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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

,
Plaintiff(s),
v.
,
Defendants(s).

Case No.
**CIVIL PRETRIAL AND TRIAL
ORDER**
[updated 3/1/24]

<p style="text-align: center;"><u>TABLE OF CONTENTS</u></p> <p>1. Pretrial Conference</p> <p>2. Trial: Conduct of Attorneys and Parties</p>
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1 **1. PRETRIAL CONFERENCE**

2 **a. The Conference.** A final pretrial conference (PTC) date has been set
3 pursuant to Fed. R. Civ. P. 16 and Local Rule (L.R.) 16-8. Each party
4 must be represented at the PTC by its lead trial counsel. Counsel
5 should be prepared to discuss streamlining the trial, including the
6 following matters:

- 7 i. Jury selection procedures;
- 8 ii. Witnesses each party intends to call, including (1) the time
9 anticipated for each witness (direct and cross), (2) any witness
10 scheduling issues or special needs (e.g., interpreter); and
11 (3) whether any deposition will be used in lieu of live
12 testimony;¹
- 13 iii. Evidentiary issues, including anticipated objections to exhibits,
14 opening statements, or closing arguments;
- 15 iv. Stipulations (which must be reduced to writing and included as
16 an exhibit);
- 17 v. Pretrial motions, including motions in limine, motions to
18 bifurcate, and motions to sever;
- 19 vi. Jury instructions, including any disputed jury instructions; and
20 vii. Time limits.

21 **b. Pretrial Conference Documents.** The PTC documents shall be filed
22 according to the schedule immediately below (unless superseded by a
23 subsequent specific order) and in compliance with the instructions in

24
25 ¹ Remote testimony is disfavored because technology limitations almost inevitably
26 interrupt the presentation of the evidence and may affect witness evaluation. When
27 remote testimony is allowed, the Court prefers the parties to conduct a videotaped
28 deposition in lieu of live testimony. The parties are warned that if the Court permits
 either remote testimony or videotaped deposition testimony, *the parties bear the risk*
 that technological difficulties may foreclose their ability to present the evidence.

1 Section 1(c) below. The parties also must file a PTC binder as set forth
2 in Section 1(b)(ii) below.

3 i. Schedule.

4 At least *four weeks* before the PTC, the parties must file:

- 5 • Memoranda of contentions of fact and law;
- 6 • Joint² witness list;
- 7 • Joint exhibit list;
- 8 • Joint status report on settlement;
- 9 • Requests for judicial notice;
- 10 • Proposed findings of fact and conclusions of law (court
11 trial);³ and
- 12 • Direct testimony declarations, if ordered (court trial).

13 At least *two weeks* before the PTC, the parties must file:

- 14 • Proposed PTC order;
- 15 • Joint proposed jury instructions;
- 16 • Joint verdict forms;
- 17 • Joint statement of the case;
- 18 • Proposed voir dire questions, if any;
- 19 • Challenged exhibits table;
- 20 • Joint motions in limine;
- 21 • Deposition designations *as to which the parties have any*

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24 ² A joint filing (e.g., joint witness list) does not simply mean combining each party's
25 individual filing into a single document. Parties must meet and confer to resolve
26 disputes wherever possible and to avoid duplication or conflicting information in the
joint filing. Any remaining disputes must be clearly noted in the joint filing.

27 ³ Proposed findings and conclusions and witness declarations are required only in
28 court trials. The parties in a court trial do not need to submit jury documents (i.e.,
voir dire questions, statement of the case, jury instructions, and verdict forms).

1 The PTC documents must comply with L.R. 16, except as
2 modified in Section 1(c) below. The format of the proposed PTC
3 order must conform to the format set forth in Appendix A to the
4 Local Rules. Failure to comply may result in the continuance of
5 the PTC and sanctions.

6 **c. Instructions on PTC Documents.**

- 7 i. Memoranda of Contentions of Law and Fact. Each party is
8 limited to 20 pages for their memorandum of contentions of law
9 and fact and should follow the Court's general requirements for
10 formatting motions set forth in the Court's Civil Standing Order.
11 Jointly represented parties must submit a single memorandum.
12 ii. Joint Witness List. The parties must submit a joint witness list
13 that includes a brief description (one or two paragraphs) of the
14 testimony and a time estimate for both direct and cross-
15 examination (separately stated), as follows:

<u>Plaintiff</u>	
1. John Smith	50 min. (30 min. direct/20 min. cross)
He will testify _____.	

