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**United States District Court
Central District of California**

Estate of Gregory Martinez et al.,
Plaintiff(s),
v.
County of Los Angeles et al.,
Defendant(s)

Case CV 23-05586-ODW(JPRx)

**SCHEDULING AND CASE
MANAGEMENT ORDER
(JURY TRIAL)**

**FOR CASES ASSIGNED TO JUDGE
OTIS D. WRIGHT, II**

This Order is to advise the parties and counsel of the schedule that will govern this case. **THE SCHEDULING CONFERENCE IS VACATED. SEE THE LAST PAGE OF THIS ORDER FOR THE SPECIFIED DATES.** These dates and requirements are firm. The Court is unlikely to grant continuances unless the parties establish good cause through a concrete showing. Failure to complete discovery in a timely manner does not constitute good cause, nor does the fact that a settlement conference is pending. Each side is limited to five motions in limine unless the Court orders otherwise.

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1 **IT IS HEREBY ORDERED:**

2 1. To secure the just, speedy, and inexpensive determination of every action,
3 all counsel are ordered to familiarize themselves with and follow the Federal Rules of
4 Civil Procedure and the Local Rules of the Central District of California. This Court
5 follows these rules and they will govern this litigation unless otherwise provided in this
6 Order.

7 2. Because this Order in some respects modifies or adds to the Local Rules,
8 counsel are advised to read it carefully. Counsel are advised to pay particular attention
9 to the requirements of the Court with respect to the filing of motions for summary
10 judgment and documents to be submitted at the Final Pretrial Conference and Trial.

11 3. The attorney attending any proceeding before this Court must be an
12 attorney who is thoroughly knowledgeable about the case, responsible for the conduct
13 of the litigation, and who has authority to enter into stipulations and to make admissions
14 regarding all matters that the participants reasonably anticipate may be discussed. Lead
15 counsel who will actually try the case must attend the Pretrial Conference. A party who
16 is not represented must attend all proceedings in person.

17 4. **Courtesy Copies:** The Court requires courtesy copies only for Motions
18 for Summary Judgment, motions necessitating a substantial evidentiary record, and
19 pretrial documents. **FOR THESE FILINGS ONLY**, the Court requires one mandatory
20 chambers copy of all related filed documents. USB flash drives should be submitted in
21 lieu of compact discs. Chambers copies shall be delivered to and placed in the Judge's
22 courtesy box, located outside of the Clerk's office on the 4th floor. Chambers copies
23 of under seal documents shall be placed together in a manilla envelope labeled
24 "UNDER SEAL." **Courtesy copies DO NOT need to be blue-backed. All courtesy**
25 **copies of pretrial documents (e.g. witness lists, exhibit lists, pretrial conference**
26 **orders, jury instructions, etc.) shall be three-hole punched and placed in a three-**
27 **ring binder as described below.**

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1 5. **Discovery Cut-Off:** Percipient and expert discovery shall be completed
2 by the discovery cut-off dates specified on the last page of this Order. **THIS IS NOT**
3 **THE DATE BY WHICH DISCOVERY REQUESTS MUST BE SERVED; IT IS**
4 **THE DATE BY WHICH ALL DISCOVERY IS TO BE COMPLETED.**

5 Any motion challenging the adequacy of responses to discovery must be heard
6 sufficiently in advance of the discovery cut-off date to permit the responses to be
7 obtained before that date if the motion is granted. In an effort to provide further
8 guidance to the parties, the Court notes the following:

9 a. **Depositions:** All depositions shall be scheduled to commence
10 sufficiently in advance of the discovery cut-off date to permit their completion and to
11 permit the deposing party enough time to bring any discovery motions concerning the
12 deposition prior to the cut-off date.

13 b. **Written Discovery:** All interrogatories, requests for production of
14 documents, and requests for admissions shall be served sufficiently in advance of the
15 discovery cut-off date to permit the discovering party enough time to challenge (via
16 motion practice) responses deemed to be deficient.

17 c. **Discovery Motions:** Whenever possible, the Court expects the
18 parties to resolve discovery issues among themselves in a courteous, reasonable, and
19 professional manner. The Magistrate Judge assigned to this case will rule on discovery
20 motions. (The Magistrate Judge's initials follow the district judge's initials next to the
21 case number on the first page of this Order.) Counsel are directed to contact the
22 Magistrate Judge's courtroom deputy clerk (CRD) to schedule a hearing on any
23 discovery related matters. Counsel should **NOT** deliver courtesy copies of these
24 discovery documents to this Court.

25 d. **Expert Discovery:** If expert witnesses are to be called at trial, the
26 parties shall designate affirmative experts to be called at trial and provide reports
27 required by Federal Rule of Civil Procedure 26(a)(2)(B) **not later than eight weeks**
28 **prior to the expert discovery cut-off date.** Rebuttal expert witnesses shall be

1 designated and reports provided as required by Rule 26(a)(2)(B) **not later than five**
2 **weeks prior to the expert discovery cut-off date.** Failure to timely comply with
3 deadlines may result in the expert being excluded as a trial witness.

4 **6. Motions and Motion Cut-Off Date**

5 a. **General Provisions:** All law and motion matters, except for
6 motions in limine, must be set for hearing (not filing) by the motion cut-off date
7 specified on the last page of this Order. This Court hears motions in civil matters on
8 **Mondays at 1:30 p.m.** The parties must adhere to the requirements of the Local Rules.
9 *See* Local Rules 6-1 & 7-1 *et seq.* If any party does not oppose a motion, that party
10 shall submit a written statement that it does not oppose the motion in accordance with
11 Local Rule 7-9. The parties should note that failure to meet the time limits for filing an
12 opposition set forth in Local Rule 7-9 shall be deemed consent to the granting of the
13 motion. *See* Local Rule 7-12.

