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

,  
Plaintiff,  
v.  
,  
Defendants.

Case № **-ODW(RZx)**

**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.** Ordinarily, the dates set forth on the last page are determined after consultation with the parties at the Federal Rule of Civil Procedure 16(b) Scheduling Conference. The dates and requirements are firm. The Court is unlikely to grant continuances, even if stipulated by the parties, unless the parties establish good cause through a concrete showing.

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1 **IT IS HEREBY ORDERED:**

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

6 2. Because this Order in some respects modifies or adds to the Local Rules,  
7 counsel are advised to read it carefully. Counsel are advised to pay particular  
8 attention to the requirements of the Court with respect to the filing of motions for  
9 summary judgment and documents to be submitted at the Final Pretrial Conference  
10 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  
14 admissions regarding all matters that the participants reasonably anticipate may be  
15 discussed. Lead counsel who will actually try the case must attend the Pretrial  
16 Conference. A party who is not represented must attend all proceedings in person.

17 4. **Courtesy Copies:** Courtesy copies of all electronically filed documents  
18 are to be delivered to the courtesy box outside chambers by 3:00 p.m. the following  
19 business day. Any original filings (such as under seal documents) are to be filed at the  
20 filing window (Clerk's Office, Room G-19), NOT in chambers and NOT in the  
21 courtroom.

22 **Courtesy copies DO NOT need to be blue-backed. All courtesy copies of**  
23 **pretrial documents (e.g. witness lists, exhibit lists, pretrial conference orders,**  
24 **jury instructions, etc.) shall be three-hole punched.**

25 5. **Discovery Cut-Off:** All discovery shall be completed by the discovery  
26 cut-off date specified on the last page of this Order. **THIS IS NOT THE DATE BY**  
27 **WHICH DISCOVERY REQUESTS MUST BE SERVED; IT IS THE DATE BY**  
28 **WHICH ALL DISCOVERY IS TO BE COMPLETED.**

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

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

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

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

21 d. **Expert Discovery**: If expert witnesses are to be called at trial, the  
22 parties shall designate affirmative experts to be called at trial and provide reports  
23 required by Federal Rule of Civil Procedure 26(a)(2)(B) not later than eight weeks  
24 prior to the discovery cut-off date. Rebuttal expert witnesses shall be designated and  
25 reports provided as required by Rule 26(a)(2)(B) not later than five weeks prior to the  
26 discovery cut-off date. Failure to timely comply with deadlines may result in the  
27 expert being excluded as a trial witness.

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

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

11           The title page of all motions must state the Pre-Trial Conference date and the  
12 Trial date. Counsel must comply with Local Rule 7-3, which requires counsel to  
13 engage in a pre-filing conference “to discuss thoroughly . . . the substance of the  
14 contemplated motion and any potential resolution.”

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

19           b.     **Ex Parte Applications:** Ex parte practice is discouraged. *See*  
20 *Mission Power Eng’g v Co. v. Continental Cas. Co.*, 883 F. Supp. 488 (C.D. Cal.  
21 1995). The Court will require strict adherence to proper ex parte procedures for any  
22 ex parte application filed with the Court. *Id.* at 492; *see also* Judge Wright’s Standing  
23 Order and Local Rule 7-19. **Any opposition to an ex parte application must be**  
24 **filed within 24 hours.** Failure to submit a timely opposition constitutes consent to the  
25 granting of the application. *See* Local Rule 7-12. No party may file a reply unless  
26 expressly authorized by the Court. All ex parte applications will be decided on the  
27 papers and without a hearing unless the Court orders otherwise.

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1           c.     **Applications and Stipulations to Extend Time:** Applications to  
2 extend the time to file any required document or to continue any hearing, Pre-Trial  
3 Conference, or Trial date must set forth the following:

- 4           (i)     The existing due date or hearing date, as well as the discovery cut-  
5 off date, the Pre-Trial Conference date, and the Trial date;
- 6           (ii)    Specific, concrete reasons supporting good cause for granting the  
7 extension; and
- 8           (iii)   Whether there have been prior requests for extensions, and whether  
9 these requests were granted or denied by the Court.

