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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff(s),

v.

Defendant(s).

) Case No:

) CR - VAP

) CRIMINAL MOTION AND TRIAL
) ORDER

22 This case is set for trial before the Honorable Virginia A. Phillips, Courtroom 2,
23 United States District Court, 3470 Twelfth Street, Riverside, CA 92501.

24 **Motions:**

25 1. Judge Phillips hears motions in criminal cases on Mondays at 9:00 a.m. All
26 pretrial motions, including motions to suppress evidence, motions to bifurcate or sever,
27 motions challenging introduction of Fed. R. Evid. 404(b) evidence, and motions in limine,
28 shall be filed and served on all other counsel in accordance with the requirements of Local

1 Civil R. 6-1, i.e., at least 21 days before the date set for hearing, if the motion is personally
2 served on opposing counsel, and served at least 24 days before the scheduled hearing date if
3 not personally served. Opposition and reply memoranda shall be filed and served in
4 compliance with the requirements of Local Civil R. 7-9, i.e., no later than 14 and seven days
5 before the hearing date, respectively. **A chambers copy of every document filed must be**
6 **delivered to the chambers drop box outside Courtroom 2 no later than noon the day**
7 **after filing. The chambers copy must comply with all local rules, including Local R. 11-**
8 **5.3 regarding formatting.**

9 2. The Pretrial Conference will be conducted at 9:00 a.m. on the Monday eight
10 days before the trial date, _____. (If that Monday is a court holiday, the
11 Pretrial Conference will be conducted at 9:00 a.m. on _____, the Monday
12 fifteen days before the trial date.) All pretrial motions, including any motions in limine,
13 must be timely filed and noticed for hearing no later than the date of the Pretrial Conference.

14 3. Trial is set for _____ at 8:30 a.m.
15

16 **Discovery and Notice:**

17 5. Counsel for the Government and counsel for the Defendant(s) shall comply
18 promptly with discovery and notice matters pursuant to Fed. R. Crim. P. 12, 12.1, 12.2, 12.3,
19 15, and 16.
20

21 **Pretrial Deadlines:**

22 6. Counsel for the Government shall file with the Court *in camera* (under seal)
23 all statements of all witnesses to be called by the Government in its case-in-chief. **The**
24 **statements shall be filed at least ten (10) calendar days before trial and shall comply**
25 **with local rules regarding text size and tabbing.**

26 7. The parties must submit joint jury instructions. In order to produce the
27 instructions, the parties shall meet and confer sufficiently in advance of the required
28 submission date with the goal of agreeing upon instructions and verdict forms. The jury

1 instructions shall be submitted as follows: (1) joint jury instructions, i.e., those instructions
2 to which all parties agree; and (2) disputed jury instructions, i.e., those instructions
3 propounded by a party to which another party objects. The party objecting to the disputed
4 instructions must state the reasons for the objection and, if appropriate, provide a proposed
5 alternative instruction with supporting authority, or explain why no instruction on that point
6 is needed. Each requested jury instruction shall be numbered and set forth in full on a
7 separate page, citing the authority or source of the requested instruction except on the "jury
8 copy" described below.

9 8. An index page shall accompany all jury instructions that are submitted to the
10 Court. The index page shall indicate the following:

- 11 a. The number of the instruction;
- 12 b. A brief title of the instruction;
- 13 c. The source of the instruction; and
- 14 d. The page number of the instruction.

15 EXAMPLE:

16 <u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page Number</u>
17 1	Duty of the Jury	9th Cir. 1.01	1

18
19 9. **Jury instructions in the form described in paragraph 7 shall be lodged no**
20 **later than the Wednesday of the week prior to the Pretrial Conference.** Counsel need
21 only submit proposed substantive instructions. The Court will formulate general instructions
22 based primarily on the format set out in Committee on Model Jury Instructions for the Ninth
23 Circuit, *Manual of Model Criminal Jury Instructions for the Ninth Circuit* (2007 edition).

24 10. If either side seeks a special verdict, counsel shall follow the procedure set
25 forth in paragraph 7 in order to formulate a joint proposed verdict form. Counsel shall
26 submit the proposed verdict form with the proposed jury instructions.

27 11. Counsel shall submit electronic versions of the proposed jury instructions and
28 the proposed special verdict (either Word or WordPerfect format) to the Court at the

1 following electronic mail address: VAP_Chambers@cacd.uscourts.gov, along with a
2 chambers copy.

3 12. The Court will send a copy of the jury instructions into the jury room for use
4 by the jury during deliberations (the "jury copy"). Accordingly, in addition to the file
5 copies, an extra set of the proposed instructions shall be submitted to the Court with only the
6 text of an instruction on each page (i.e., no titles, supporting authority, indication of party
7 proposing, etc).

8 13. The Court strongly prefers counsel use the instructions from Committee on
9 Model Jury Instructions for the Ninth Circuit, *Manual of Model Criminal Jury Instructions*
10 *for the Ninth Circuit* (2007 edition).