14 The title page of all motions must state the Pretrial Conference date and the Trial
15 date. **Counsel must comply with Local Rule 7-3**, which requires counsel to engage in
16 a pre-filing conference seven days in advance of filing any motion, “to discuss
17 thoroughly . . . the substance of the contemplated motion and any potential resolution.”
18 Counsel must also comply with Local Rule 11-6, which requires counsel to include a
19 certificate that the document complies with the type-volume limitation of Local
20 Rule 11-6.1 and this Court.

21 Issues left undetermined after the passage of the motion cut-off date should be
22 listed as issues for trial in the Final Pretrial Conference Order. As an exception to the
23 above, motions in limine dealing with evidentiary matters may be heard pursuant to the
24 schedule specified on the last page of this Order.

25 b. **Meeting and Confering:** The Parties are required to meet and
26 confer with opposing counsel prior to the filing of a motion or ex parte application under
27 Local Rule 7-3. The Court notes that it is the responsibility of both parties to meet and
28 confer in good faith on any disputed issues. The Court will impose sanctions, including

1 monetary sanctions and/or the summary denial of a motion, if *either* party fails to meet
2 and confer in good faith or fails to reasonably narrow the issues in dispute.

3 c. **Ex Parte Applications:** Ex parte practice is **discouraged**. See
4 *Mission Power Eng'g v Co. v. Continental Cas. Co.*, 883 F. Supp. 488 (C.D. Cal. 1995).
5 The Court will require strict adherence to proper ex parte procedures for any ex parte
6 application filed with the Court. *Id.* at 492; *see also* Judge Wright's Standing Order and
7 Local Rule 7-19. **Any opposition to an ex parte application must be filed within**
8 **24 hours**. Failure to submit a timely opposition constitutes consent to the granting of
9 the application. See Local Rule 7-12. No party may file a reply unless expressly
10 authorized by the Court. All ex parte applications will be decided on the papers and
11 without a hearing unless the Court orders otherwise.

12 d. **Applications and Stipulations to Extend Time:** Applications to
13 extend the time to file any required document or to continue any hearing, Pretrial
14 Conference, or Trial date must set forth the following:

- 15 (i) The existing due date or hearing date, as well as the discovery
16 cut-off date, the Pretrial Conference date, and the Trial date;
- 17 (ii) Specific, concrete reasons supporting good cause for granting the
18 extension; and
- 19 (iii) Whether there have been prior requests for extensions, and whether
20 these requests were granted or denied by the Court.

21 The parties are cautioned that the Court will not necessarily grant an extension or
22 continuance simply because all parties have stipulated to it.

23 e. **Joinder of Parties and Amendment of Pleadings:** The deadline
24 for joining parties and amending pleadings is set forth on the last page of this Order.
25 Any motions to join other parties or for leave to amend the pleadings shall be set for
26 hearing on or before this date. If any party moves to amend a pleading after this date,
27 they must address the propriety of amendment under *Johnson v. Mammoth Recreations,*
28 *Inc.*, 975 F.2d 604 (9th Cir. 1992).

1 In addition to the requirements of Local Rule 15-1, all motions to amend the
2 pleadings shall: (1) state the effect of the amendment; (2) be serially numbered to
3 differentiate the amendment from previous amendments; and (3) state the page, line
4 number(s), and wording of any proposed change or addition of material. The parties
5 shall deliver to Chambers a redlined version of the proposed amended pleading
6 indicating all additions and deletions of material. The failure to comply with the above
7 may result in denial of a motion to amend.

8 f. **Summary Judgment Motions:** Parties need not wait until the
9 motion cutoff to bring motions for summary judgment or partial summary judgment.
10 Early completion of non-expert discovery and filing of motions for summary judgment
11 may eliminate or reduce the need for expensive expert depositions that are normally
12 conducted in the last stages of discovery. **However, the Court requires that the party**
13 **moving for summary judgment will provide no less than thirty-five (35) days’**
14 **notice for such motions.** Because summary judgment motions are fact-dependent,
15 parties should prepare papers in a fashion that will assist the Court in absorbing the
16 mass of facts (e.g., generous use of tabs, tables of contents, headings, indices, etc.). **The**
17 **parties are to comply precisely with Local Rule 56-1 through 56-4.** The Court will
18 also require adherence to the following requirements:

19 (i) Statement of Uncontroverted Facts and Statement of Genuine Issues
20 of Material Fact

21 The movant’s Separate Statement of Uncontroverted Facts is to be prepared in a
22 two-column format. The left-hand column should set forth the allegedly undisputed
23 fact. The right-hand column should set forth the evidence that supports the factual
24 statement. The factual statements should be set forth in sequentially numbered
25 paragraphs. Each paragraph should contain a narrowly focused statement of fact. Each
26 numbered paragraph should address a single subject in as concise a manner as possible.

