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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

[Party],
Plaintiff,
v.
[Party],
Defendant.

Case No.

**CIVIL TRIAL SCHEDULING
ORDER**

Last Day to Stipulate or File a Motion to
Amend Pleadings or Add New Parties:
[*date*]

Deadline for Initial Designation of Expert
Witnesses: [*date*]

Deadline for Designation of Rebuttal
Expert Witnesses: [*date*]

All Discovery Cut-Off (including hearing
of discovery motions): [*date*]

Dispositive Motion Hearing Cut-Off:
[*date*]

Last day to Conduct Settlement
Conference: [*date*]

Final Pretrial Conference: [*date*]

Jury/Court Trial: [*date*]

Trial Estimate: _____ days

1 This case is set for trial before the Honorable John W. Holcomb, Courtroom 2,
2 United States District Court, 3470 Twelfth Street, 2nd Floor, Riverside, California.

3 **A. Motions**

4 Judge Holcomb hears motions in civil cases on Fridays at 9:00 a.m. The
5 cut-off date for hearing motions is the last day on which motions will be heard; *i.e.*,
6 the motion must be filed at least 28 days before the deadline in accordance with the
7 requirements of L.R. 6-1. ***A copy of every motion-related document filed must***
8 ***be delivered to the chambers drop box outside Courtroom 2 or transmitted to***
9 ***chambers via FedEx, UPS, or other overnight delivery service (“the Mandatory***
10 ***Chambers Copy”)***. The cut-off date applies to all non-discovery motions except
11 motions directly related to the conduct of trial; *e.g.*, motions in limine and motions to
12 sever parties or bifurcate issues for trial.

13 All motions *in limine* and other trial-related motions must be properly noticed
14 for hearing no later than the date of the Final Pretrial Conference. Counsel shall meet
15 and confer thoroughly in an effort to limit or eliminate the need for such trial-related
16 motions. Memoranda of Points and Authorities in support of or in opposition to
17 motions *in limine* shall not exceed 10 pages. Replies will not be accepted. Motions
18 shall not be compound; *i.e.*, each motion shall address only one item of evidence or
19 witness. If common grounds for exclusion or admission apply to multiple items of
20 evidence or witnesses, each motion shall address only one category of evidence or
21 witnesses. Motions *in limine* should not be disguised motions for summary
22 adjudication of issues.

23 All parties and counsel must comply with L.R. 7-16, which provides as follows:

24 Any moving party who intends to withdraw the motion before the hearing
25 date shall file and serve a withdrawal of the motion, not later than seven
26 (7) days preceding the hearing. Any opposing party who no longer intends
27 to oppose the motion, shall file and serve a withdrawal of the opposition,
28 not later than seven (7) days preceding the hearing.

1 Failure to comply with this notification requirement may result in the imposition of
2 sanctions on the offending counsel or party.

3 **B. Discovery**

4 Counsel shall initiate all discovery other than depositions at least **45 days**
5 before the cut-off date. The Court will not approve stipulations between counsel that
6 permit responses to be served after the cut-off date except in unusual circumstances
7 and for good cause shown.

8 All depositions must be completed by the discovery cut-off deadline. Counsel
9 shall lodge all original depositions that will be used in trial with the Courtroom
10 Deputy Clerk on the first day of trial.

11 Counsel are expected to resolve discovery problems without the assistance of
12 the Court. Discovery disputes have been referred to the Magistrate Judge assigned to
13 this case. The discovery cut-off is the last date to complete discovery, including
14 expert discovery. It is also the last day for hearing any discovery motion.

15 If not separately set forth above, the required expert disclosures shall be made
16 **70 days** before the discovery cut-off date.

17 **C. Settlement Procedures**

18 Counsel must complete a settlement conference under the Court-Directed
19 ADR Program (L.R. 16-15.4) no later than the date set by the Court above. If the
20 parties desire to participate in an ADR procedure other than that elected in the
21 Rule 26(f) Scheduling Report and Order, they shall file a stipulation with the Court.
22 This request will not necessarily be granted.