11
12 **The Pretrial Conference:**

13 14. Counsel shall be prepared to discuss the following matters with the Court at
14 the Pretrial Conference:

- 15 ● the witnesses the Government expects to call in its case in chief, and the
16 amount of time necessary for direct and cross examination of each witness;
- 17 ● any anticipated problems in scheduling the witnesses;
- 18 ● any evidentiary issues, including problems related to Fed. R. Evid. 404(b)
19 evidence, anticipated objections under Rule 403, and objections to exhibits;
- 20 ● jury selections procedures;
- 21 ● all pretrial motions not previously heard and decided;
- 22 ● any disputed jury instructions, and the form of the instructions which will be
23 given to the jury at the outset of the case, i.e., before opening statements and
24 presentation of evidence;
- 25 ● whether any counsel intends to use any evidence or demonstrative aid in
26 opening statement; and
- 27 ● motions to exclude witnesses from the courtroom during trial testimony.

1 15. If counsel for any party need to arrange for the installation of its own
2 equipment, such as video monitors, tape or compact disk players, notebooks or overhead
3 projectors, counsel shall notify the Courtroom Deputy Clerk no later than 4:00 p.m. two
4 days before trial so that the necessary arrangements can be made.

5
6 **Requirements for Trial**

7 16. On the first day of trial, counsel for the Government shall deliver to the
8 Courtroom Deputy Clerk the following documents:

- 9 a. Three copies of the Government's witness list;
- 10 b. Three copies of the Government's exhibit list in the form specified by
11 Local Civil R. 9.9;
- 12 c. All of the Government's exhibits, with official exhibit tags affixed,
13 bearing the same number as that shown on the exhibit list. Defense counsel need not deliver
14 his/her exhibits to the Courtroom Deputy Clerk on the first day of trial; however, defense
15 counsel is responsible for affixing exhibit tags, complete with the case name and case
16 number, to each exhibit to be used in the defense case. Exhibits shall be numbered 1, 2, 3, 4,
17 etc. If an enlargement of an existing exhibit is to be used, counsel shall designate it with the
18 number of the original exhibit followed by an "A." Counsel for the Government is notified
19 that the Court will order exhibits such as firearms, narcotics, etc., to remain in the custody of
20 the agent during the pendency of the trial. The agent will be required to sign the appropriate
21 form to take custody of the exhibits. It shall be the responsibility of the agent to produce the
22 items for court, secure them at night, and guard them while in the courtroom. Exhibit tags
23 are available at the filing window in the Clerk's Office, Room 134; and
- 24 d. A bench book containing a copy of all exhibits that can be reproduced.
25 Counsel for the Government shall mark each exhibit with tabs indicating the exhibit number.
26 Defense counsel shall provide the Court and Government counsel with a copy of the defense
27 exhibits as introduced.

28 **Courtroom Procedures**

1 17. Counsel shall arrive at the Courtroom not later than 8:30 a.m. each day of trial.
2 The Court reserves the time from 8:30 to 9:00 a.m. to handle legal and administrative
3 matters outside the presence of the jury. The trial will commence promptly at 9:00 a.m.
4 Counsel shall anticipate matters which may need discussion or hearing outside the presence
5 of the jury and to raise them during this period.

6 18. The Court is in session with the jury on Tuesdays through Fridays, 9:00 a.m.
7 to 4:30 p.m., with a morning and an afternoon break and a lunch recess from approximately
8 12:00 to 1:15 p.m.

9 19. All counsel are asked to observe the following practices:

- 10 ● All counsel, defendants, and designated case agents shall rise when the jury
11 enters and leaves the courtroom.
- 12 ● Counsel shall stand when addressing the Court, including when objecting to
13 opposing counsel's questions.
- 14 ● When objecting, counsel should state only "objection," and the legal ground
15 for the objection (e.g., hearsay, irrelevant, etc.). Counsel should refrain from
16 arguing the legal basis for the objection unless permission is granted to do so.
- 17 ● Counsel must seek leave to approach the Courtroom Deputy Clerk or the
18 witness, and should question witnesses while standing at the lectern.
- 19 ● Counsel must address and refer to all witnesses, including their clients, by the
20 witness's surname. Young witnesses, i.e., children younger than age 15, may
21 be addressed by first names, however.
- 22 ● Counsel shall not discuss the law or argue the case in opening statements.
- 23 ● Counsel shall address all remarks to the Court, and should not directly address
24 the Courtroom Deputy Clerk, the Court Reporter, or opposing counsel.
25 Counsel must ask the Court for permission to talk off the record in order to
26 speak with opposing counsel.
- 27 ● Counsel shall not make an offer of stipulation unless he or she has conferred
28 with opposing counsel and believes that the stipulation will be accepted. Any

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stipulation of fact will require the defendant's personal concurrence and shall be submitted to the Court in writing for approval. A proposed stipulation should be explained to the defendant(s) in advance.

- While Court is in session, counsel may not leave the counsel table to confer with investigators, assistants, or witnesses in the back of the courtroom unless the Court grants permission to do so in advance.
- When a party has more than one lawyer, only one of the lawyers may conduct the examination of a given witness and only that same lawyer may handle objections during the testimony of that witness.
- If a witness was on the stand before a recess or adjournment, counsel shall have the witness back on the stand and ready to proceed when Court resumes.
- If there is more than a brief delay between witnesses, the Court may deem that the party has rested.

20. The Court attempts to cooperate with witnesses and will, except in extraordinary circumstances, accommodate them by permitting them to be examined out of sequence. Counsel should discuss any scheduling issues with opposing counsel. If there is an objection, confer with the Court in advance.

IT IS SO ORDERED.

Dated: June 12, 2009

VIRGINIA A. PHILLIPS
UNITED STATES DISTRICT JUDGE