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

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

18           In addition to the requirements of Local Rule 15-1, all motions to amend the  
19 pleadings shall: (1) state the effect of the amendment; (2) be serially numbered to  
20 differentiate the amendment from previous amendments; and (3) state the page, line  
21 number(s), and wording of any proposed change or addition of material. The parties  
22 shall deliver to Chambers a redlined version of the proposed amended pleading  
23 indicating all additions and deletions of material.

24           e.     **Summary Judgment Motions:** Parties need not wait until the  
25 motion cutoff to bring motions for summary judgment or partial summary judgment.  
26 Early completion of non-expert discovery and filing of motions for summary  
27 judgment may eliminate or reduce the need for expensive expert depositions that are  
28 normally conducted in the last stages of discovery.     **However, the Court requires**

1 **that the party moving for summary judgment will provide no less than thirty-five**  
2 **(35) days' notice for such motions.** Because summary judgment motions are fact-  
3 dependent, parties should prepare papers in a fashion that will assist the Court in  
4 absorbing the mass of facts (e.g., generous use of tabs, tables of contents, headings,  
5 indices, etc.). The parties are to comply precisely with Local Rule 56-1 through 56-4.  
6 The Court will also require adherence to the following requirements:

7 (i) Statement of Uncontroverted Facts and Statement of Genuine  
8 Issues of Material Fact

9 The movant's Separate Statement of Uncontroverted Facts is to be prepared in a  
10 two column format. The left-hand column should set forth the allegedly undisputed  
11 fact. The right-hand column should set forth the evidence that supports the factual  
12 statement. The factual statements should be set forth in sequentially numbered  
13 paragraphs. Each paragraph should contain a narrowly focused statement of fact.  
14 Each numbered paragraph should address a single subject in as concise a manner as  
15 possible.

16 The opposing party's Statement of Genuine Issues of Material Fact must be in  
17 two columns and track the movant's Separate Statement exactly as prepared. The  
18 document must be in two columns; the left-hand column must restate the allegedly  
19 undisputed fact, and the right-hand column must indicate either undisputed or  
20 disputed. The opposing party may dispute all or only a portion of the statement, but if  
21 disputing only a portion, must clearly indicate what part is being disputed. Where the  
22 opposing party is disputing the fact in whole or part, the opposing party must, in the  
23 right-hand column, label and restate the moving party's evidence in support of the  
24 fact, followed by the opposing party's evidence controverting the fact. Where the  
25 opposing party is disputing the fact on the basis of an evidentiary objection, the party  
26 must cite the evidence alleged to be objectionable and state the ground of the  
27 objection and nothing more. **No argument should be set forth in this document.**

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

8 The moving party, in its reply, shall respond to the additional facts in the same  
9 manner and format that the opposing party is required to adhere to in responding to  
10 the Statement of Uncontroverted Facts, as described above.

11 **The following conduct in connection with a motion for summary judgment**  
12 **shall be grounds for sanctions under Federal Rule of Civil Procedure 11: (1)**  
13 **disputing a material fact without any reasonable basis for doing so; (2)**  
14 **identifying additional facts in opposition to the motion without any reasonable**  
15 **basis for believing that the additional facts will materially affect the outcome of**  
16 **the motion.**

17 (ii) Supporting Evidence

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

23 Evidence submitted in support of or in opposition to a motion for summary  
24 judgment should be submitted either by way of stipulation or as exhibits to a  
25 declaration sufficient to authenticate the proffered evidence, and should not be  
26 attached to the memorandum of points and authorities. The Court will accept  
27 counsel's authentication of deposition transcripts, written discovery responses, and the  
28 receipt of documents in discovery if the fact that the document was in the opponent's

1 possession is of independent significance. Documentary evidence as to which there is  
2 no stipulation regarding foundation must be accompanied by the testimony, either by  
3 declaration or properly authenticated deposition transcript, of a witness who can  
4 establish its authenticity.