23 Counsel shall include in the proposed Pretrial Conference Order a status report
24 detailing what procedure has been followed and the status of settlement efforts. The
25 case may not proceed to trial unless all parties, including the principals of all corporate
26 parties, have appeared personally at a settlement conference and have complied with
27 L.R. 16-15.5.

28

1 If a settlement is reached, it shall be reported immediately to this Court as
2 required by L.R. 16-15.7. ***In all cases set for jury trial, the parties must notify the***
3 ***Court, no later than the Wednesday preceding the Monday trial date, of any***
4 ***settlement, so that the necessary arrangements can be made to bring in a***
5 ***different case for trial or to notify the members of the public who would***
6 ***otherwise be reporting for jury duty that their services are not needed that date.***
7 ***Failure to comply with this notification requirement may result in the***
8 ***imposition of sanctions on counsel for one or more parties, or their clients, or***
9 ***both.***

10 **D. Final Pretrial Conference**

11 The Court will conduct a Final Pretrial Conference pursuant to Rule 16 of the
12 Federal Rules of Civil Procedure and L.R. 16-1 on the date and time listed above.
13 Each party appearing in this action shall be represented at the Final Pretrial
14 Conference and at all pretrial meetings by its lead trial counsel. Counsel should be
15 prepared to discuss streamlining the trial, including presentation of testimony by
16 deposition excerpts, time limits, stipulations regarding undisputed facts, and
17 qualification of experts by admitted resumes. In rare cases where the Pretrial
18 Conference is waived by the Court, counsel must follow L.R. 16-11. This Court does
19 not exempt *pro per* parties from the requirements of L.R. 16.

20 **E. Matters to be Discussed at the Final Pretrial Conference**

21 Counsel shall be prepared to discuss the following matters with the Court at
22 the Pretrial Conference:

- 23 • the witnesses all parties intend to call during their respective cases, and the
24 amount of time necessary for direct and cross examination of each witness;
- 25 • any anticipated problems in scheduling witnesses;
- 26 • any evidentiary issues, including anticipated objections under Rule 403 of the
27 Federal Rules of Evidence, and objections to exhibits;
- 28 • jury selection procedures;

- 1 • all pretrial motions, including motions *in limine* and motions to bifurcate and to
- 2 sever;
- 3 • any disputed jury instructions, and the form of the instructions that will be
- 4 given to the jury at the outset of the case, i.e., before opening statements and
- 5 presentation of evidence;
- 6 • whether any counsel intends to use any evidence or demonstrative aid in
- 7 opening statement; and
- 8 • motions to exclude witnesses from the courtroom during trial testimony.

9 If counsel for any party needs to arrange for the installation of their own
10 equipment, such as video monitors, notebooks, or projection equipment, counsel shall
11 notify the Courtroom Deputy Clerk no later than 4:00 p.m. on the Wednesday before
12 trial so that the necessary arrangements can be made.

13 **F. Pretrial Filings**

14 Counsel shall submit carefully prepared Memoranda of Contentions of Fact
15 and Law (which may also serve as the trial briefs) and proposed Pretrial Conference
16 Orders in accordance with the provisions of L.R. 16-4 through 16-7. The form of the
17 proposed Pretrial Conference Order shall be in conformity with the form set forth in
18 Appendix A to the Local Rules.

19 The filing schedule for pretrial documents is as follows:

20 **1. At least 28 days before final pretrial conference**

- 21 • Motions in limine

22 **2. At least 21 days before final pretrial conference**

- 23 • Memorandum of contentions of fact and law
- 24 • Witness lists
- 25 • Joint exhibit list
- 26 • Oppositions to motions in limine

27 **3. At least 14 days before final pretrial conference**

- 28 • Proposed Final Pretrial Conference Order

- 1 • Proposed jury instructions and any objections thereto
- 2 • Proposed verdict forms
- 3 • Statement of the case
- 4 • Proposed *voir dire* questions, if desired

5 **4. At least 7 days before trial:**

- 6 • Trial briefs, if desired

7 In drafting the Proposed Final Pretrial Conference Order, counsel shall make a
8 good faith effort to agree on, and to set forth, as many uncontested facts as possible.
9 The Court may read the uncontested facts to the jury at the start of the trial.

