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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

,) Case No.: CV -AB (x)
Plaintiff(s),)
) **ORDER RE COURT TRIAL**
vs.) **I. DEADLINES**
) **II. TRIAL PREPARATION**
,) **III. CONDUCT OF**
Defendant(s).) **ATTORNEYS AND**
) **PARTIES**
) **Trial:**
) **Time: 8:30 a.m.**
)

I. DEADINES

Last Day to Add Parties/Amend Pleadings	
Non-expert Discovery Cut-off	
Expert Disclosure (Initial)	
Expert Disclosure (Rebuttal)	
Expert Discovery Cut-off	
Last Day to Hear Motions	
Last Day to Conduct ADR Proceeding	
Lodge Findings of Fact and Conclusions of Law, and Summaries of Direct Testimony	
Final Pretrial Conference and Hearing on Motions in Limine	_____, at 11:00 a.m.
Trial Date (Est. _____ Days)	_____, at 8:30 a.m.

1 **A. Parties/Pleadings**

2 The Court has established a cut-off date for adding parties or amending
3 pleadings. All motions to add parties or to amend the pleadings must be noticed to
4 be *heard* on or before the cut-off date. All unserved parties will be dismissed at
5 the time of the pretrial conference pursuant to Local Rule 16-8.1.

6 **B. Discovery and Discovery Cut-Off**

7 1. Discovery Cut-off: The Court has established a cut-off date for
8 discovery, including expert discovery, if applicable. This is not the date by which
9 discovery requests must be served; it is the date by which all discovery, *including*
10 *all hearings on any related motions*, is to be completed.

11 2. Discovery Disputes: Counsel are expected to comply with the
12 Federal Rules of Civil Procedure and all Local Rules concerning discovery.
13 Whenever possible, the Court expects counsel to resolve discovery problems
14 among themselves in a courteous, reasonable and professional manner. The Court
15 expects that counsel will adhere strictly to the Civility and Professionalism
16 Guidelines (which can be found on the Court’s website under Attorney
17 Information, Attorney Admissions).

18 3. Discovery Motions: Any motion challenging the adequacy of
19 discovery responses must be filed, served, and calendared sufficiently in advance
20 of the discovery cut-off date to permit the responses to be obtained before that date
21 if the motion is granted.

22 4. Depositions: All depositions shall commence sufficiently in
23 advance of the discovery cut-off date to permit their completion and to permit the
24 deposing party enough time to bring any discovery motions concerning the
25 deposition before the cut-off date. Given the requirements to “meet and confer”
26 and to give notice, in most cases a planned motion to compel must be discussed
27 with opposing counsel at least six weeks before the cut-off.

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1 5. Written Discovery: All interrogatories, requests for production
2 of documents and requests for admissions must be served sufficiently in advance
3 of the discovery cut-off date to permit the discovering party enough time to
4 challenge (via motion practice) responses deemed to be deficient.

5 6. Expert Discovery: All disclosures must be made in writing.
6 The parties should begin expert discovery shortly after the initial designation of
7 experts. The final pretrial conference and trial dates will not be continued merely
8 because expert discovery is not completed. Failure to comply with these or any
9 other orders concerning expert discovery may result in the expert being excluded
10 as a witness.

11 **C. Law and Motion**

12 The Court has established a cut-off date for the *hearing* of motions. All
13 motions must be noticed so that the *hearing* takes place on or before the motion
14 cut-off date.

15 **The Court will allow only one motion for summary judgment per party**
16 **in this case, and will not entertain cross-motions.** Counsel shall meet and confer
17 prior to summary judgment to determine which party will be the moving party and
18 which will be the opposing party on summary judgment. To the extent it is
19 appropriate based on undisputed facts and controlling principles of law, the Court
20 will *sua sponte* enter summary judgment in favor of the non-moving party pursuant
21 to Rule 56(f). If any party believes this is one of the rare instances in which there
22 is good cause to allow more than one summary judgment motion (including a
23 cross-motion) or to increase page limits on the moving papers, the party shall seek
24 leave from the court by a noticed motion setting forth good cause.