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19 List the plaintiff's witnesses first followed by the defendant's
20 witnesses. The failure to provide a specific description of the
21 anticipated testimony may result in exclusion of evidence or
22 reduced time allocated for the witness. The parties shall meet to
23 prepare this joint witness list no later than *two weeks* before the
24 first pretrial filing deadline, and continuing as necessary, and
25 shall cooperate in reasonably identifying the time needed for
26 direct examination and cross-examination on each subject. The
27 parties must provide *realistic* estimates that demonstrate a
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serious assessment of trial needs. A party that provides “conservative” estimates may be required to submit declarations or detailed offers of proof for each witness to allow for a more realistic assessment.

In addition, the parties are to provide a “clean” version of the joint witness list to be read to the jury panel during voir dire. The clean version should contain only the names of potential witnesses listed in alphabetical order. Include dates of birth for common names.

iii. Joint Exhibit List. The parties shall submit a joint exhibit list that conforms to the requirements of L.R. 16-6.

Whole Exhibits. At trial, each exhibit must be introduced for admission as a whole rather than a portion thereof (because the Court does not admit a portion of an exhibit). For example, if a party seeks to introduce a portion of a business record, the portion to be introduced must be presented as its own exhibit. This applies to all evidence, including photographs. If the parties did not organize their exhibits in that manner, they must meet and confer to address this issue and raise it at the PTC.

Disputes. To the extent that the parties disagree about the admissibility of exhibits, they must meet and confer to determine if each challenged exhibit will be introduced and if the objection can be resolved by discussion of the merits of the objection or a stipulation of fact in lieu of the use of the exhibit. If the parties are unable to resolve the objections, they must separately provide *14 days before the PTC* a joint document entitled “Challenged Exhibits Table.” The Court expects counsel to act in good faith

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to narrow this list to a bare minimum. The challenged exhibits must be presented in table form below in exhibit number order with the first four columns completed by the parties (identifying the objecting and responding parties as noted below):

<u>Ex. No.</u>	<u>Description</u>	<u>Objection</u>	<u>Response</u>
		Π:	Δ:

iv. Joint Jury Instructions.

Agreement. The Court expects counsel to agree on almost all the jury instructions, particularly when pattern or model instructions provide a statement of applicable law.

Model Instructions. When the Manual of Model Jury Instructions for the Ninth Circuit provides an applicable jury instruction, submit the most recent version, modified and supplemented to fit the circumstances of this case. Where California law applies, use the current edition of the Judicial Council of California Civil Jury Instructions (CACI). If neither is applicable, consult the current edition of O’Malley, et al., Federal Jury Practice and Instructions.

Exchange. The parties must exchange their respective proposed jury instructions and special verdict forms *14 days before* the L.R. 16-2 meeting and must exchange their respective objections to the other’s instructions and verdict forms 10 days before that meeting.

Filing. Fourteen days before the PTC, counsel must file a joint set of jury instructions on which there is agreement—making sure to *fill in all blanks or bracketed information* in standard

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forms. For any disputed instruction, the parties shall submit the following: the proposed instruction; a one-paragraph statement in support of the instruction with legal citations; a one-paragraph statement in opposition to the instruction with legal citations; and any proposed alternative instruction.

Each requested instruction must: (1) cite the authority or source of the instruction; (2) be set forth in full; (3) be on a separate page; (4) be numbered; (5) cover only one subject or principle of law; and (6) not repeat principles of law contained in any other requested instruction. Counsel may submit alternatives to these instructions *only if* counsel has a reasoned argument that they do not properly state the law or are incomplete.

Counsel must provide an index of all instructions submitted, which must include the following: (1) the instruction number; (2) the instruction title; (3) the instruction source (and any relevant case citations); and (4) the instruction page number.

Use a table with the following format:

<u>No.</u>	<u>Title</u>	<u>Source</u>	<u>Page No.</u>
1	Trademark-Defined	9th Cir. 8.5.1	1

As part of the PTC binder, counsel must provide a hard and electronic copy of: (1) the joint set of instructions and disputed instructions as described above; and (2) a “clean” set of jury instructions, numbered in list format, containing only the text of the instruction (without a page break between each instruction). For the clean set, counsel *must* use the Court’s [template](#) posted at the bottom of its webpage and follow the exact format.

