

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA**

**STANDING ORDER FOR CIVIL JURY TRIALS BEFORE
DISTRICT JUDGE NOËL WISE**

A. Meeting and Disclosure Prior to Pretrial Conference

At least 21 calendar days before the final pretrial conference, lead trial counsel must meet and confer with respect to:

1. Settlement of the case;
2. Preparation of the joint pretrial statement and related filings;
3. Preparation and exchange of pretrial materials to be served and lodged pursuant to Federal Rule of Civil Procedure 26(a)(3); and
4. Clarifying and narrowing the contested issues for trial to achieve a just, speedy, and efficient resolution of the case.

B. Joint Pretrial Statement

Unless otherwise ordered, the parties must file and serve a joint pretrial statement no later than 14 calendar days before the pretrial conference. The statement must contain the following information:

1. Substance of the Action. A brief description of the parties, the substance of claims and defenses that remain to be decided, and the operative pleadings.
2. Relief Requested. A detailed statement of all requested relief, including an itemization of all elements of damages claimed.
3. Undisputed Facts. A plain and concise statement of all relevant facts to which the parties will stipulate for incorporation into the trial record without supporting testimony or exhibits. The parties must exercise good faith in stipulating to facts that are not reasonably disputable.
4. Disputed Factual Issues. A plain and concise list of the issues of fact that are contested and remain to be litigated at trial.
5. Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.
6. Stipulations. A statement of proposed stipulations or agreements that will expedite the presentation of evidence.

7. Witnesses to be Called. A list of all witnesses, in alphabetical order, likely to be called at trial other than solely for impeachment or rebuttal, and a brief statement following each name describing the substance of the testimony to be given. No party will be permitted, without leave of court, to call any witness in its case-in-chief who is not disclosed in its pretrial statement.
8. 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; 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.
9. Disputed Legal Issues. A concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and decisions.
10. Pending Motions or Matters. A statement of any motions or other matters that must be resolved prior to trial.
11. Bifurcation or Separate Trial of Issues. A statement of whether either party requests bifurcation or a separate trial of specific issues and why.
12. Use of Discovery Responses. 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 responses to requests for admission. Counsel must state any objections to the use of these materials and must certify that they have conferred regarding such objections. Counsel must separately file a document containing each disputed discovery response or deposition testimony excerpt, and as to each must state the objection to its admission, the grounds for the objection, and the position of the offering party.
13. Estimate of Trial Time. An estimate of the number of hours needed for the trial.
14. Settlement Discussion. A brief summary of the status of settlement negotiations, without indicating specific dollar amounts, and an indication of whether further negotiations are likely to be productive and what, if anything, would facilitate settlement.
15. Amendments. A statement of requested proposed amendments to pleadings, including dismissals of parties' claims, or defenses.
16. Miscellaneous. Any other matters that will facilitate the just, speedy, and efficient resolution of the action.

C. Binding Effect of the Joint Pretrial Statement

The joint pretrial statement described above must include the following language directly above the signature lines:

The parties have made the foregoing admissions and set forth the remaining issues of fact and law to be litigated at trial. This Joint Pretrial Statement supplements the parties' pleadings and governs the course of trial of this case, unless modified by the Court to prevent manifest injustice.

D. Pretrial Conference Attendance

Pretrial conferences are held in person. Lead counsel who will try the case, or the party if self-represented, must attend the pretrial conference and be prepared to address all aspects of trial; this includes the substance of all documents, arguments, and issues set forth in this standing order.

E. Trial Exhibits

1. Exchange of Exhibits. At least 21 calendar days before the final pretrial conference, the parties must exchange copies of all exhibits, summaries, charts, schedules, diagrams, and other similar documentary materials to be used in their case-in-chief, together with a complete list of all such proposed exhibits. Voluminous exhibits must be reduced by elimination of irrelevant portions or through summaries.
2. Objections to Exhibits. Following the exchange, the parties must immediately meet and confer about the exhibits and any potential objections and must make a good faith effort to stipulate to exhibits' admissibility. If the parties cannot reach a complete stipulation, they must make every effort to stipulate at least to authenticity and foundation absent a legitimate (not tactical) objection. The Court may inquire about the basis for any or all a party's objections to another party's exhibits and/or conduct a pretrial conference to rule on such objections, to ensure that the jury's time is not wasted during trial.
3. Pre-Marking. Each exhibit must be labeled in the lower-right-hand corner with the exhibit number in a prominent, bold typeface.

