Court at trial and deliver it to the Court at the Final Pretrial Conference. The **BENCH BOOK** shall be compiled in a three-ring binder and include the following appropriately identified sections:

1. **Administrative Section**
  - a. **Identify the parties, representatives, and attorneys, including firm names.**
  - b. **Estimate the length of the trial in half-day (four-hour) blocks.**
  - c. **Give a brief description of any miscellaneous matters of which the court should be aware, e.g. *accommodations for a handicapper or facilities for large exhibits.***
2. **Theory of the Case**

- a. Prepare a brief joint theory of the case to be used to advise the jury of the nature of the action.
- b. The Court will read this theory to the jury before *voir dire*.

3. *Voir Dire*

- a. The Court conducts *voir dire*. The attorneys may ask the Court to make specific follow-up inquiries when necessary.
- b. The following standard questions are asked by the Court: name, residence, employment, marital status, spouse’s employment, prior jury service, criminal convictions, health issues, attendance issues, burden of proof, and nature of case issues.
- c. List no more than fifteen other inquiries specific to the cause(s) of action that you want the Court to make.
- d. Jury selection procedure will be discussed with counsel during the final pretrial conference.

4. Witness List

- a. List witnesses reasonably expected to be called for each party, specifically identifying experts.
- b. Estimate anticipated length of direct and cross-examination of each witness.

5. Exhibits

- a. Prepare a table of proposed exhibits with the following columns:

Received	No.	Description	(blank)
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- i. Exhibits should be numbered consecutively starting with P1 and D1, respectively.
- ii. Mark all documents in the lower right-hand corner in advance of trial.
- iii. An “S” is to be placed in the column labeled “Received” for all stipulated exhibits.
- iv. Marking an exhibit does not mandate its use at trial.
- b. **STIPULATED EXHIBITS SHOULD BE INDICATED ON THE EXHIBIT TABLE BEFORE THE EXHIBIT BOOK IS GIVEN TO THE COURT AT THE FINAL PRETRIAL CONFERENCE.**
- c. The actual exhibits are to be organized in a separate binder(s) and tabbed. The first page of the binder should be an index of the exhibits contained in it. Courtesy copies are required for opposing counsel and the Judge and will be exchanged at the Final Pretrial Conference. If the exhibits are voluminous, copies may be submitted on disc rather than organized in a binder.
- d. The provisions of FED.R.CIV.P. 37(c)(1) will apply for failure to list an exhibit.

- e. **Note: Admitted exhibits are to be displayed during trial on either the Document Projector or other electronic device. Voluminous documents must be presented through the use of evidence presentation software such as Trial Director. Hard copies of admitted exhibits will still be needed for submission to the jury during deliberation.**
6. **Final Jury Instructions**
  - a. **Include proposed final instructions with each on a separate, consecutively numbered page with supporting authority when necessary.**
  - b. **Prepare and include proposed jury verdict forms.**
  - c. **Jury instructions and verdict form compatible with WordPerfect 12 are also to be submitted on disc.**
  - d. **Before closing Plaintiff shall provide a final copy of the instructions without citations and in suitable format for the jury.**
7. **Evidentiary Issues**
  - a. **Submit a statement of anticipated legal issues on which you believe the Court will need to rule during the course of the trial.**
  - b. **Supply supporting law for your position.**
8. **Motions *in Limine***
  - a. **File on or before the date contained in this order.**
  - b. **Hearing will be on the same date as the final pretrial conference, unless for good cause counsel requests an earlier date from the case manager.**
9. **Findings of Fact and Conclusions of Law (bench trials only)**
  - a. **Submit a statement of stipulated facts.**
  - b. **Each party shall provide proposed findings of fact and conclusions of law.**

Any questions regarding this order are to be addressed promptly by calling Bernadette M. Thebolt or Colette Motowski at 1-313-234-2625. If another conference with the Court would be beneficial in the administration or settlement of the case, please call Bernadette M. Thebolt to schedule it.

Dated: April 18, 2011

s/Marianne O. Battani  
Marianne O. Battani  
U.S. District Court Judge

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**CERTIFICATE OF MAILING**

I certify that a copy of this order was served upon the Plaintiff, James Scott at Ryan Correctional, and electronically upon Counsel for the Defendant.

Dated: April 18, 2011

s/Bernadette M. Thebolt  
Bernadette M. Thebolt  
Case Manager 313-234-2627