5 All evidence in support of or in opposition to a motion for summary judgment,  
6 including declarations and exhibits to declarations, shall be separated by a tab divider  
7 on the bottom of the page. If evidence in support of or in opposition to a motion for  
8 summary judgment exceeds twenty pages, the evidence must be in a separately bound  
9 volume and include a Table of Contents. If the supporting evidence exceeds fifty  
10 pages, the documents shall be placed in a Slant D-Ring binder with each item of  
11 evidence separated by a tab divider on the right side. All documents contained in the  
12 binder should be three-hole-punched.

13 (iii) Objections to Evidence

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

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

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

4           (iv) Memorandum of Points and Authorities

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

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

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

23           f. **Avoid Composite Motions**: Unless clearly justified under the  
24 circumstances of the case, “motions to dismiss or in the alternative for summary  
25 adjudication” are discouraged. These composite motions tend to blur the distinctions  
26 between the two motions.

27           g. **Motions in Limine**: Before filing any motion in limine, counsel  
28 for the parties shall confer pursuant to Local Rule 7-3 in a good faith effort to

1 eliminate the necessity for hearing the motion in limine or to eliminate as many of the  
2 disputes as possible. It shall be the responsibility of counsel for the moving party to  
3 arrange for this conference. The motion papers must include a declaration showing a  
4 good faith meet and confer effort. The conference shall take place **in person** within  
5 10 calendar days of service upon opposing counsel of a letter requesting such a  
6 conference, but in no event later than twenty-one days before the Pre-Trial  
7 Conference. The conference may take place by telephone only if both counsel are not  
8 located in the same county in the Central District.

9 If counsel are unable to resolve their differences, they shall prepare a separate,  
10 sequentially-numbered Motion in Limine for each issue in dispute which contains a  
11 clear caption that identifies the moving party and the nature of the dispute (i.e.,  
12 “Plaintiff’s Motion in Limine #1 to exclude the testimony of Defendant’s expert”).  
13 **Neither party may file more than five (5) Motions in Limine absent leave of**  
14 **Court upon a showing of good cause, and leave of Court will be granted**  
15 **sparingly.** Each Motion in Limine shall contain a clear identification of the  
16 testimony, exhibits, or other specific matters alleged to be inadmissible and/or  
17 prejudicial and a statement of the specific prejudice that will be suffered by the  
18 moving party if the motion is not granted. The identification of the matters in dispute  
19 shall be followed by the moving party’s contentions and memorandum of points and  
20 authorities. The title page of the Motion in Limine must state the Pre-Trial  
21 Conference date, hearing date for the motions in limine, and the trial date.

22 Motions in Limine made for the purpose of precluding the mention or display of  
23 inadmissible and/or prejudicial matter in the presence of the jury shall be accompanied  
24 by a declaration that includes the following: (1) a clear identification of the specific  
25 matter alleged to be inadmissible and/or prejudicial; (2) a representation to the Court  
26 that the subject of the motion in limine has been discussed with opposing counsel, and  
27 that opposing counsel has either indicated that such matter will be mentioned or  
28 displayed in the presence of the jury before it is admitted in evidence or that counsel

1 has refused to stipulate that such matter will not be mentioned or displayed in the  
2 presence of the jury unless and until it is admitted in evidence; and (3) a statement of  
3 the specific prejudice that will be suffered by the moving party if the motion in limine  
4 is not granted.

5 All evidence in support of or in opposition to a motion in limine, including  
6 declarations and exhibits to declarations, shall be separated by a tab divider on the  
7 bottom of the page. If evidence in support of or in opposition to a motion in limine  
8 exceeds twenty pages, the evidence must be in a separately bound volume and include  
9 a Table of Contents. Though strongly discouraged, if by necessity the supporting  
10 evidence exceeds fifty pages, the documents shall be placed in a Slant D-Ring binder  
11 with each item of evidence separated by a tab divider on the right side. All  
12 documents contained in the binder should be three-hole-punched.