27 The opposing party’s Statement of Genuine Issues of Material Fact must be in
28 two columns and track the movant’s Separate Statement exactly as prepared. The

1 document must be in two columns; the left-hand column must restate the allegedly
2 undisputed fact, and the right-hand column must indicate either undisputed or disputed.
3 *See* Local Rule 56-2. The opposing party may dispute all or only a portion of the
4 statement, but if disputing only a portion, must clearly indicate what part is being
5 disputed. Where the opposing party is disputing the fact in whole or part, the opposing
6 party must, in the right-hand column, label and restate the moving party's evidence in
7 support of the fact, followed by the opposing party's evidence controverting the fact.
8 Where the opposing party is disputing the fact on the basis of an evidentiary objection,
9 the party must cite the evidence alleged to be objectionable and state the ground of the
10 objection and nothing more. **No argument should be set forth in this document.**

11 The opposing party may submit additional material facts that bear on or relate to
12 the issues raised by the movant, which shall follow the format described above for the
13 moving party's Separate Statement. These additional facts shall follow the movant's
14 facts, shall continue in sequentially numbered paragraphs (i.e., if movant's last
15 statement of fact was set forth in paragraph 30, then the first additional statement of fact
16 will be set forth in paragraph 31), and shall set forth in the right-hand column the
17 evidence that supports that statement.

18 The moving party, in its reply, shall respond to the additional facts in the same
19 manner and format that the opposing party is required to adhere to in responding to the
20 Statement of Uncontroverted Facts, as described above. Additional material facts left
21 unaddressed will be deemed undisputed. *See* Local Rule 56-4.

22 The Court is not obligated to look any further in the record for supporting
23 evidence other than what is actually and specifically referenced in the Statement of
24 Uncontroverted Facts, the Statement of Genuine Disputes of Material Fact, and the
25 Response to Statement of Genuine Disputes. *See* Local Rule 56-4.

26 **The following conduct in connection with a motion for summary judgment**
27 **shall be grounds for sanctions under Federal Rule of Civil Procedure 11:**
28 **(1) disputing a material fact without any reasonable basis for doing so;**

1 **(2) identifying additional facts in opposition to the motion without any reasonable**
2 **basis for believing that the additional facts will materially affect the outcome of**
3 **the motion.**

4 (ii) Supporting Evidence

5 No party should submit any evidence other than the specific items of evidence or
6 testimony necessary to support or controvert a proposed statement of undisputed fact.
7 Thus, for example, the entire transcripts of depositions and/or entire sets of
8 interrogatory responses should generally not be submitted in support of or in opposition
9 to a motion for summary judgment.

10 Evidence submitted in support of or in opposition to a motion for summary
11 judgment should be submitted either by way of stipulation or as exhibits to a declaration
12 sufficient to authenticate the proffered evidence, and should not be attached to the
13 memorandum of points and authorities. The Court will accept counsel's authentication
14 of deposition transcripts, written discovery responses, and the receipt of documents in
15 discovery if the fact that the document was in the opponent's possession is of
16 independent significance. Documentary evidence as to which there is no stipulation
17 regarding foundation must be accompanied by the testimony, either by declaration or
18 properly authenticated deposition transcript, of a witness who can establish its
19 authenticity.

20 **All evidence in support of or in opposition to a motion for summary**
21 **judgment, including declarations and exhibits to declarations, shall be separated**
22 **by a tab divider on the bottom of the page.** If evidence in support of or in opposition
23 to a motion for summary judgment exceeds twenty pages, the evidence must be in a
24 separately bound volume and include a Table of Contents. If the supporting evidence
25 exceeds fifty pages, the documents shall be placed in a Slant D-Ring binder with each
26 item of evidence separated by a tab divider on the right side. All documents contained
27 in the binder should be three-hole-punched. **Alternatively, parties may submit USB**
28 **flash drives with supporting evidence in portable document format (PDF) files.**

1 The PDF files must be named in accordance with each exhibit’s nomenclature (i.e.,
2 Ex. A, Ex. B, etc.). If a PDF file contains more than one exhibit, that PDF must include
3 a Table of Contents and each exhibit must be bookmarked with the exhibit
4 nomenclature.

5 (iii) Objections to Evidence

6 If a party disputes a fact based in whole or in part on an evidentiary objection,
7 the ground for the objection, as indicated above, should be stated in the Separate
8 Statement, but not argued in that document. **Evidentiary objections should be**
9 **addressed in a separate memorandum** to be filed with the opposition or reply brief
10 of the party. This memorandum should be organized **to track the paragraph numbers**
11 **of the Separate Statement in sequence**. It should identify the specific item of evidence
12 to which objection is made, the ground for the objection, and a very brief argument with
13 citation to authority as to why the objection is well taken. The following is an example
14 of the format contemplated by the Court:

15 Separate Statement Paragraph 1: Objection to the supporting deposition
16 transcript of Jane Smith at 60:1–10 on the grounds that the statement constitutes
17 inadmissible hearsay and no exception is applicable. To the extent it is offered to prove
18 her state of mind, it is irrelevant since her state of mind is not in issue. Fed. R. Evid. 801,
19 802.

20 **DO NOT SUBMIT BLANKET OR BOILERPLATE OBJECTIONS TO**
21 **THE OPPONENT’S STATEMENTS OF UNDISPUTED FACT. THESE WILL**
22 **BE DISREGARDED AND OVERRULED.**

23 (iv) Memorandum of Points and Authorities

24 The movant’s memorandum of points and authorities should be in the usual form
25 required under Local Rule 7 and should contain a narrative statement of facts as to those
26 aspects of the case that are before the Court. All facts should be supported with citations
27 to the paragraph number in the Separate Statement that supports the factual assertion.