- 1 v. Statement of the Case. At the time of filing the proposed PTC
2 order, counsel should file a jointly prepared one-page statement
3 of the case to be read by the Court to the prospective panel of
4 jurors before commencement of voir dire.
- 5 vi. Voir Dire. The Court will conduct the voir dire. The Court asks
6 basic questions to obtain biographical information and determine
7 whether a prospective juror can be fair given the type of case.
8 Counsel may, but are not required to, file a short list (*no more*
9 *than one or two pages*) of proposed case-specific voir dire
10 questions at the time they file the proposed PTC order. Eight
11 jurors will be selected, unless the Court indicates otherwise.
- 12 vii. Joint Motions in Limine (JMILs). If the parties file motions in
13 limine (including *Daubert* motions), they must adhere to the
14 JMIL procedures below, including a thorough meet and confer.
15 Failure to cooperate and comply with these procedures may
16 result in summary denial of the JMIL and/or the imposition of
17 sanctions. Each party is limited to *five* motions in limine, absent
18 leave of Court. JMILs should identify *specific* evidence to which
19 the opposing party has expressly objected. Motions that
20 generally seek to exclude evidence or argument—e.g., “evidence
21 not produced in discovery,” “opinions not disclosed in an expert
22 report or deposition,” the “reptile theory” or “golden rule”
23 argument—are improper. A party with a general concern must
24 meet and confer with the opposing party to determine if there is
25 *specific* objectionable evidence or argument that will be
26 introduced. Also, JMILs should not be disguised motions for
27 summary adjudication of issues.
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- Meet and Confer. Before filing a JMIL, the moving party shall send a letter identifying the evidence to be excluded, the specific terms of the order sought, and the rationale and supporting authority. Counsel shall meet within five calendar days of the letter. If unable to resolve the issue, counsel shall follow the briefing schedule below and file a JMIL consisting of: (1) the moving party’s one-sentence statement in bold of the evidence to be excluded and the anticipated prejudice; and (2) each party’s contentions set forth below a separate underlined heading for each party (identifying the moving party, the opposing party, and the moving party in reply). The moving party must include a one-page declaration at the end of each JMIL demonstrating that counsel discussed in good faith the specific evidence or argument at issue.
- Briefing Schedule. (1) The moving party’s portion of the JMIL is due 25 days before the PTC; (2) the opposing party’s portion of the JMIL is due 18 days before the PTC; and (3) the moving party’s reply portion is due 14 days before the PTC. All JMILs must be filed and served at least 14 days before the PTC.
- Page Limits. Five pages for the moving portion; five pages for the opposing portion; and three pages for the reply portion.
- Daubert Motions. For complicated *Daubert* motions, the parties may request relief from the page limits and/or briefing schedule ahead of the relevant deadlines. The

1 requirements to meet and confer and submit a joint filing
2 will remain.

- 3 • Rulings. The Court reserves the right to defer ruling on one
4 or more of the motions until trial and the right to change its
5 ruling at trial based on the development of the evidence that
6 it did not appreciate or “anticipate at the time of its initial
7 ruling.” *United States v. Bensimon*, 172 F.3d 1121, 1127
8 (9th Cir. 1999). In the event that a party believes in good
9 faith that the evidence at trial warrants reconsideration of a
10 ruling, the party must raise the issue outside the presence of
11 the jury.
- 12 • Advising Witnesses. Counsel are required to advise affected
13 witnesses to comply with the Court’s rulings on JMILs; and
14 counsel may be held responsible if they fail to properly
15 advise them.

16 **2. TRIAL: CONDUCT OF ATTORNEYS AND PARTIES**

- 17 **a. Trial Procedures.** All counsel, parties, witnesses, court staff, and
18 members of the public must adhere to the trial procedures described
19 below.
 - 20 i. Food, Beverages, Cell Phones. No food or beverage other than
21 water is permitted in the courtroom. No cell phone is permitted
22 in the courtroom unless it is turned off; and it may be confiscated
23 if it interrupts the proceedings.
 - 24 ii. Timeliness. The parties and their counsel are ordered to be on
25 time. The Court requires strict compliance with this order.
 - 26 iii. Communication. All remarks at trial shall be addressed to the
27 Court. Counsel shall not directly address the CRD, the court
28 reporter, or opposing counsel without the Court’s permission;

1 and all requests to read back questions/answers or to place an
2 exhibit before a witness shall be addressed to the Court. Counsel
3 shall avoid having a conversation with anyone inside or outside
4 the courtroom that may be overheard by a juror or prospective
5 juror and shall admonish their clients and witnesses to comply
6 with this order.