10 In drafting the factual issues in dispute for the Proposed Final Pretrial
11 Conference Order, the issues of fact should track the elements of a claim or defense
12 upon which the jury would be required to make findings. Counsel should attempt to
13 state issues in ultimate fact form, not in the form of evidentiary fact issues (*i.e.*, “was
14 the defendant negligent?”; “was such negligence the proximate cause of injury to the
15 plaintiff?”; “was the plaintiff negligent?”; **not**, “was the plaintiff standing on the
16 corner of 5th Street and Spring Avenue at 10:00 a.m. on May 3?”). Counsel may list
17 sub-issues under the headings of ultimate fact issues, but shall not use this as a device
18 to list disputes over evidentiary matters.

19 Issues of law should state legal issues upon which the Court will be required to
20 rule after the Pretrial Conference, including during the trial, and should not list
21 ultimate fact issues to be submitted to the trier of fact.

22 Each party shall list and identify its respective expert witnesses, if any. Failure
23 of a party to list and identify an expert witness in the Proposed Final Pretrial
24 Conference Order shall preclude a party from calling that expert witness at trial.

25 **5. Exhibit and Witness Lists**

26 Counsel are to prepare their exhibits by placing them in three-ring binders that
27 are tabbed down the right side with exhibit numbers. The spine portion of the binder
28 shall indicate the volume number and contain an index of each exhibit including in

1 the volume. The binders are to be prepared with an original for the Courtroom
 2 Deputy Clerk, which shall be tagged with the appropriate exhibit tags in the upper
 3 right hand corner of the first page of each exhibit, and one copy for the Court
 4 (“bench book”). Each binder shall contain an index of the included exhibits. The
 5 exhibits are to be numbered in accordance with L.R. 26-3.

6 The Court requires the following to be submitted to the Courtroom Deputy
 7 Clerk on the first day of trial:

- 8 • The original exhibits with the Court’s exhibit tags. The parties shall use yellow
 9 tags for Plaintiff and blue tags for Defendant, which shall be stapled to the
 10 front of the exhibit on the upper right corner with the case number, case name,
 11 and exhibit number placed on each tag. Counsel can obtain exhibit tags at the
 12 Clerk’s Office, Room 134, 1st Floor, 3470 Twelfth Street, Riverside. Exhibit
 13 Tags (Plaintiff & Defendant, form G-014) are also available on the Court’s
 14 website, under “Court Procedures”, “Forms”.
- 15 • One bench book with a copy of each exhibit for use by the Court, tabbed with
 16 numbers as described above. (Court’s exhibit tags not necessary.)
- 17 • Three copies of exhibit index.

18 The exhibit index shall be in the following form:

20	Case No.	Case Name:		
21	<u>Exhibit No.</u>	<u>Description</u>	<u>Date Identified</u>	<u>Date Admitted</u>
22	3	1/30/2005 Letter from Doe to Roe		

- 24 • Three copies of witness lists in the order in which the witnesses may be called
 25 to testify.

1 The witness lists shall be in the following form:

2

3 Case No.	Case Name:
4 <u>Witness Name</u>	<u>Date Called to Testify</u>
5 1. John Doe	
6 2. Jane Roe	

7

8 All counsel shall meet no later than **10 calendar days** before trial and shall
9 stipulate to the extent possible regarding foundation, waiver of the best evidence rule,
10 and admission into evidence of exhibits at the start of trial. The exhibits to be
11 received will be noted on the extra copies of the exhibit lists.

12 **G. Court Reporter**

13 At least 7 days before the commencement of trial, counsel for the parties shall
14 provide the court reporter with a list of unusual words, phrases, and spellings that
15 may come up during trial. This information should be emailed to Court Reporter
16 Services at ReportersCACD@cacd.uscourts.gov.