The parties must mark their exhibits using non-overlapping ranges of numbers, leaving enough unused numbers that additional exhibits can be marked during trial. For example, the parties might agree that the plaintiff will use numbers 001–199 and the defendant will use numbers 200–399.

4. Delivery. Unless otherwise ordered, at least seven calendar days prior to the beginning of trial, the parties must deliver to the Clerk's Office, marked for the attention of the Courtroom Deputy, one set of all pre-marked exhibits in clearly labeled three-ring binders. Admitted exhibits from these binders will be given to the jury during deliberations. The quality, condition, and labeling of the binders

should make it easy for the Court to transport and review the binders' contents. Whenever possible, the spine of a binder should not be wider than three inches.

5. All exhibits that have not been provided as required are subject to exclusion in the reasonable exercise of the Court's discretion.
6. Following trial, the parties shall coordinate with the Courtroom Deputy regarding electronic filing of all admitted exhibits, which shall be the official court record.

F. Motions in Limine

Before a party files a motion in limine, that party must first seek a stipulation from the opposing party or parties to the relief requested in the motion.

All motions in limine, and any corresponding oppositions to those motions in limine, must be contained in one document, limited to 25 total pages per side, and must be filed and served, with a courtesy copy delivered to the Court, at least 14 calendar days prior to the pretrial conference. The courtesy copy must be in a clearly labeled, single, three-ring binder, with each motion in limine in a separate tab, immediately followed by the separately tabbed opposition. The Court will not consider reply briefs absent prior order on a showing of good cause. The Court will generally hear motions in limine at the pretrial conference.

G. Jury Materials

1. Party Submissions. At least 7 calendar days before the pretrial conference, the parties must jointly file and serve the following documents, described further below, with a courtesy copy delivered to the Court, and Word versions emailed to nwpo@cand.uscourts.gov: (a) list of participants; (b) agreed upon voir dire questions; (c) proposed jury instructions; and (d) a proposed jury verdict form.
2. List of Participants. The parties must provide a single list, in alphabetical order, of all people the parties will present to jurors during the trial. This includes all fact and expert witnesses who may be called at trial (other than solely for impeachment or rebuttal), counsel, and any individuals providing legal or technical support in the courtroom. The Court provides this list to potential jurors along with the jury questionnaire to determine whether the potential jurors know anyone who is involved with the presentation of the parties' case.
3. Voir Dire. The parties must provide for the Court's consideration, a list of any agreed upon voir dire questions, and a separate list of requested voir dire questions on which counsel cannot agree.

In accordance with Federal Rule of Civil Procedure 47(a), voir dire by counsel will not be permitted absent leave of court.

4. Jury Instructions. Ordinarily, the Court will give the standard preliminary and closing jury instructions contained in the Model Jury Instructions of the Ninth

Circuit and will give the preliminary jury instructions prior to opening statements.

The parties must submit a set of agreed-upon case-specific instructions using the Ninth Circuit Model Jury Instructions or California Civil Jury Instructions (CACI) whenever possible. Proposed deviations from the model instructions, no matter how minor, must be clearly identified by red-lined copy and supported by authority.

The Court discourages the unnecessary submission of special instructions or modification of model instructions. Special instructions, if any, must be complete, accurate, balanced, clear, and non-argumentative.

All jury instructions must be tailored to fit the case, with parentheticals removed, no law firm or party information noted in the headers or footers, ordered in logical sequence with a table of contents, and in suitable final form for the Court to provide to the jury.