13 Unless otherwise ordered by the Court, motions in limine will be heard on the  
14 date specified on the last page of this Order. The moving party shall file with the  
15 Court and serve its Motion in Limine on the responding party on or before the date for  
16 filing of motions in limine indicated in the Schedule of Trial and Pre-trial Dates. The  
17 responding party shall then file with the Court and serve an opposition to the Motion  
18 in Limine on the moving party at least seven (7) days prior to the date for the hearing  
19 on motions in limine. Neither party's submissions with respect to a Motion in Limine  
20 shall exceed eight (8) pages. **Unless ordered otherwise, the Court will only**  
21 **consider the moving papers and any opposition thereto; no replies are necessary**  
22 **or invited.**

23 h. **Motions for Class Certification**: All motions for class  
24 certification must be filed according to Local Rule 23-3. The Court will rarely grant  
25 stipulations or applications to extend that deadline. Specifically, the failure to  
26 complete class discovery before the deadline does not constitute good cause to extend  
27 the deadline, unless the parties show specific and concrete reasons why, despite their  
28 diligence, the failure to complete discovery was **unavoidable**. The Court will

1 consider extensions based on the ordering of issues (e.g., if the defendant seeks to file  
2 a dispositive motion before class certification) on a case-by-case basis. Any  
3 stipulations or applications for relief must include a specific date by which the  
4 plaintiff will move for class certification (the Court will not grant an open-ended  
5 extension).

6 i. **Oral Argument**: The Court encourages law firms to contribute to  
7 the professional development of new attorneys by allowing them to present oral  
8 argument to the Court on motions. To that end, any party to a motion may file a  
9 notice with the Court stating that an attorney with **less than four years' experience**  
10 will present oral argument. This notice must be filed no later than **seven days** before  
11 the hearing. The Court will take into account the attorney's inexperience when  
12 considering their oral arguments.

13 7. **Final Pre-Trial Conferences and Local Rule 16 Filings**

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

16 a. **General Provisions**

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

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

28 A continuance of the PTC at the parties' request or by stipulation is highly

1 unlikely. **Specifically, failure to complete discovery is not a ground for**  
2 **continuance**. In the unlikely event that the Court agrees to continue the PTC, the trial  
3 date is likely to be delayed as a result. If a change to the trial date is necessitated or  
4 likely because of the Court's calendar or otherwise, modifications of that date will be  
5 discussed at the PTC.

6 At the PTC, the parties should be prepared to discuss means of streamlining the  
7 trial, including, but not limited to the following: bifurcation; presentation of  
8 foundational and non-critical testimony and direct testimony by deposition excerpts;  
9 narrative summaries and/or stipulations as to the content of testimony; presentation of  
10 testimony on direct examination by affidavit or by declaration subject to cross-  
11 examination; and qualification of experts by admitted resumes. The Court will also  
12 discuss settlement.

13 b. **Courtesy Copies**

14 As with other documents filed with the Court, the parties must submit courtesy  
15 copies of all PTC documents. However, the courtesy copies **must** be delivered to  
16 chambers as follows:

- 17 (i) **One copy** of all PTC documents (i.e., both plaintiff's documents  
18 and defendant's documents) shall be delivered to the Court in **one**  
19 3-ring binder;
- 20 (ii) Each document shall be separated by numerical side-tabs, and shall  
21 be placed in the following order: (1) Proposed Pretrial Conference  
22 Order; (2) Plaintiff's Memorandum and Contentions of Facts and  
23 Law; (3) Defendant's Memorandum and Contentions of Facts and  
24 Law; (4) Joint Witness List; (5) Joint Exhibit List and Stipulation;  
25 (6) Plaintiff's Proposed Verdict Form; (8) Defendant's Proposed  
26 Verdict Form; (10) Joint Proposed Jury Instructions; (9) Plaintiff's  
27 Disputed Jury Instructions; (10) Defendant's Disputed Jury  
28 Instructions; (11) Joint Statement of the Case; (12) Joint Report re:

1 Settlement; and (13) Other pretrial documents; and

2 (iii) The binder shall include a table of contents.