25 Counsel must provide chambers with Mandatory Chambers' Copies of the
26 following:

27 1. Civil Matters: initial pleadings (complaints, counterclaims,
28 cross-claims), Joint Rule 16(b)/26(f) Reports, motion papers (motions, oppositions,

1 replies, non-oppositions, and any related documents), trial documents (proposed
2 findings of fact and conclusions of law, exhibit list, witness list, and any related
3 disputes), ex parte applications for temporary restraining orders, and presentation
4 materials for patent cases.

5 2. Criminal Matters: motion papers (motions, oppositions, replies,
6 non-oppositions, and any related documents), plea agreement(s), and sentencing
7 position papers.

8 Counsel should consult the Court's website at www.cacd.uscourts.gov,
9 Judges' Procedures and Schedules, Honorable André Birotte Jr., for further
10 information regarding chambers' copies and motion procedures.

11 **D. Settlement Procedures (ADR Proceedings)**

12 Pursuant to Local Rule 16-15, the parties in every case must select a
13 settlement procedure. The final meeting with the parties' settlement officer must
14 take place no later than four weeks before the Final Pretrial Conference. Counsel
15 shall file a Joint Report regarding the outcome of settlement discussions, the
16 likelihood of possible further discussions and any help the Court may provide with
17 regard to settlement negotiations not later than seven (7) days after the settlement
18 conference.

19 If the parties desire to participate in an ADR procedure other than that
20 elected in the Rule 26(f) Scheduling Report and Order, they shall file a stipulation
21 with the Court. This request will not necessarily be granted.

22 No case will proceed to trial unless all parties, including the principals of all
23 corporate parties, have appeared personally at a settlement conference.

24 **E. Final Pretrial Conference/Proposed Pretrial Conference Order**

25 A final Pretrial Conference (PTC) date has been set pursuant to Rule 16 of
26 the Federal Rules of Civil Procedure and Local Rule 16-8. STRICT
27 COMPLIANCE WITH THE REQUIREMENT OF FED. R. CIV. P. 16, 26 AND
28 LOCAL RULES ARE REQUIRED BY THE COURT.

1 Unless excused for good cause, each party appearing in this action shall be
2 represented at the PTC by the lead trial counsel for that party. Counsel should be
3 prepared to discuss streamlining the trial, including presentation of testimony by
4 deposition excerpts or summaries, time limits, stipulations as to undisputed facts,
5 and qualification of experts by admitted resumes. The Court encourages, but does
6 not require, counsel to agree to submit direct testimony of witnesses by way of
7 declaration or written statement confirmed under oath by the witness.

8 The proposed Pretrial Conference Order (PTCO) shall be lodged fourteen
9 (14) days before the PTC. Adherence to this time requirement is necessary for in-
10 chambers preparation of the matter. The form of the proposed PTCO shall comply
11 with Appendix A to the Local Rules and the following:

12 1. Place in “all caps” and in “bold” the separately numbered
13 headings for each category in the PTCO (e.g., “**1. THE PARTIES**” or
14 “**7. CLAIMS AND DEFENSES OF THE PARTIES**”).

15 2. Include a table of contents at the beginning.

16 3. In specifying the surviving pleadings under section 1, state
17 which claims or counterclaims have been dismissed or abandoned, e.g., “Plaintiff’s
18 second cause of action for breach of fiduciary duty has been dismissed.” Also, in
19 multiple party cases where not all claims or counterclaims will be prosecuted
20 against all remaining parties on the opposing side, please specify to which party
21 each claim or counterclaim is directed.

22 4. In specifying the parties’ claims and defenses under section 7,
23 each party shall closely follow the examples set forth in Appendix A of the Local
24 Rules.

25 5. In drafting the PTCO, the court also expects that the parties will
26 attempt to agree on and set forth as many non-contested facts as possible. A
27 carefully drafted and comprehensively stated stipulation of facts will reduce the
28 length of trial.

1 6. In drafting the factual issues in dispute for the PTCO, the
2 parties should attempt to state issues in ultimate fact form, not in the form of
3 evidentiary fact issues. The issues of fact should track the elements of a claim or
4 defense on which the Court will be required to make findings.

5 7. Issues of law should state legal issues on which the court will
6 be required to rule during the trial and should not list ultimate fact issues to be
7 submitted to the trier of fact.