The courtesy copy of the jury instructions must be contained in a clearly labeled, single, three-ring binder, with three tabs. The first tab must contain all agreed upon instructions. The second tab must contain jury instructions that all parties agree should be given but disagree about how that instruction should be tailored to the case. In that tab each side should provide their version of the proposed instruction for each instruction in dispute, and shall, on the same page below the instruction provide a concise argument and authority as to why their version of the instruction is required or preferred. The third tab is for instructions that one party asserts should be included, and another party disagrees. In that tab the party proposing the instruction should provide the instruction, followed by a concise argument by each party, including relevant authority, as to why the instruction should or should not be given to the jury.

Verdict Form. The courtesy copy of the agreed upon verdict form must be contained in a clearly labeled, single, three-ring binder. If the parties are unable to reach agreement after diligently meeting and conferring, each party must provide their version of the verdict form, followed by a concise argument, including any relevant authority, as to why their version of the verdict form should be given to the jury.

H. Trial Briefs

Trial briefs are optional, but any party wishing to file a trial brief must do so at least seven calendar days prior to the commencement of trial, with a courtesy copy delivered to the Court.

I. Continuances and Settlements

Once set by the Court, the parties should regard trial dates as firm. Absent exigent circumstances or the parties reaching a complete settlement (not a settlement in principle) accompanied with a request for dismissal, or a stipulation with a date certain for the filing of dismissal, the Court generally will not grant trial continuances. In accordance with Civil Local

Rule 40-1, if the parties fail to proceed with a scheduled trial after a jury is empaneled, the Court may assess the costs of maintaining the jury against the parties or attorneys.

J. Audiovisual Presentations

For any audiovisual presentations, counsel should consult with the Courtroom Deputy to determine what equipment, if any, counsel will need to provide and maintain during the trial. Counsel must meet and confer to discuss their respective equipment needs, and what can reasonably be shared. The United States Marshal requires an order to allow equipment into the courthouse. Any request for such an order should be by stipulation and filed no less than seven calendar days prior to the pretrial conference. Parties should be prepared to maintain equipment during the trial, including, if necessary, having an onsite technician present in the courtroom throughout the trial.

K. Opportunities for Junior Lawyers

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

L. Witnesses at Trial

Unless otherwise ordered, each party must notify all other parties by the close of each trial day of the witnesses that party intends to call on the following trial day. Failure to comply with this order may, in the discretion of the Court, be grounds for exclusion of any witness who was not properly disclosed.

Once the cross-examination of a witness has commenced, and until cross-examination of the witness has concluded, counsel offering the witness on direct examination must not: (a) consult or confer with the witness regarding the substance of the witness's testimony already given, or anticipated to be given, except for the purpose of conferring on whether to assert a privilege against testifying or on how to comply with a court order; or (b) suggest to the witness the manner in which any questions should be answered. Once cross-examination has concluded, counsel is permitted to confer with the witness before redirect examination begins.

M. Post-Trial Retention of Exhibits

At the conclusion of the trial, each party must retain its exhibits throughout the appellate process. It is each party's responsibility to arrange with the Clerk to file the record on appeal.

N. Daily Transcripts and Real-Time Reporting

Any party who would like a daily transcript or real-time reporting must follow the procedures outlined on the Office of the Clerk of Court's website: <https://cand.uscourts.gov/about/clerks-office/transcripts-court-reporters/>. Parties must submit requests for daily transcripts or real-time reporting at least fourteen calendar days before the first day of trial. For any questions about transcripts, contact San Jose Court Reporter Supervisor Snooki Puli at (408) 535-5583 or Snooki_Puli@cand.uscourts.gov.

O. Interpreters

If any witness will require an interpreter at trial and there is no certified court interpreter available to translate in the appropriate language, counsel must notify Judge Wise's Courtroom Deputy Allie Warren at least 30 days before the commencement at trial at (408) 535-5332 or nwcrd@cand.uscourts.gov.

Dated: March 19, 2024



NOËL WISE

United States District Judge