

CIVIL PRETRIAL STANDING ORDER

MAGISTRATE JUDGE SUSAN VAN KEULEN

Updated January 2023

I. MEET AND CONFER BEFORE PRETRIAL CONFERENCE

At least 21 days before the pretrial conference, lead trial counsel must meet and confer either in person or by phone with respect to:

1. Preparation and exchange of pretrial materials required under Federal Rule of Civil Procedure 26(a)(3);
2. Preparation of pretrial materials required under this Standing Order; and
3. Clarifying and narrowing the contested issues for trial in order to achieve a just, speedy, and efficient resolution of the case.

II. MOTIONS IN LIMINE

The parties must meet and confer with respect to motions in limine and attempt to resolve them by stipulation. The stipulated motions in limine should be handled as set forth below regarding Trial Stipulations.

For all other motions in limine, each side may file not more than 5 motions in limine set forth in a single document that does not exceed 15 pages double-spaced in 12-point font. Motions in limine must be filed at least 14 days before the pretrial conference. Each party's responses to motions in limine must be contained in a single document that does not exceed 15 pages double-spaced in 12-point font. Responses to motions in limine are due 7 days before the pretrial conference. No party may file a reply without leave of Court.

III. JOINT PRETRIAL STATEMENT

At least 14 days before the pretrial conference, the parties must file in ECF a Joint Pretrial Statement that includes items A-L listed below. All items must be in text-searchable PDF format. By 12 p.m. on the day after the Joint Pretrial Statement is filed, the parties must also deliver to the San Jose Courthouse two paper copies of the Joint Pretrial Statement, organized in binders containing an index and copies of filed documents with the ECF header reflecting the item's docket number and filing date.

A. Proposed Order Re: Trial Stipulations

The Court expects that the parties will agree to a variety of stipulations regarding the conduct of the trial. A proposed order outlining all such stipulations must be presented to the Court. The parties must send to SvKCRD@cand.uscourts.gov an electronic copy in Word format of the proposed order.

B. Jury or Bench Trial

The parties must notify the Court whether the trial will be a jury or bench trial, provided that jury was properly demanded in accordance with Fed. R. Civ. P. 38.

C. Witness Lists

The parties must submit a list of all witnesses likely to be called at trial (other than solely for impeachment or rebuttal), with a brief statement following each name describing the substance of the testimony to be given and a time estimate for the direct and cross examinations. This information must be presented in chart format and organized by party. Witnesses who will be testifying as experts should be identified as such and included in a separate expert witness list (see below). Witnesses not included on the list may be excluded from testifying.

D. Expert Witness Lists

The parties must submit a list of all expert witnesses with a summary that clearly describes each expert's theories and conclusions, as well as a curriculum vitae for each expert. Witnesses not included on the list may be excluded from testifying.

E. Exhibit Lists Annotated with Stipulations/Objections

- The parties must submit a list of all documents and other items to be offered as exhibits at the trial (other than solely for impeachment or rebuttal), with a brief description of each exhibit's contents and purpose, the identity of each sponsoring witness, and an exhibit number.
- To avoid duplicative numbering, counsel must meet and confer on a method for numbering exhibits. For example, the parties might agree that the plaintiff will use numbers and the defendant will use letters, or that the plaintiff will use numbers 100-199 and the defendant will use numbers 200-299.
- For each exhibit, the exhibit list must specify whether the parties stipulate to admit the exhibit or the grounds for any objections to the exhibit. Before submitting the list, **the parties must meet and confer and attempt to stipulate as to the admissibility of each exhibit.** The parties must make a good faith effort to stipulate to the admissibility of trial exhibits. If stipulation is not possible, the parties must make every effort to stipulate to authenticity and foundation absent a legitimate objection. The exhibit list must also include two additional columns so that the Court can track its ruling on objections and the date on which each exhibit is admitted. All required information must be presented in chart format and organized numerically.
- Disputed exhibits, labelled to conform to the exhibit list, are to be provided to the Court electronically by email to SVKCRD@CAND.USCOURTS.GOV at the time of filing of the joint pretrial statement and hard copies delivered to the court in binders, tabbed and indexed, seven days before the Pretrial Conference.