8 **The parties shall provide an electronic copy of the PTCO in Microsoft**
9 **Word format to the chambers' e-mail at: AB_Chambers@cacd.uscourts.gov.**

10 **II. TRIAL PREPARATION**

11 STRICT COMPLIANCE WITH LOCAL RULE 16 IS REQUIRED. This
12 Order sets forth some different and some additional requirements. Failure to
13 comply with these requirements may result in the Final Pretrial Conference being
14 taken off calendar or continued, or in other sanctions.

15 **A. Pretrial Documents**

16 All pretrial document copies shall be delivered to the Court “binder-ready”
17 (three-hole punched on the left side, without blue-backs, and stapled only in the top
18 left corner). The filing schedule for pretrial documents is as follows:

19 1. At least 21 days before the Final Pretrial Conference:

- 20 ▪ Memorandum of Contentions of Fact and Law
- 21 ▪ Witness Lists
- 22 ▪ Joint Exhibit List
- 23 ▪ Motions *in limine*

24 2. At least 14 days before the Final Pretrial Conference:

- 25 ▪ Proposed Final Pretrial Conference Order
- 26 ▪ Statement of the Case
- 27 ▪ Oppositions to motions *in limine*

28 3. At least 21 days before trial:

- 1 ▪ Proposed findings of fact and conclusions of law, if the matter
2 requires them

3 4. At least 7 days before trial:

- 4 ▪ Trial briefs, if desired
5 ▪ Opposing parties’ proposed findings of fact and conclusions of
6 law, marked as described in this Order.

7 In addition to the requirements of Local Rule 16, the witness lists must
8 include a brief description (one or two paragraphs) of the testimony, **what makes**
9 **the testimony unique** from any other witness testimony, and a time estimate for
10 both direct and cross-examination (separately stated). The Joint Exhibit List shall
11 contain any objections to authenticity and/or admissibility to the exhibit(s) and the
12 reasons for the objections.

13 **The parties shall provide electronic copies of the foregoing trial**
14 **documents in Microsoft Word format to the chambers’ e-mail at**
15 **AB_Chambers@cacd.uscourts.gov.**

16 **B. Motions *In Limine***

17 All motions and oppositions are limited to ten (10) pages in length. All
18 motions *in limine* must be filed at least three weeks before the final pretrial
19 conference; oppositions must be filed at least two weeks before the final pretrial
20 conference; reply briefs will not be accepted. Counsel are to meet and confer with
21 opposing counsel to determine whether opposing counsel intend to introduce the
22 disputed evidence and to attempt to reach an agreement that would obviate the
23 motion. The Court will rule on motions *in limine* at the final pretrial conference.
24 Motions *in limine* should address specific issues (e.g., *not* “to exclude all
25 hearsay”). Motions *in limine* should not be disguised motions for summary
26 adjudication of issues.

27 **C. Proposed Findings of Fact and Conclusions of Law**

1 For any matter requiring findings of fact and conclusions of law, counsel for
2 each party shall, no later than 21 days before trial, file with the Court and serve on
3 opposing counsel that party's proposed findings of fact and conclusions of law in
4 the format specified in Local Rule 52-3.

5 Seven days before the trial date, each counsel shall file with the Court and
6 serve on opposing counsel a copy of the opposing party's proposed findings of fact
7 and conclusions of law, marked as follows:

- 8 a. Strike through those portions the party disputes;
- 9 b. Bold those portions the party admits; and
- 10 c. Underline those portions the party admits but considers
11 irrelevant.

12 **The parties shall e-mail the documents in Microsoft Word format to the**
13 **chambers' e-mail at AB_Chambers@cacd.uscourts.gov.**

14 Counsel need not make a uniform determination as to an entire proposed
15 finding or conclusion, and may agree with a portion, dispute another portion, and
16 consider a portion irrelevant. Counsel should, however, have only a single fact or
17 conclusion of law contained in each paragraph.

18 The parties may submit supplemental proposed findings of fact and
19 conclusions of law during the course of the trial. If more than five supplemental
20 findings are proposed, the same designating procedures should be used.

21 At the time of filing, each party also must submit its own unmarked
22 proposed findings of fact and conclusions of law to the Chambers e-mail box in
23 Microsoft Word format.

