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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**STANDING ORDER FOR CIVIL PRETRIAL AND BENCH TRIALS BEFORE
DISTRICT JUDGE TRINA L. THOMPSON**

MEET AND CONFER

1. At least seven days before the final Pretrial Conference, lead counsel who will try the case shall meet and confer with respect to the following subjects: (1) settlement of the case; (2) preparation of the joint pretrial filings to be served and lodged pursuant to Federal Rule of Civil Procedure 26(a)(3); and (3) clarifying and narrowing the contested issues for trial in order to achieve a just, speedy, and efficient resolution of the case. Counsel in close geographical proximity are encouraged to meet in person.

EXCHANGE OF EVIDENCE

2. At least 30 days before the Pretrial Conference, each party shall provide every other party (but not the Court) with one set of all proposed exhibits, charts, schedules, summaries, diagrams, and other similar documentary materials to be used in its case in chief at trial, together with a complete list of all such proposed exhibits. These materials may be provided in electronic form if the parties so agree. Voluminous exhibits shall be reduced by elimination of irrelevant portions or through the use of summaries. Exhibits must be marked in accordance with paragraphs 16–18 of this Order. *All exhibits not provided are subject to exclusion in the reasonable exercise of the Court’s discretion.*

3. At least 30 days before the Pretrial Conference, each party shall provide every other party (but not the Court) with (1) the names of all witnesses each party intends to call at trial, as well as a brief description of the subject matter of their testimony; and (2) a list containing citations to all evidence that a party might introduce at trial, other than that to be used solely for impeachment or rebuttal, that was obtained from deposition testimony, interrogatory responses, or

1 responses to requests for admission. *All witnesses and citations not identified are subject to*
2 *exclusion in the reasonable exercise of the Court's discretion.*

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4 **PRETRIAL FILINGS**

5 4. Unless otherwise ordered, the parties shall file the documents listed in paragraphs
6 5–15 (i.e., joint proposed final pretrial order) no later than seven days before the pretrial
7 conference. The parties shall also submit the joint proposed final pretrial order in Word format via
8 email to Courtroom Deputy, Bhavna Sharma, at TLTPO@cand.uscourts.gov.

9 5. **Joint Proposed Final Pretrial Order.** The parties shall file a joint proposed final
10 pretrial order, which must contain the following information:

- 11 a) Substance of the Action. A brief description of the parties, the substance of claims and
12 defenses that remain to be decided, and the operative pleadings that raise the issues.
- 13 b) Relief Requested. A detailed statement of all requested relief, particularly itemizing all
14 elements of damages claimed.
- 15 c) Undisputed Facts. A plain and concise statement of all relevant facts to which the
16 parties will stipulate for incorporation into the trial record without supporting
17 testimony or exhibits. The parties shall exercise good faith in stipulating to facts that
18 are not reasonably disputable.
- 19 d) Disputed Factual Issues. A plain and concise list of the issues of fact that are contested
20 and remain to be litigated at trial.
- 21 e) Agreed Statement. A statement assessing whether all or part of the action may be
22 presented upon an agreed statement of facts.
- 23 f) Stipulations. A statement of stipulations requested or proposed.
- 24 g) Witnesses to be Called. A list of all witnesses likely to be called at trial, other than
25 solely for impeachment or rebuttal, together with a brief statement following each
26 name describing: (1) the substance of the testimony to be given; (2) what, if any, non-
27 cumulative testimony the witness will give (if non-cumulative testimony is not spelled
28 out, then the Court will presume the witness is cumulative); estimated time for the

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direct examination (i.e., hours and/or minutes). If the list is voluminous, Section (g) should be attached as an appendix to the joint pretrial proposed order. *No party shall be permitted to call any witness in its case in chief who is not disclosed in its pretrial statement unless the Court grants leave for good cause.*