1 Unless the case involves some unusual twist, the motion need only contain a brief
2 statement of the Federal Rule of Civil Procedure 56 standard; the Court is familiar with
3 the Rule and with its interpretation under *Celotex* and its progeny. If at all possible, the
4 argument should be organized to focus on the pertinent elements of the claim(s) for
5 relief or defense(s) in issue, with the purpose of showing the existence or non-existence
6 of a genuine issue of material fact for trial on that element of the claim or defense.

7 Likewise, the opposition memorandum of points and authorities should be in the
8 usual form required by Local Rule 7. Where the opposition memorandum sets forth
9 facts, the memorandum should cite to paragraphs in the Separate Statement if they are
10 not in dispute, to the evidence that contravenes the fact where the fact is in dispute, or,
11 if the fact is contravened by an additional fact in the Statement of Genuine Issues of
12 Material Fact, the citation should be to such fact by paragraph number.

13 g. **Avoid Composite Motions**: Unless clearly justified under the
14 circumstances of the case, “motions to dismiss or in the alternative for summary
15 adjudication” are discouraged. These composite motions tend to blur the distinctions
16 between the two motions.

17 h. **Motions in Limine**: Before filing any motion in limine, counsel for
18 the parties shall confer pursuant to Local Rule 7-3 in a good faith effort to eliminate the
19 necessity for hearing the motion in limine or to eliminate as many of the disputes as
20 possible. It shall be the responsibility of counsel for the moving party to arrange for
21 this conference. The motion papers must include a declaration showing a good faith
22 meet and confer effort. The conference shall take place **in person** within 10 calendar
23 days of service upon opposing counsel of a letter requesting such a conference, but in
24 no event later than twenty-one days before the Pretrial Conference. The conference
25 may take place by via video conference call or telephone **only if** both counsel are not
26 located in the same county in the Central District.

27 If counsel are unable to resolve their differences, they shall prepare a separate,
28 sequentially-numbered Motion in Limine for each issue in dispute which contains a

1 clear caption that identifies the moving party and the nature of the dispute (i.e.,
2 “Plaintiff’s Motion in Limine #1 to exclude the testimony of Defendant’s expert”).
3 **Neither party may file more than five (5) Motions in Limine absent leave of Court**
4 **upon a showing of good cause, and leave of Court will be granted sparingly.**
5 **Motions in Limine in excess of a party’s first five will be stricken.** Each Motion in
6 Limine shall contain a clear identification of the testimony, exhibits, or other specific
7 matters alleged to be inadmissible and/or prejudicial and a statement of the specific
8 prejudice that will be suffered by the moving party if the motion is not granted. The
9 identification of the matters in dispute shall be followed by the moving party’s
10 contentions and memorandum of points and authorities. The title page of the Motion
11 in Limine must state the Pretrial Conference date, hearing date for the motions in limine,
12 and the Trial date.

13 Motions in Limine made for the purpose of precluding the mention or display of
14 inadmissible and/or prejudicial matter in the presence of the jury shall be accompanied
15 by a declaration that includes the following: (1) a clear identification of the specific
16 matter alleged to be inadmissible and/or prejudicial; (2) a representation to the Court
17 that the subject of the motion in limine has been discussed with opposing counsel, and
18 that opposing counsel has either indicated that such matter will be mentioned or
19 displayed in the presence of the jury before it is admitted in evidence or that counsel
20 has refused to stipulate that such matter will not be mentioned or displayed in the
21 presence of the jury unless and until it is admitted in evidence; and (3) a statement of
22 the specific prejudice that will be suffered by the moving party if the motion in limine
23 is not granted. A motion to bifurcate trial may be filed as a motion in limine.

24 **All evidence in support of or in opposition to a motion in limine, including**
25 **declarations and exhibits to declarations, shall be separated by a tab divider on**
26 **the bottom of the page.** If evidence in support of or in opposition to a motion in limine
27 exceeds twenty pages, the evidence must be in a separately bound volume and include
28 a Table of Contents. Though strongly discouraged, if by necessity the supporting

1 evidence exceeds fifty pages, the documents shall be placed in a Slant D-Ring binder
2 with each item of evidence separated by a tab divider on the right side. All documents
3 contained in the binder should be three-hole-punched. For items not conducive to paper
4 format, USC drives should be submitted in lieu of compact discs.

5 Unless otherwise ordered by the Court, motions in limine will be heard on the
6 date specified on the last page of this Order. The moving party shall file with the Court
7 and serve its Motion in Limine on the responding party on or before the date for filing
8 of motions in limine indicated in the Schedule of Trial and Pretrial Dates. The
9 responding party shall then file with the Court and serve an opposition to the Motion in
10 Limine on the moving party on or before the date specified on the last page of this
11 Order. **Neither party's submissions with respect to a Motion in Limine shall exceed**
12 **eight (8) pages. Unless ordered otherwise, the Court will only consider the moving**
13 **papers and any opposition thereto; no replies are necessary or invited.**

14 i. **Motions for Class Certification**: All motions for class certification
15 must be filed according to Local Rule 23-3 and on or before the date specified on the
16 last page of this Order. The Court will rarely grant stipulations or applications to extend
17 that deadline. Specifically, the failure to complete class discovery before the deadline
18 does not constitute good cause to extend the deadline, unless the parties show specific
19 and concrete reasons why, despite their diligence, the failure to complete discovery was
20 **unavoidable**. The Court will consider extensions based on the ordering of issues (e.g.,
21 if the defendant seeks to file a dispositive motion before class certification) on a case-
22 by-case basis. Any stipulations or applications for relief must include a specific date
23 by which the plaintiff will move for class certification (**the Court will not grant an**
24 **open-ended extension**).