24 **D. Trial Exhibits**

25 Exhibits must be placed in three-ring binders indexed by exhibit number
26 with tabs or dividers on the right side. Counsel shall submit to the Court an
27 original and one copy of the binders. The spine portion of the binder shall indicate
28 the volume number *and* contain an index of each exhibit included in the volume.

1 The Court requires that the following be submitted to the Courtroom Deputy
2 Clerk (“CRD”) on the *first day of trial*:

3 a. The binder of original exhibits with the Court’s exhibit tags,
4 yellow tags for plaintiff and blue tags for defendant, stapled to the front of the
5 exhibit on the upper right-hand corner with the case number, case name, and
6 exhibit number placed on each tag.

7 b. Two binders with a copy of each exhibit tabbed with numbers
8 as described above for use by the Court. (Exhibit tags are not necessary on these
9 copies.)

10 c. Three copies of exhibit lists.

11 d. Three copies of witness lists in the order in which the witnesses
12 may be called to testify.

13 e. The Court requires that the Joint Exhibit List, Joint Witness
14 List, and Statement of the Case be e-mailed in Microsoft Word format to
15 AB_Chambers@cacd.uscourts.gov **no later than the Thursday prior to the trial**
16 **date.**

17 All counsel are to meet not later than ten days before trial and to stipulate, so
18 far as is possible, to foundation, to waiver of the best evidence rule and to those
19 exhibits that may be received into evidence at the start of the trial. The exhibits to
20 be so received will be noted on the Court’s copy of the exhibit list.

21 **E. Trial**

22 Trial days are Tuesday through Friday from 8:30 a.m. to approximately 4:30
23 p.m. with two fifteen-minute breaks and a one-hour lunch break.

24 **F. Court Reporter**

25 Any party requesting special court reporter services for any hearing (i.e., real
26 time transmission, daily transcripts) shall notify the reporter at least 2 weeks before
27 the hearing date.

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1 **III. CONDUCT OF ATTORNEYS AND PARTIES**

2 **A. Opening Statements, Examining Witnesses, and Summation**

3 Counsel must use the lectern. Counsel must not consume time by writing
4 out words, drawing charts or diagrams, etc. Counsel may prepare such materials in
5 advance. The Court will honor (and may establish) reasonable time estimates for
6 opening statements and closing arguments, examination of witnesses, etc.

7 **B. Objections to Questions**

8 Counsel must not use objections for the purpose of making a speech,
9 recapitulating testimony, or attempting to guide the witness.

10 When objecting, counsel must rise to state the objection and state only that
11 counsel objects and the legal ground of objection. If counsel wishes to argue an
12 objection further, counsel must ask for permission to do so.

13 **C. General Decorum**

14 1. Counsel should not approach the CRD or the witness box
15 without specific permission and must return to the lectern when the purpose for
16 approaching has been accomplished.

17 2. Counsel should rise when addressing the Court, unless directed
18 otherwise.

19 3. Counsel should address all remarks to the Court. Counsel are
20 not to address the CRD, the court reporter, persons in the audience, or opposing
21 counsel. If counsel wish to speak with opposing counsel, counsel must ask
22 permission to do so. Any request for the re-reading of questions or answers shall
23 be addressed to the Court. Requests may not be granted.

24 4. Counsel should not address or refer to witnesses or parties by
25 first names alone, with the exception of witnesses under 14 years old.

26 5. Counsel must not offer a stipulation unless counsel have
27 conferred with opposing counsel and have verified that the stipulation will be
28 acceptable.

1 6. While Court is in session, counsel must not leave counsel table
2 to confer with any person in the back of the courtroom unless permission has been
3 granted in advance.

4 7. Counsel shall not make facial expressions, nod, or shake their
5 heads, comment, or otherwise exhibit in any way any agreement, disagreement, or
6 other opinion or belief concerning the testimony of a witness. Counsel shall
7 admonish their clients and witnesses not to engage in such conduct.

8 8. Where a party has more than one lawyer, only one may conduct
9 the direct or cross-examination of a particular witness, or make objections as to
10 that witness.

11 **D. Promptness of Counsel and Witnesses**

12 1. Promptness is expected from counsel and witnesses. Once
13 counsel are engaged in trial, this trial is counsel's first priority. The Court will not
14 delay the trial.