7 iv. Movement. Counsel shall *rise* when addressing the Court and
8 when the jury enters or leaves the courtroom. Counsel shall
9 *remain at the lectern* when questioning a witness or giving an
10 opening statement or closing argument. Counsel shall not
11 approach the witness or enter the well without the Court’s
12 permission and shall return to the lectern when the permitted
13 purpose has been accomplished. Counsel shall *not leave counsel*
14 *table* to confer with investigators, witnesses, or others while
15 court is in session without the Court’s permission.

16 v. Objections. No “speaking objections” are allowed. Rise and
17 state only the legal grounds of the objection (e.g., “Objection,
18 hearsay”). If the Court invites either clarification of the legal
19 grounds for the objection or a response, do not abuse the
20 invitation by providing factual argument before the jury.

21 vi. Sidebars. Sidebar conferences are generally not permitted at the
22 request of counsel for evidentiary objections, especially for
23 issues that could have been anticipated. Counsel should
24 anticipate significant issues and schedule a hearing when the jury
25 is not waiting—e.g., before the jurors arrive or after they leave
26 for the day—and may submit short briefs.

27 vii. Exhibits. No exhibit shall be placed before a witness unless a
28 copy has been provided to the Court and opposing counsel. Nor

1 shall any exhibit be displayed to the jury unless previously
2 admitted or agreed upon by all counsel. Once approved, an
3 exhibit may be published by electronic projection, not by
4 handing it to the jurors. Each counsel should maintain an exhibit
5 list that notes when an exhibit has been admitted into evidence
6 and shall return any exhibit to the CRD before leaving the
7 courtroom at the end of the trial session.

8 viii. Stipulations. Counsel should not offer a stipulation without
9 having reached agreement with opposing counsel about its
10 precise terms.

11 ix. Witnesses. Counsel shall also comply with the rules below.

- 12 • *Available Witnesses*. Counsel shall have witnesses available
13 throughout the court day or risk being deemed to have
14 rested.
- 15 • *Recess*. After a recess or adjournment, counsel shall ensure
16 that his or her witness returns to the stand before trial
17 resumes.
- 18 • *Direction*. Counsel should provide direction to their
19 witnesses before they are called into the courtroom about
20 where to walk to approach the witness stand.
- 21 • *One Lawyer*. For each witness, a party may only have one
22 lawyer who examines, and handles objections for, the
23 witness.
- 24 • *Full Names*. During trial, counsel shall not refer to any
25 witness 18 years of age or older—including a client—by
26 first name.
- 27 • *Accommodation*. The parties should cooperate in
28 responding to reasonable, legitimate requests to call a

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witness out of sequence. Any accommodation dispute should be raised at the PTC (if possible).

- *Special Needs.* Counsel must notify the CRD in advance if a witness requires an interpreter or an accommodation under the Americans with Disabilities Act (or for any other reason).
- *Professionalism.* Counsel shall not express agreement or disagreement with witness testimony by comment, facial expression, or otherwise and shall admonish clients, family, and friends to comply with this order.
- *Pleasantries.* Counsel should avoid the exchange of pleasantries with witnesses on the stand.

x. Courtroom Technology. Any party intending to use courtroom technology during trial must review the information on Courtroom Technology on the Central District’s [website](http://www.cacd.uscourts.gov/clerk-services/courtroom-technology) (<http://www.cacd.uscourts.gov/clerk-services/courtroom-technology>) and must become familiar with all necessary equipment before trial. The Court will not delay the trial for technology issues that could have been avoided through reasonable planning; and the parties, in any event, should have a back-up plan. Any party intending to use equipment that is not regularly in the courtroom must notify the CRD at least one week before trial and obtain approval.

xi. Court Reporting Services. Any party requesting special court reporting services shall notify the reporter as least two weeks before the service date. Please review the Central District’s [webpage](#) on Court Reporting Services

1 (http://www.cacd.uscourts.gov/court-reporting-services) for
2 relevant information.