25 j. **Oral Argument**: The Court, in its discretion, may dispense with
26 oral argument on a motion. Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15. However, the
27 Court also encourages law firms to contribute to the professional development of new
28 attorneys by allowing them to present oral argument to the Court on motions. To that

1 end, if any party to a motion files a notice with the Court stating that an attorney with
2 **less than four years' experience** will present oral argument, the Court will hold a
3 hearing on that motion. This notice must be filed no later than **fourteen days** before
4 the hearing. The Court will take into account the attorney's inexperience when
5 considering their oral arguments.

6 7. **Final Pretrial Conferences and Local Rule 16 Filings**

7 Please read this portion carefully, as there are some differences between the
8 Court's requirements and the Local Rules.

9 **a. General Provisions**

10 The Final Pretrial Conference ("PTC") will be held on the date specified on the
11 last page of this Order, unless the Court expressly waived the PTC at the Scheduling
12 Conference. (In the rare cases where the Court waives a PTC, the parties must follow
13 Local Rule 16-10.) If adjustments in the Court's calendar to accommodate congestion
14 become necessary, the Court may re-schedule the PTC instead of the trial date.
15 Therefore, the parties should assume that if the PTC goes forward, the trial will go
16 forward without continuance, although some brief period of trailing may prove
17 necessary.

18 The lead trial attorney on behalf of each party shall attend both the PTC and all
19 meetings of the parties in preparation for the PTC, unless excused for good cause shown
20 in advance of the PTC.

21 A continuance of the PTC at the parties' request or by stipulation is highly
22 unlikely. **Specifically, failure to complete discovery is not a ground for**
23 **continuance**. In the unlikely event that the Court agrees to continue the PTC, the trial
24 date is likely to be delayed as a result. If a change to the trial date is necessitated or
25 likely because of the Court's calendar or otherwise, modifications of that date will be
26 discussed at the PTC.

27 At the PTC, the parties should be prepared to discuss means of streamlining the
28 trial, including, but not limited to the following: bifurcation; presentation of

1 foundational and non-critical testimony and direct testimony by deposition excerpts;
2 narrative summaries and/or stipulations as to the content of testimony; presentation of
3 testimony on direct examination by affidavit or by declaration subject to
4 cross-examination; and qualification of experts by admitted resumes. The Court will
5 also discuss settlement.

6 **b. Courtesy Copies**

7 The parties must submit courtesy copies of all PTC documents, to be prepared
8 and delivered to chambers as follows:

9 (i) **One copy** of all PTC documents (i.e., both plaintiff’s documents and
10 defendant’s documents) shall be delivered to the Court in **one**
11 **three-ring binder**;

12 (ii) Each document shall be separated by numerical side-tabs, and shall
13 be placed in the following order: (1) Proposed Pretrial Conference
14 Order; (2) Plaintiff’s Memorandum and Contentions of Facts and
15 Law; (3) Defendant’s Memorandum and Contentions of Facts and
16 Law; (4) Joint Witness List; (5) Joint Exhibit List and Stipulation;
17 (6) Plaintiff’s Proposed Verdict Form; (7) Defendant’s Proposed
18 Verdict Form; (8) Joint Proposed Jury Instructions; (9) Plaintiff’s
19 Disputed Jury Instructions; (10) Defendant’s Disputed Jury
20 Instructions; (11) Joint Statement of the Case; (12) Proposed Voir
21 Dire Questions; (13) Joint Report re: Settlement; and (14) Other
22 Pretrial documents; and

23 (iii) The binder shall include a Table of Contents.

24 **c. Final Pretrial Conference Order (“PTCO”)**

25 The proposed PTCO shall be lodged seven calendar days before the PTC, unless
26 the Court specifically orders otherwise. Adherence to this time requirement is necessary
27 for in-chambers preparation of the matter. The form of the proposed PTCO shall
28 comply with **Appendix A to the Local Rules** and the following:

- 1 (i) Place in “**ALL CAPS AND BOLD**” the separately numbered
2 headings for each category in the PTCO (e.g., “**1. THE PARTIES**”
3 or “**7. CLAIMS AND DEFENSES OF THE PARTIES**”).
- 4 (ii) Include a Table of Contents at the beginning.
- 5 (iii) In specifying the surviving pleadings under section 1, state which
6 claims or counterclaims have been dismissed or abandoned, e.g.,
7 “Plaintiff’s second cause of action for breach of fiduciary duty has
8 been dismissed.” Also, in multiple party cases where not all claims
9 or counterclaims will be prosecuted against all remaining parties on
10 the opposing side, please specify to which party each claim or
11 counterclaim is directed.
- 12 (iv) In specifying the parties’ claims and defenses under section 7, each
13 party shall closely follow the examples set forth in Appendix A of
14 the Local Rules.
- 15 (v) In drafting the PTCO, **the Court expects that the parties will**
16 **attempt to agree on and set forth as many non-contested facts as**
17 **possible.** The Court will usually read the uncontested facts to the
18 jury at the start of trial. A carefully drafted and comprehensively
19 stated stipulation of facts will reduce the length of trial and increase
20 jury understanding of the case. **It is unacceptable for the parties**
21 **to indicate in the Proposed Pretrial Conference Order that they**
22 **are not able to stipulate to any facts whatever.**
- 23 (vi) In drafting the factual issues in dispute for the PTCO, the parties
24 should attempt to state issues in ultimate fact form, not in the form
25 of evidentiary fact issues. The issues of fact should track the
26 elements of a claim or defense on which the jury will be required to
27 make findings.
- 28