17 **H. Jury Instructions**

18 **Fourteen calendar days** prior to the L.R. 16-2 Meeting of Counsel, counsel
19 shall exchange proposed jury instructions and special verdict forms (if applicable).
20 **Seven calendar days** prior to the L.R. 16-2 meeting, counsel shall exchange any
21 objections to the instructions and special verdict forms. Prior to or at the time of the
22 L.R. 16-2 meeting, counsel shall meet and confer with the goal of reaching agreement
23 regarding one set of joint, undisputed jury instructions and one special verdict form.

24 The parties shall file proposed jury instructions **fourteen calendar days** before
25 the Final Pretrial Conference. As always, the parties must submit Mandatory
26 Chambers Copies to the Court. In addition, the parties must submit electronic
27 versions (in Word format) to the Court at the following e-mail address:

28 JWH_Chambers@cacd.uscourts.gov.

1 As noted above, the parties must act jointly to submit proposed jury
2 instructions. The parties must submit one set of agreed upon jury instructions. At
3 the same time, the parties must submit another set of jury instructions containing the
4 instructions upon which the parties disagree and the objections to those instructions.
5 Where the parties disagree on an instruction, the party opposing the instruction must
6 attach a short (*i.e.*, one to two paragraphs) statement supporting the objection and the
7 party submitting the instruction must attach a short statement supporting the
8 instruction. Each statement should be on a separate page and should follow directly
9 after the disputed instruction.

10 Accordingly, the parties ultimately will submit one document or, if the parties
11 disagree over any proposed jury instructions, two documents. If the parties submit
12 two documents, those documents should consist of: (1) a set of agreed upon jury
13 instructions; and (2) a set of disputed jury instructions along with reasons supporting
14 and opposing each disputed instruction.

15 Where the ***Manual of Model Civil Jury Instructions for the Ninth Circuit***
16 provides a version of a requested instruction, the parties should submit the Model
17 instruction. Where California law applies, the Court prefers counsel to use JUDICIAL
18 COUNCIL OF CALIFORNIA, CIVIL INSTRUCTIONS - (“CACI”). If neither of the above
19 sources has an instruction on the subject, counsel are directed to consult the current
20 edition of O’Malley, et al., FEDERAL JURY PRACTICE AND INSTRUCTIONS. Each
21 requested instruction shall (a) cite the authority or source of the instruction; (b) be set
22 forth in full; (c) be on a separate page; (d) be numbered; (e) cover only one subject or
23 principle of law; and (f) not repeat principles of law contained in any other requested
24 instruction.

25 The Court will send a copy of the jury instructions into the jury room for use
26 by the jury during deliberations. Accordingly, in addition to the file copies described
27 above, the parties shall file with the Courtroom Deputy Clerk and shall email to
28 chambers on the first day of the trial a “clean set” of joint and/or proposed jury

1 instructions that contain only the text of each instruction set forth in full on each
2 page, with the caption “Court’s Instruction Number ___” (eliminating titles,
3 supporting authority, indication of party proposing, etc.). This version will be referred
4 to as the “Jury Copy” of the jury instructions.

5 An index page shall accompany all jury instructions submitted. The index page
6 shall indicate the following:

- 7 • The number of the instruction;
- 8 • A brief title of the instruction;
- 9 • The source of the instruction and any relevant case citations; and
- 10 • The page number of the instruction.

11 EXAMPLE:

12

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page</u>
1	Burden of Proof	9th Cir. 12.02	7

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16 **I. Joint Statement of the Case**

17 Counsel shall prepare a joint statement of the case which will be read by the
18 Court to the prospective panel of jurors prior to the commencement of *voir dire*. The
19 statement should not be longer than three paragraphs. The statement shall be filed
20 with the Court fourteen calendar days before the Final Pretrial Conference.