- h) Exhibits, Schedules, and Summaries. A list of all documents or other items to be offered as exhibits at trial, other than solely for impeachment or rebuttal, and a brief statement following each that describes: (1) its substance or purpose; (2) the identity of the sponsoring witness; (3) when it was offered in evidence; (4) when it was received in evidence; and (3) whether the parties have stipulated to its admissibility and, if they have not, the objection to its admission, the grounds for the objection, and the position of the offering party. If the list is voluminous, Section (h) should be attached as an appendix to the joint pretrial proposed order.
- i) Disputed Legal Issues. Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and decisions.
- j) Pending Motions or Matters. A statement of any motions or other matters that must be resolved prior to trial.
- k) Bifurcation or Separate Trial of Issues. A statement of whether either party requests bifurcation or a separate trial of specific issues and why.
- l) Use of Discovery Responses. The parties need not provide a list of citations to deposition designations or extracts from interrogatories or requests for admissions at the pretrial conference stage.
- m) Estimate of Trial Time. An estimate of the number of court days needed for the presentation of each party's case, indicating possible reductions in time through proposed stipulations, agreed statements of facts, or expedited means of presenting testimony and exhibits.

1 n) Settlement Discussion. A brief summary of the status of settlement negotiations,
2 without indicating specific dollar amounts, and an indication of whether further
3 negotiations are likely to be productive and what, if anything, would facilitate
4 settlement.

5 o) Miscellaneous. Any other matters that will facilitate the just, speedy, and efficient
6 resolution of the action.

7 6. **Motions in limine**. Motions in limine are typically not necessary in a bench trial.
8 However, if a party believes motions in limine are necessary, any such motions must be filed with
9 the Court no later than 21 days prior to the date set for the Pretrial Conference. Each party is
10 limited to bringing five motions in limine. Motions in limine cannot be used to request summary
11 judgment or raise *Daubert* challenges unless the Court has specifically granted prior approval.
12 Each motion shall be no longer than five pages and should address a single, separate topic.
13 Motions should be clearly identified as “ _____’s Motion in Limine No. __ Re:
14 _____.” If the content of an exhibit is necessary to the resolution of a motion in limine,
15 that exhibit must be attached to a declaration in support of the motion. Parties filing a motion in
16 limine should submit a digital courtesy copy of their motions to the Court 14 days before the
17 Pretrial Conference (e.g., a flash drive or CD).

18 7. Any party filing a motion in limine must first seek a stipulation from the opposing
19 party or parties to the relief requested in the motion. Unless otherwise ordered, any party wishing
20 to have motions in limine heard prior to the commencement of trial must file and serve any such
21 motions at least 14 calendar days before the final pretrial conference. Any oppositions thereto
22 must be filed and served at least three calendar days before the final pretrial conference. No party
23 may file a reply. The motions will be heard at the pretrial conference or at such other time as the
24 Court may direct, unless the Court determines that oral argument is unnecessary. The Court
25 ordinarily does not grant leave to file motions in limine under seal.

26 8. Any party opposing a motion in limine shall file its opposition papers (or statement
27 of non-opposition) no later than 14 days prior to the Pretrial Conference. Each opposition is
28 limited to five pages; the moving party shall not file a reply brief. Parties filing a motion in limine

1 should submit a digital courtesy copy of their motions to the Court 14 days before the Pretrial
2 Conference. Digital courtesy copies of all motions in limine and oppositions must be included in
3 the parties' pretrial filings in the format described in Paragraph five of this Order.

4 9. The motions will be heard at the Pretrial Conference or at such other time as the
5 Court may direct.

6 10. **Trial Briefs.** Parties are not required to file trial briefs. If a party chooses to file a
7 trial brief, it shall not be longer than five pages and must be filed at least seven days prior to the
8 commencement of trial. Trial briefs shall not duplicate the contents of the joint pretrial statement
9 and proposed order.

10 11. The joint pretrial proposed order shall include the following language directly
11 above the signature lines:

12 *The foregoing admissions having been made by the parties, and the parties*
13 *having specific the foregoing issues of fact and law remaining to be litigated, this*
14 *order shall supplement the pleadings and govern the course of trial of this case,*
unless modified by the Court to prevent manifest injustice.

15 **TRIAL**

16 12. **Opening Statements.** Counsel must cooperate and meet and confer to exchange
17 any visuals, graphics or exhibits to be used in the opening statements, allowing for time to work
18 out objections and any reasonable revisions.

19 13. **Deposition Designation.** When a witness appears by deposition, the Parties shall
20 follow the below procedure:

21 a) Deposition testimony should be provided to all other parties at least five
22 calendar days before it will be used in court. For the rare case of voluminous
23 designations, more lead time will be required. Please be reasonable.