- 1 (vii) Issues of law should state legal issues on which the Court will be
2 required to rule during the trial, and should not list ultimate fact
3 issues to be submitted to the trier of fact.
- 4 (viii) The Court may submit fact issues to the jury in the form of findings
5 on a special verdict. The issues of fact should track the elements of
6 a claim or defense on which the jury will be required to make
7 findings.
- 8 (ix) If expert witnesses are to be called at trial, each party must list and
9 identify its respective expert witnesses, both retained and non-
10 retained. Failure of a party to list and identify an expert witness in
11 the PTCO could result in a court order which precludes the party
12 from calling that expert witness at trial.
- 13 (x) The parties shall submit only ONE proposed PTCO. **It is**
14 **unacceptable to submit multiple or competing proposed**
15 **PTCOs.** See Local Rule 16-7.

16 d. **Rule 16 Filings; Memoranda; Witness Lists; Exhibit Lists**

17 Unless otherwise indicated, the parties must comply fully with the requirements
18 of Local Rule 16. See the last page of this Order for applicable dates.

19 Memoranda and Contentions of Fact and Law

20 Memoranda of Contentions of Fact and Law shall be filed by the date listed in
21 this Scheduling Order, and shall comply with the requirements set forth in Local
22 Rule 16-4. The parties are strongly encouraged to submit one joint Memorandum where
23 possible.

24 Joint Witness List

25 Counsel shall prepare a **joint** list of their witnesses, including a brief summary
26 (two to three paragraphs) of each witness's expected testimony, **what makes the**
27 **testimony unique** from any other witness testimony, **an estimate of the length of time**
28 needed for direct examination of each side's own witnesses and an estimate for the cross

1 examination of opposing witnesses, and whether the witness will testify by deposition
2 or in person. The joint witness list shall be filed at the same time counsel lodge the
3 PTCO. If a party intends to offer deposition testimony into evidence at trial, the party
4 shall designate the relevant portions of the deposition testimony to be read at trial and
5 advise opposing counsel of same. Opposing counsel shall then designate any additional
6 portions of such deposition testimony which counsel intends to offer in evidence. **All**
7 **objections to any such designated deposition testimony shall be made in writing**
8 **and filed at the same time counsel lodge the PTCO** so that the Court may consider
9 whether ruling on the objections will facilitate trial or result in the disposition of
10 evidentiary matters that may assist continuing settlement negotiations.

11 If expert witnesses are to be called at trial, each party shall list and identify their
12 respective expert witnesses. Failure of a party to list and identify an expert witness may
13 preclude a party from calling that expert witness at trial. If expert witnesses are to be
14 called at trial, the parties shall exchange at the PTC short narrative statements of the
15 qualifications of the expert and the testimony expected to be elicited at trial. Previously
16 prepared and exchanged expert reports shall not substitute for the narrative statements
17 required.

18 **On the first day of trial, the parties must lodge with the Court three (3)**
19 **copies of the witness list**, which shall include the names of the witness in the
20 approximate order in which they may be called to testify.

21 Joint Exhibit List and Exhibit Stipulation

22 The parties shall prepare a joint Pretrial Exhibit Stipulation that shall contain each
23 party's numbered list of all trial exhibits, with objections, if any, to each exhibit
24 including the basis of the objection and the offering party's response. All exhibits to
25 which there is no objection shall be deemed admitted. The parties shall stipulate to the
26 authenticity of exhibits whenever possible, and the Pretrial Exhibit Stipulation shall
27 identify any exhibits for which authenticity has not been stipulated and the specific
28 reasons for the parties' failure to stipulate.

1 The Pretrial Exhibit Stipulation shall be substantially in the following form:

2
3 **Pretrial Exhibit Stipulation**

4 **Plaintiff(s)/Defendant(s)' Exhibits**

5 **Number** **Description** **If Objection, State Grounds** **Response to Objection**

6
7 The Pretrial Exhibit Stipulation shall be filed at the same time counsel lodge the
8 proposed PTCO. Failure to comply with this paragraph could be deemed to constitute
9 a waiver of all objections. However, **do not submit** blanket or boilerplate objections
10 to the opposing party's exhibits. These will be disregarded and overruled. **NOTE:**
11 Counsel are instructed not to bring excessive exhibits to trial, but only those exhibits
12 that are reasonably expected to actually be used.

13 All counsel are to meet not later than ten (10) days before trial and to stipulate so
14 far as is possible as to authenticity, foundation, waiver of the best evidence rule, and to
15 those exhibits which may be received into evidence at the start of trial. The exhibits to
16 be so received will be noted on the copies of the exhibit lists.