3 **b. Trial Exhibits.**

- 4 i. Stipulations. All counsel are to meet no later than ten days
5 before trial and stipulate, so far as possible, to foundation, waiver
6 of the best evidence rule, and those exhibits that may be received
7 into evidence at the start of the trial. The exhibits to be so
8 received should be noted on the Court's copy of the exhibit list.
- 9 ii. Numbering. Each multi-page exhibit must be numbered for easy
10 reference. In addition, a party is generally expected to include in
11 the exhibit only those portions of the document that will be
12 moved into evidence.
- 13 iii. Binders. Exhibits must be placed in three-ring binders indexed
14 by exhibit number with tabs or dividers on the right side.
15 Counsel must submit to the Court an original and copy of the
16 binders. The spine portion of the binder must indicate the
17 volume number, and each volume must contain an index of each
18 exhibit included therein.
- 19 iv. Delivery. The Court requires that the following be submitted to
20 the CRD on the first day of trial:
- 21 • One binder (or set of binders) of original exhibits with the
22 Court's exhibit tags, yellow tags for plaintiff and blue tags
23 for defendant, stapled to the front of the exhibit on the
24 upper right-hand corner with the case number, case name,
25 and exhibit number placed on each tag.
 - 26 ○ All exhibits (except those to be used for
27 impeachment only) should have official exhibit tags
28 attached and bear the same number shown on the

1 exhibit list. Digital exhibit tags are available on the
2 Court's [website](#) (Form G-14A plaintiff, Form G-
3 14B defendant) and may be used in place of the tags
4 obtained from the Clerk's office. The defense
5 exhibit numbers must not duplicate plaintiff's
6 numbers.

- 7 ○ If counsel intends to use an enlargement of an
8 existing exhibit, it must be designated with the
9 number of the original exhibit followed by an "A."
 - 10 ● One binder (or set of binders) with a copy of each exhibit
11 tabbed with numbers as described above for use by the
12 Court. (Exhibit tags are not necessary on these copies.)
 - 13 ● Three copies of the party's witness list in the order in which
14 the witnesses may be called to testify.
 - 15 ● Three copies of the joint exhibit list in the form specified in
16 L.R. 16-6 (Civil).

17 v. Display. Where a significant number of exhibits will be
18 admitted, the Court encourages counsel to consider how to
19 intelligibly present testimony about exhibits by use of technology
20 or otherwise (e.g., enlargements of important exhibits). The
21 Court has equipment available for use during trial. Details are
22 posted on the Court's [website](#). To make reservations for
23 training, call the Courtroom Technology Help Desk at 213-894-
24 3061. Counsel is responsible for learning the use of the
25 technology before trial. Trial will not be interrupted for this
26 purpose. The Court does not permit exhibits to be passed up and
27 down the jury box. Admitted exhibits (or exhibits to which
28 opposing counsel has expressed "no objection") may be

1 “published” by briefly displaying them on the screens in the
2 courtroom.

3 vi. Exhibit List (Jury). A copy of the exhibit list with all admitted
4 exhibits will be given to the jury during deliberations. Counsel
5 must review and approve the exhibit list with the CRD before the
6 list is given to the jury.

7 **c. Depositions.** A party intending to use a deposition for impeachment or
8 in lieu of live testimony must (1) file the deposition designations
9 together with objections 14 days before the PTC if there are any
10 objections or disputes requiring a ruling by the Court or (2) lodge the
11 original deposition with the CRD on or before the first day of trial if
12 there are no disputes. The untimely filing of the original deposition
13 may result in exclusion. In addition, each party intending to present
14 evidence by way of deposition testimony shall comply with the
15 following instructions:

16 i. Identify on the original transcript the testimony the party intends
17 to offer by bracketing the questions and answers in the margins.
18 The opposing party shall likewise counter-designate any
19 testimony it plans to offer.

20 ii. Identify any objections to the proffered evidence in the margins
21 of the deposition by briefly providing the ground for the
22 objection and the response to the objection.

23 iii. For all depositions offered in the case, the parties shall
24 consistently use different colored ink—black for plaintiff and
25 blue for defendant—for designations, counter-designations,
26 objections, and responses to objections.

27 iv. Provide an index for each deposition, placed behind the first
28 page of the deposition, identifying each page that contains a

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designation or counter-designation.

- v. Provide to the CRD an electronic copy of the above materials, including all designations, counter-designations, and objections.

The CRD will serve a copy of this Order personally or by mail on counsel for all parties to this action.

Date:

Stanley Blumenfeld, Jr.
United States District Judge