15 2. If a witness was on the stand at a recess or adjournment,
16 counsel who called the witness shall ensure the witness is back on the stand and
17 ready to proceed when trial resumes.

18 3. Counsel must notify the CRD in advance if any witness should
19 be accommodated based on a disability or for other reasons.

20 4. No presenting party may be without witnesses. If a party's
21 remaining witnesses are not immediately available and there is more than a brief
22 delay, the Court may deem that party to have rested.

23 5. The Court attempts to cooperate with professional witnesses
24 and will, except in extraordinary circumstances, accommodate them by permitting
25 them to be called out of sequence. Counsel must anticipate any such possibility
26 and discuss it with opposing counsel. If there is an objection, counsel must confer
27 with the Court in advance.

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1 **E. Exhibits**

2 1. Each counsel should keep counsel’s own list of exhibits and
3 should note when each has been admitted into evidence.

4 2. Each counsel is responsible for any exhibits that counsel
5 secures from the CRD and must return them before leaving the courtroom at the
6 end of the session.

7 3. An exhibit not previously marked should, at the time of its first
8 mention, be accompanied by a request that it be marked for identification.
9 Counsel must show a new exhibit to opposing counsel before the court session in
10 which it is mentioned.

11 4. Counsel are to advise the CRD of any agreements with respect
12 to the proposed exhibits and as to those exhibits that may be received without
13 further motion to admit.

14 5. When referring to an exhibit, counsel should refer to its exhibit
15 number. Witnesses should be asked to do the same.

16 6. Counsel must not ask witnesses to draw charts or diagrams nor
17 ask the Court’s permission for a witness to do so. Any graphic aids must be fully
18 prepared before the court session starts.

19 **F. Depositions**

20 1. All depositions to be used at trial, either as evidence or for
21 impeachment, must be lodged with the CRD on the first day of trial or such earlier
22 date as the Court may order. Counsel should verify with the CRD that the relevant
23 deposition is in the CRD’s possession.

24 2. In using depositions of an adverse party for impeachment,
25 either one of the following procedures may be adopted:

26 a. If counsel wishes to read the questions and answers as
27 alleged impeachment and ask the witness no further questions on that subject,
28 counsel shall first state the page and line where the reading begins and the page

1 and line where the reading ends, and allow time for any objection. Counsel may
2 then read the portions of the deposition into the record.

3 b. If counsel wishes to ask the witness further questions on
4 the subject matter, the deposition shall be placed in front of the witness and the
5 witness told to read the relevant pages and lines silently. Then counsel may either
6 ask the witness further questions on the matter and thereafter read the quotations,
7 or read the quotations and thereafter ask further questions. Counsel should have an
8 extra copy of the deposition for this purpose.

9 3. Where a witness is absent and the witness's testimony is
10 offered by deposition, counsel may (a) have a reader occupy the witness chair and
11 read the testimony of the witness while the examining lawyer asks the questions, or
12 (b) have counsel read both the questions and answers.

13 **G. Using Numerous Answers to Interrogatories and Requests for**
14 **Admission**

15 Whenever counsel expects to offer a group of answers to interrogatories or
16 requests for admissions extracted from one or more lengthy documents, counsel
17 should prepare a new document listing each question and answer and identifying
18 the document from which it has been extracted. Copies of this new document
19 should be given to the Court and opposing counsel.

20 **H. Advance Notice of Unusual or Difficult Issues**

21 If any counsel have reason to anticipate that a difficult question of law or
22 evidence will necessitate legal argument requiring research or briefing, counsel
23 must give the Court advance notice. Counsel are directed to notify the CRD at the
24 day's adjournment if an unexpected legal issue arises that could not have been
25 foreseen and addressed by a motion *in limine*. See Fed. R. Evid. 103.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

,) Case No.: CV -AB (x)
Plaintiff(s),)
) **EXHIBIT LIST**
vs.)
) *Sample Format*
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Defendant(s).)
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EX. No.	Description	Identified	Admitted

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

,) Case No.: CV -AB (x)
Plaintiff(s),)
vs.) **WITNESS LIST**
) *Sample Format*
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Defendant(s).)
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	Dates of Testimony
Witnesses for Plaintiff	
	<i>(to be filled in during trial)</i>
Witnesses for Defendant	