24 b) To designate deposition testimony, photocopy the cover page, the page on
25 which the witness is sworn, and each page from which any testimony is
26 proffered, crossing out any portions of such pages not proffered, as well as
27 objections or colloquy (unless needed to understand the question). Please make
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sure any corrections are interlineated and that references to exhibit numbers conform to the trial numbers.

- c) All other parties must then promptly review and return the packet, highlighting in yellow any passages objected to, and in blue additional passages as needed to cure the completeness objection. Please cross out any irrelevant portions of any additional pages. A completeness objection should normally be made only if a few extra lines will cure the problem. The parties must provide brief explanations for any additions or deletions. They must also return any counter designations at the same time.
- d) The parties must meet and confer as reasonable. Counsel for the proffering party must then assemble a final packet, including objections and responses to objections, and provide it to the Court at least two calendar days before the proffer will be used. Ordinarily, argument is unnecessary.
- e) When the packet is read, the examiner reads the questions (and any relevant colloquy) from the lectern and a colleague sits in the witness stand and reads the answers. When a video-taped deposition is to be played instead, the packets must still be prepared, as above, to facilitate rulings on objections. The video should omit any dead time, long pauses, and objections/colloquy not necessary to understand the answers.

14. **Requests for Admissions and Interrogatories.** Please designate responses to requests for admissions and interrogatory answers in the same manner and under the same timetable as depositions.

15. **Exhibits.** Each exhibit shall be pre-marked with a trial exhibit sticker (“Trial Exhibit No. __”), not deposition exhibit label, and defendant’s exhibit numbers shall be sequenced to begin after plaintiff’s exhibit numbers.

16. The parties shall agree on blocks of numbers to fit the needs of the case (e.g., Plaintiff has 1–100, Defendant has 101–200) and make a good faith effort to avoid marking the same exhibit in their respective blocks. If the same exhibit is marked by more than one party, the

1 defendant shall withdraw the duplicative exhibit (but should not renumber its portion of the
2 exhibit list). Section (h) of the parties' joint pretrial statement and proposed order must identify
3 the exhibit numbers of the exhibits withdrawn as duplicates.

4 17. Exhibits shall be identified with tags in the format shown here:

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 100

Case No. _____

Date Entered _____

By _____
Deputy Clerk

12 18. At least 21 days prior to the Pretrial Conference, the parties shall make a good
13 faith effort to stipulate to exhibits' admissibility. If stipulation is not possible, the parties shall
14 make every effort to stipulate to at least authenticity and foundation absent a legitimate (not
15 tactical) objection.

16 19. Unless otherwise ordered, at least seven days before trial, the parties must deliver
17 three sets of all pre-marked exhibits in clearly labeled three-ring binders to the Clerk's office,
18 marked for the attention of the Courtroom Deputy, Bhavna Sharma. The quality, condition, and
19 labeling of the binders should be such that the Court can easily transport and review the binders'
20 contents. Whenever possible, the spine of a binder should not be wider than three inches.

21 20. At least three days prior to the first day of trial, the parties shall file form exhibit
22 and witness lists. The form exhibit list should include the following columns: (1) Exhibit
23 Number; (2) Brief Description; (3) Sponsoring Witness; (4) Date Marked for Identification (left
24 blank); and (5) Date Admitted Into Evidence (left blank). The form witness list should include the
25 following columns: (1) Witness Name; (2) Brief Summary of Testimony; and (3) Exhibits (left
26 blank).

27 21. The parties are encouraged to resolve as many trial issues by stipulation as
28 possible. The parties shall meet and confer no later than 21 days before the pretrial conference to

1 determine whether any evidentiary issues may be resolved by stipulation. No party may file a
2 motion in limine without first making a good faith effort to resolve the evidentiary issue with
3 opposing counsel.

4 22. **Objections.** Counsel shall stand when making objections. State the legal basis
5 only. Speak up promptly. There can only be one lawyer per witness per party for all purposes,
6 including objections.

7 23. **Time Limits.** Ordinarily, the Court shall set fixed time limits at the final pretrial
8 conference. All of your examination time (whether direct, cross, re-direct or re-cross) for all
9 witnesses must fit within your time limit and you may allocate it as you wish. Opening and closing
10 time limits shall be separately considered. Counsel must keep track of everyone's usage. At the
11 end of each day, counsel must confer over the time used and the time remaining for all parties and
12 advise the Court daily. The Court will also try to keep track.