17 **On the first day of trial, the parties must lodge with the Court Clerk three**
18 **(3) copies of the of the final exhibit list.**

19 **Jury Instructions/Special Verdict Forms**

20 The parties shall make every attempt to agree upon the jury instructions before
21 submitting them to the Court. **It is expected that counsel will agree on the substantial**
22 **majority of jury instructions.** This is in addition to the standard cautionary and
23 introductory instructions regarding duties of the jury, the order of the trial, etc. found in
24 Chapters 1, 2 & 3 of the *9th Circuit Manual of Model Jury Instructions*. The Court
25 requires little or no assistance in the preparation of these standard instructions.
26 Counsel's attention should be focused on reaching agreement on the instructions
27 covering the substantive legal issues. It is anticipated that working diligently and
28 cooperatively counsel will be able to reach agreement on the vast majority of the

1 substantive instructions. **Judicial involvement will be limited to resolving disputes**
2 **on only a few instructions on which the parties are unable to agree.**

3 On the date listed in this Scheduling Order, counsel shall file with the Court a
4 **JOINT** set of jury instructions on which there is agreement. Defendant's counsel has
5 the burden of preparing the joint set of jury instructions. At the same time, each party
6 shall file its proposed jury instructions which are objected to by any other party,
7 accompanied by points and authorities in support of those instructions.

8 When the parties disagree on an instruction, the party opposing the instruction
9 must attach a short statement (one to two paragraphs) supporting the objection, and the
10 party submitting the instruction must attach a short reply supporting the instruction.
11 Each statement should be on a separate page and should follow directly after the
12 disputed instruction.

13 The parties ultimately must submit one document, or if the parties disagree over
14 any proposed jury instructions, three documents. The three documents shall consist of:
15 (1) a set of Joint Proposed Jury Instructions; (2) Plaintiff's Disputed Jury Instructions;
16 and (3) Defendant's Disputed Jury Instructions. Any disputed Jury Instructions shall
17 include the reasons supporting and opposing each disputed instruction in the format set
18 forth in the previous paragraph.

19 **The parties are encouraged to consider whether the Court should give**
20 **preliminary instructions to the jury on the substantive issues they will be called**
21 **upon to decide. Should the parties elect to give preliminary instructions, those**
22 **substantive instructions should be produced to the Court on the first day of trial.**

23 The Court directs counsel to use the instructions from the *Manual of Model Jury*
24 *Instructions for the Ninth Circuit* where applicable. Where California law is to be
25 applied and the above instructions are not applicable, the Court prefers counsel to use
26 the California Jury Instructions in CACI. If none of these sources is applicable, counsel
27 are directed to use the instructions in Devitt, Blackmar and Wolff, *Federal Jury Practice*
28 *and Instructions*. Modifications of instructions from the foregoing sources (or any other

1 form instructions) must specifically state the modification made to the original form
2 instruction and the authority supporting the modification. **The Court will consider**
3 **special jury instructions not derived from these sources only in exceptional**
4 **circumstances.**

5 Each requested instruction shall be in the format specified by Local Rule 51-2
6 and shall be set forth in full; be on a separate page with the caption "COURT'S
7 INSTRUCTION NUMBER ___"; be numbered; cover only one subject or principle of
8 law; not repeat principles of law contained in any other requested instructions; and cite
9 the authority for a source of the requested instruction. In addition to the foregoing, each
10 party shall file with the Courtroom Deputy Clerk (CRD) on the first day of trial a "clean
11 set" of the aforesaid requested duplicate jury instructions. The "clean set" shall not cite
12 the authority for a source of the requested instruction.

13 An index page shall accompany all jury instructions submitted to the Court. The
14 index page shall indicate the following:

- 15 • the number of the instruction;
- 16 • a brief title of the instruction;
- 17 • the source of the instruction and any relevant case citation; and
- 18 • the page number of the instruction.

19
20 ***EXAMPLE:***

21 <u>NO.</u>	<u>TITLE</u>	<u>SOURCE</u>	<u>PAGE NO.</u>
22 5	Evidence for Limited Purpose	9th Cir. 1.5	9

23
24 During the trial and again before argument, the Court will meet with counsel and
25 settle the instructions. Strict adherence to time requirements is necessary for the Court
26 to examine the submissions in advance so that there will be no delay in starting the jury
27 trial, or the final instructions to the jury and the closing arguments of counsel. **Failure**
28 **of counsel to strictly follow the provisions of this section may subject the**

1 **non-complying party and/or its attorney to sanctions and SHALL CONSTITUTE**
2 **A WAIVER OF JURY TRIAL in all civil cases.**

3 Joint Statement of the Case and Requests for Voir Dire

4 At the PTC, the parties shall file their proposed voir dire questions and their joint
5 Statement of the Case which the Court will read to all prospective jurors prior to the
6 commencement of voir dire. The statement should not be longer than two or three
7 paragraphs, and should not contain any argument nor an excessive amount of
8 information. The Statement of the Case is merely to advise the prospective jurors of
9 the general nature of the case, i.e. securities law violations, bank robbery, copyright
10 infringement, etc.

11 The Court conducts voir dire of all prospective jurors. The parties need not
12 submit requests for standard voir dire questions such as education, current occupations,
13 marital status, prior jury service, etc., but should include only proposed questions
14 specifically tailored to the parties and issues of the case.

15 **e. First Day of Trial**

16 Trial Exhibits

17 Counsel must deliver two sets of exhibits to the Court Clerk (one for witnesses
18 and one for the Judge) on the morning of the first day of trial as follows:

19 (i) Judge's Copy: Counsel are to prepare the Judge's copy of the
20 exhibits by placing them in 3-ring binders. The holes are to be 3/8"
21 in diameter. The notebooks are to be tabbed down the right side
22 with numeric tabs separating each exhibit.