F. List of Discovery Excerpts

The parties must list those excerpts from depositions, interrogatory answers, or responses to requests for admission (other than those solely for impeachment or rebuttal) likely to be used as trial. Prior to submitting the list, the parties must meet and confer and attempt to resolve any disagreements regarding designations or counter-designations. The Court expects the parties will resolve by agreement most disputes over discovery materials to be used at trial. For any disputes that cannot be resolved by agreement, the parties must (i) identify any remaining legal objections to the excerpts on the list itself, and (ii) attach in a separate appendix copies of the disputed excerpts so that the Court can review the disputed materials. The parties must provide a single proposed order with all disputed designations which will allow the Court to rule on whether permission to use each is granted, granted with modification, or denied. The parties must send to SvKCRD@cand.uscourts.gov an electronic copy in Word format of the proposed order.

G. Voir Dire Questions

For jury trials, the parties must include any proposed jury questionnaire and any questions for the court-directed voir dire. If any questions are contested, each party must state the basis for proposing or opposing the question.

H. Verdict Form

For jury trials, the parties must submit jointly to the Court via email in Word format to SvKCRD@cand.uscourts.gov an agreed-upon proposed verdict form or, if the parties are unable to agree on a verdict form, separate proposed verdict forms.

I. Summary of Case Statement

In all cases, the parties must submit an agreed-upon summary of the case, not to exceed one page. If the parties cannot agree on such a statement, each party must submit its own summary, not to exceed one page. In jury trials, this statement of the case will be read to the jury at jury selection.

J. Relief Requested

The parties must provide a detailed statement of all requested relief, including an itemization of all damages claimed.

K. Pending Motions or Matters

The parties must provide a statement identifying any motions or other matters that must be resolved prior to trial.

L. Estimate of Trial Time

The parties must provide an estimate of the number of hours or days needed for the trial.

IV. JURY INSTRUCTIONS

For jury trials, the parties must submit jointly to the Court via email in Word format to SvKCRD@cand.uscourts.gov a set of jury instructions no later than 14 days prior to the pretrial conference. If any instructions are contested, each party may submit its proposed instruction with a short (not to exceed ½ page) statement of the legal basis for proposing or opposing the instruction.

V. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

For bench trials, at least 5 court days prior to the pretrial conference, each party must serve and lodge with the Court proposed findings of fact and conclusions of law on all material issues. The proposed findings must be brief, written in plain English, and free of pejorative language, conclusions, or argument. Conclusions of law must be supported by appropriate citation to legal authority. Parties must deliver to chambers copies of proposed findings of fact and conclusions of law in Word format via email to SvKCRD@cand.uscourts.gov.

VI. EXHIBITS

The parties must provide the Court with paper copies of the following by delivery to the San Jose Courthouse by 12 p.m. on a date no later than 5 court days before trial: two sets of exhibits marked, tabbed, indexed, and contained in binders. The parties must coordinate with the Courtroom Deputy for delivery of the exhibit binders. These exhibit binders are for the Court’s use only; counsel must bring additional copies of exhibits for use with witnesses at trial.

Each exhibit must be pre-marked with a trial exhibit sticker (not a deposition exhibit sticker) in a color other than white placed in the top right corner of the first page of a document. The sticker must be in the following format:

United States District Court, Northern District of California Case No. _____ Case Name. _____ Plaintiff(s)/Defendant(s) Exhibit # _____

If an exhibit is a physical object (rather than a document), a picture should be taken and placed in the binders.

After trial, each party must retain its exhibits through the appellate process. It is each party’s responsibility to make arrangement with the Clerk of Court to file the record on appeal.

VII. TRIAL TIME LIMITS

At the pretrial conference the Court will set time limits for each party to present its case.

VIII. SCHEDULING OF JURY SELECTION

In jury trials, the jury may be selected during the week in advance of trial or on the first day of trial, depending upon the District's overall trial schedule. If selected on the first day of trial, trial will begin immediately following jury selection.

IX. MISCELLANEOUS

A. Witness Photographs


The Court may require a photograph of each witness prior to the witness' testimony to assist the trier of fact with recalling the testimony.

B. Electronic Equipment

If a party wishes to use electronic equipment or other large items (such as bookshelves), the party must file a request and proposed order with the Court no later than 5 days prior to trial. Equipment not provided by the Court must be tested in the courtroom prior to the day when it will be used. Arrangements for such testing may be made with the Courtroom Deputy.

SO ORDERED.

January 18, 2023



Susan van Keulen
United States Magistrate Judge