13 **CONTINUANCES AND SETTLEMENTS**

14 24. Shortly before trial or a final pretrial conference, counsel occasionally wish jointly
15 to advise the clerk that a settlement has been reached. Counsel will then seek to take the setting
16 off calendar, but it turns out later that there was only a settlement "in principle" and disputes
17 remain. Consequently, cases cannot be taken off calendar in this manner. Unless and until a
18 stipulated dismissal or judgment is filed or placed on the record, all parties must be prepared to
19 proceed with the final pretrial conference as scheduled and to proceed to trial on the trial date, on
20 pain of dismissal of the case for lack of prosecution or default judgment. Only an advance
21 continuance expressly approved by the Court will release counsel and the parties from their
22 obligation to proceed. If counsel expect that a settlement will be final by the time of trial or the
23 final pretrial conference, they should notify the Court immediately in writing or, if it occurs over
24 the weekend before the trial or conference, by voice mail to the deputy courtroom clerk. The Court
25 will attempt to confer with counsel as promptly as circumstances permit to determine if a
26 continuance will be in order. Pending such a conference, however, counsel must prepare and make
27 all filings and be prepared to proceed with the trial.

28 **TRIAL ARRANGEMENTS**

1 25. Trial will be conducted from 8:30 a.m. to 1:30 p.m. on Mondays through
2 Thursdays. Counsel must arrive by 8:00 a.m. each day, or earlier if directed by the Court.

3 26. Should a daily transcript and/or real-time reporting be desired, the parties shall e-
4 file a transcript order form (CAND 435), at least 14 days before trial.

5 27. The courtroom is equipped with monitors and a sound system. Should the parties
6 wish to utilize additional technology, the United States Marshals Service requires a court order to
7 allow equipment into the Courthouse. The parties must file a written request and proposed order
8 no later than seven days prior to the beginning of trial if they wish to bring any such technology
9 into the Courthouse. Parties should be prepared to fix any equipment, if necessary.

10 28. The parties shall disclose the witnesses whom they will call and the exhibits to be
11 introduced through those witnesses (except exhibits to be used solely for impeachment purposes)
12 by noon the day before the parties intend to call those witnesses. Failure to have a witness ready
13 to proceed at trial will usually constitute resting.

14 29. The Court strongly encourages the parties to permit junior lawyers to examine
15 witnesses and to have an important role at trial.

16 30. At the end of the trial day, the parties shall meet and confer regarding all exhibits
17 and demonstratives intended to be produced on the following day. Meeting and conferring via
18 email is not sufficient; the parties must meet in person or over the telephone. If the parties cannot
19 in good faith resolve all of their evidentiary disputes without the Court's involvement, each party
20 shall file a single statement of five pages or less framing its position on the dispute(s) by midnight.
21 If deposition designations are the subject of any unresolved disputes, the relevant deposition
22 excerpts must be attached to the parties' statements.

23 31. Counsel must consult with the courtroom deputy, Bhavna Sharma, at the
24 beginning of the first day of trial regarding the procedure for tracking admitted exhibits and any
25 limitations thereon. If there are any disagreements between the parties regarding the status of the
26 exhibits, counsel shall bring them promptly to the Court's attention. At the close of evidence,
27 before closing arguments, counsel must confer with the courtroom deputy to make sure the
28 exhibits in evidence are in good order.

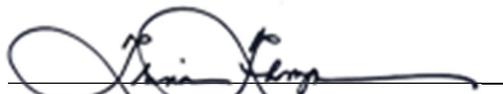
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32. Upon the conclusion of the trial, each party shall retain its exhibits through the appellate process. It is each party's responsibility to make arrangements with the Clerk of Court to file the record on appeal.

33. Should a daily transcript and/or real-time reporting be desired, the parties shall make arrangements with Richard Duvall, Supervisor of the Court Reporting Services at (415) 522-2079 at least ten calendar days prior to the trial date.

IT IS SO ORDERED.

Dated: August 26, 2022



TRINA L. THOMPSON
United States District Judge