23 (ii) Witnesses' Copy: Counsel are to prepare the Witnesses' copy of the
24 exhibits by placing each exhibit in its own separate manilla folder.
25 Each manilla folder should have a tab on the right side with the
26 exhibit number written on it. The manilla folders should be put in a
27 box in numerical order, with the tabs facing upward. The exhibits
28 used in this folder should be the original exhibits, and should be

1 tagged with Court-approved tags. Court-approved exhibit tags can
2 be obtained from the window on the 4th Floor of the U.S.
3 Courthouse, Los Angeles, CA 90012.

4 The exhibits are to be numbered sequentially, with Plaintiff's exhibits numbered
5 1, 2, 3, etc. and Defendant's exhibits numbered 1000, 1001, 1002, etc. Exhibit
6 numbering must further comply with Local Rule 26-3.

7 Deposition Transcripts

8 The complete original transcript of any depositions to be used at trial shall be
9 lodged with the Court on the first day of trial.

10 First Day of Trial

11 The Court requires that the following be submitted to the Courtroom Deputy
12 Clerk on the first day of trial (which is **in addition to any other documents** referenced
13 above):

- 14 (i) Judge's copy of exhibits (as described above).
- 15 (ii) Witnesses' copy of exhibits (as described above).
- 16 (iii) Any preliminary instructions the parties have agreed may be read to
17 the jury before the presentation of evidence.
- 18 (iv) Three (3) copies of the exhibit list.
- 19 (v) Three (3) copies of the witness list, which shall include the names
20 of the witness in the approximate order in which they may be called
21 to testify.

22 All counsel are to meet not later than ten (10) days before trial and to stipulate so
23 far as possible as to foundation, waiver of the best evidence rule, and to those exhibits
24 which may be received into evidence at the start of trial. The exhibits so received will
25 be noted on the copies of the exhibit lists.

26 **Any items that have not been admitted into evidence and are left in the**
27 **courtroom overnight without prior approval will be discarded.**

28 ///

1 Real-Time Reporting Requirement

2 Each party must file with the Court, at the same time counsel lodges the PTCO,
3 a document for the Court Reporter that contains proper names, unusual or scientific
4 terms, or any other foreign or uncommon words that are likely to be used by the parties
5 during the PTC and the Trial.

6 8. Settlement

7 This Court will not conduct settlement conferences in non-jury cases unless
8 counsel for all parties and their respective clients agree either in writing or on the record.
9 In jury cases, the Court will conduct a settlement conference at the parties' joint request
10 if three conditions exist:

- 11 (a) The parties are satisfied that the fact issues in the case will be tried
12 by a jury;
- 13 (b) All significant pre-trial rulings which the Court must make have
14 been made; and
- 15 (c) The parties desire the Court to conduct the conference,
16 understanding that if settlement fails, the Court will preside over
17 trial of the case.

18 The parties must file a Status Report regarding settlement at the time they lodge
19 the proposed PTCO. This Report shall not disclose the parties' settlement positions,
20 i.e. the terms of any offers or demands. It shall merely describe the efforts made by the
21 parties to resolve the dispute informally, i.e. the occasions and dates when the parties
22 participated in mediation or settlement conferences. The Status Report shall also
23 include the name and phone number of the Settlement Officer who assisted the parties
24 with their settlement conference.

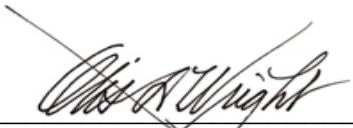
25 **Caveat: If counsel fail to file the required Pretrial documents or fail to**
26 **appear at the Pretrial Conference and such failure is not otherwise satisfactorily**
27 **explained to the Court: (a) the cause shall stand dismissed for failure to prosecute**
28 **if such failure occurs on the part of the plaintiff; (b) default judgment shall be**

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entered if such failure occurs on the part of the defendant; or (c) the Court may take such action as it deems appropriate.

IT IS SO ORDERED.

December 15, 2023



OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE

JUDGE OTIS D. WRIGHT, II
SCHEDULING OF TRIAL AND PRE-TRIAL DATES

Event	Date
Jury Trial at 9:00 a.m. Estimated Length: XX days	Tuesday
Last Date to File Final Trial Exhibit Stipulation	5 days before trial
Hearing on Motions in Limine at 1:30 p.m.	1 week and 1 day before trial
Pretrial Conference at 1:30 p.m.	3 weeks and 1 day before trial
Deadline to File Motions in Limine	3 weeks and 6 days before trial
Deadline to File: <ul style="list-style-type: none"> • Proposed Pretrial Conference Order; • Memoranda and Contentions of Fact and Law; • Joint Witness List; • Joint Exhibit List and Exhibit Stipulation; • Proposed Verdict Form(s); • Proposed Jury Instructions / Disputed Jury Instructions; • Proposed Voir Dire Questions; • Joint Statement of the Case • Joint Report re: Settlement • Objections to Deposition Designations 	4 weeks and 1 day before trial
Last Date for Hearing Motions*	10 weeks and 1 day before trial
Last Date to Conduct Settlement Conference	11 weeks and 1 day before trial
Expert Discovery Cutoff	14 weeks and 1 day before trial
Percipient/Fact Discovery Cutoff	17 weeks and 1 day before trial
Last Date to Hear Motions to Amend Pleadings or Add Parties	12 weeks after Sch. Conference

Updated December 26, 2023

* This does not apply to motions for class certification, which **must** be filed in accordance with Local Rule 23-3 unless the Court expressly orders otherwise.