21 **J. Trial**

22 The Court sets firm trial dates. Counsel shall arrive at the Courtroom ***not later***
23 ***than 8:30 a.m.*** each day of trial. The Court reserves the time from ***8:30 to 9:00 a.m.***
24 to handle legal and administrative matters outside the presence of the jury. The trial
25 will commence promptly at 9:00 a.m. Counsel shall anticipate matters that may need
26 discussion or hearing outside the presence of the jury and to raise them during this
27 period.
28

1 The Court is in session with the jury on ***Mondays through Thursdays,***
2 ***9:00 a.m. to 4:30 p.m., with a morning and an afternoon break and a lunch***
3 ***recess from approximately 12:00 to 1:15 p.m.*** In most instances, jury selection is
4 completed on the first morning of trial, and counsel should be prepared to give
5 opening statements and to begin their presentation of evidence immediately
6 thereafter.

7 All counsel shall observe the following practices during trial:

- 8 • All counsel and parties shall rise when the jury enters and leaves the courtroom.
- 9 • Counsel shall stand when addressing the Court, including when objecting to
10 opposing counsel's questions.
- 11 • When objecting, counsel shall state only "objection" and the legal ground for
12 the objection (*e.g.*, hearsay, irrelevant, etc.). Counsel shall refrain from arguing
13 the legal basis for the objection unless and until permission is granted to do so.
14 Counsel shall instruct their witnesses to refrain from answering a question
15 while an objection is pending.
- 16 • Counsel must seek leave to approach the Courtroom Deputy Clerk or the
17 witness, and shall question witnesses while standing at the lectern.
- 18 • Counsel shall not address or refer to witnesses or parties by first names alone,
19 with the exception of witnesses under 14 years old.
- 20 • Counsel shall not discuss the law or argue the case in opening statements.
- 21 • Counsel shall address all remarks to the Court and shall not directly address the
22 Courtroom Deputy Clerk, the Court Reporter, opposing counsel, or the jury
23 (except in opening statement and closing argument). Counsel must ask the
24 Court for permission to talk off the record in order to speak with opposing
25 counsel.
- 26 • Counsel shall not make an offer of stipulation unless he or she has conferred
27 with opposing counsel and believes that the stipulation will be accepted.

- 1 • While Court is in session, counsel may not leave the counsel table to confer
2 with witnesses, colleagues, or assistants elsewhere in the courtroom unless the
3 Court grants permission to do so in advance.
- 4 • Where a party has more than one lawyer, only one may conduct the direct or
5 cross-examination of a particular witness, or make objections as to that witness.
- 6 • If a witness was on the stand before a recess or adjournment, counsel shall
7 have the witness back on the stand and ready to proceed when Court resumes.
- 8 • If there is more than a brief delay between witnesses, the Court may deem that
9 the party has rested.
- 10 • The Court attempts to cooperate with witnesses and will, except in
11 extraordinary circumstances, accommodate them by permitting them to be
12 examined out of sequence. Counsel should discuss any scheduling issues with
13 opposing counsel. If there is an objection, counsel shall confer with the Court
14 in advance.

15 **K. Bench Trials**

16 *Twenty-one calendar days* before the trial date, each party shall prepare and
17 serve on opposing counsel copies of the proposed Findings of Fact and Conclusions
18 of Law. Each party shall review the other party's proposed Findings and Conclusions
19 and make such changes in the party's own proposed Findings and Conclusions as
20 necessary following such review. *Fourteen calendar days* before the trial date, each
21 party shall lodge two copies of its proposed Findings of Fact and Conclusions of Law
22 with the Court, also serving other parties if changes have been made. The parties
23 shall be prepared to submit to the Court, and to exchange among themselves,
24 supplemental Findings of Fact and Conclusions of Law during the course of the trial.

25 **L. Website**

26 Counsel are encouraged to review the Central District's website for additional
27 information: www.cacd.uscourts.gov.

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1 The Courtroom Deputy Clerk is ordered to serve a copy of this Order
2 personally, electronically, or by mail on counsel for all parties to this action.

3 **IT IS SO ORDERED.**

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5 Dated: _____

John W. Holcomb
UNITED STATES DISTRICT JUDGE

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