3 c. **Final Pre-Trial Conference Order (“PTCO”)**

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

8 (i) Place in “**ALL CAPS AND BOLD**” the separately numbered  
9 headings for each category in the PTCO (e.g., “**1. THE**  
10 **PARTIES**” or “**7. CLAIMS AND DEFENSES OF THE**  
11 **PARTIES**”).

12 (ii) Include a table of contents at the beginning.

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

20 (iv) In specifying the parties’ claims and defenses under section 7, each  
21 party shall closely follow the examples set forth in Appendix A of  
22 the Local Rules.

23 (v) In drafting the PTCO, **the court expects that the parties will**  
24 **attempt to agree on and set forth as many non-contested facts**  
25 **as possible.** The court will usually read the uncontested facts to  
26 the jury at the start of trial. A carefully drafted and  
27 comprehensively stated stipulation of facts will reduce the length  
28 of trial and increase jury understanding of the case. **It is**

1                    **unacceptable for the parties to indicate in the Proposed**  
2                    **Pretrial Conference Order that they are not able to stipulate to**  
3                    **any facts whatever.**

4                    (vi) In drafting the factual issues in dispute for the PTCO, the parties  
5                    should attempt to state issues in ultimate fact form, not in the form  
6                    of evidentiary fact issues. The issues of fact should track the  
7                    elements of a claim or defense on which the jury will be required  
8                    to make findings.

9                    (vii) Issues of law should state legal issues on which the court will be  
10                    required to rule during the trial, and should not list ultimate fact  
11                    issues to be submitted to the trier of fact.

12                    (viii) The Court may submit fact issues to the jury in the form of  
13                    findings on a special verdict. The issues of fact should track the  
14                    elements of a claim or defense on which the jury will be required  
15                    to make findings.

16                    (ix) If expert witnesses are to be called at trial, each party must list and  
17                    identify its respective expert witnesses, both retained and non-  
18                    retained. Failure of a party to list and identify an expert witness in  
19                    the PTCO could result in a court order which precludes the party  
20                    from calling that expert witness at trial.

21                    (x) The parties shall submit only ONE proposed PTCO. **It is**  
22                    **unacceptable to submit multiple or competing proposed**  
23                    **PTCOs.** *See* Local Rule 16-7.

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

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

27                    Memoranda and Contentions of Fact and Law

28                    Memoranda of Contentions of Fact and Law shall be filed by the date listed in

1 this Scheduling Order, and shall comply with the requirements set forth in Local Rule  
2 16-4. The parties are strongly encouraged to submit one joint Memorandum where  
3 possible.

4 Joint Witness List

5 Counsel shall prepare a **joint** list of their witnesses, including a brief summary  
6 (two to three paragraphs) of each witness's expected testimony, **what makes the**  
7 **testimony unique** from any other witness testimony, an estimate of the length of time  
8 needed for direct examination of each side's own witnesses and an estimate for the  
9 cross examination of opposing witnesses, and whether the witness will testify by  
10 deposition or in person. The joint witness list shall be filed at the same time counsel  
11 lodge the PTCO. If a party intends to offer deposition testimony into evidence at trial,  
12 the party shall designate the relevant portions of the deposition testimony to be read at  
13 trial and advise opposing counsel of same. Opposing counsel shall then designate any  
14 additional portions of such deposition testimony which counsel intends to offer in  
15 evidence. All objections to any such testimony shall be made in writing and filed at  
16 the same time counsel lodge the PTCO so that the Court may consider whether ruling  
17 on the objections will facilitate trial or result in the disposition of evidentiary matters  
18 that may assist continuing settlement negotiations.

19 If expert witnesses are to be called at trial, each party shall list and identify their  
20 respective expert witnesses. Failure of a party to list and identify an expert witness  
21 may preclude a party from calling that expert witness at trial. If expert witnesses are  
22 to be called at trial, the parties shall exchange at the PTC short narrative statements of  
23 the qualifications of the expert and the testimony expected to be elicited at trial.  
24 Previously prepared and exchanged expert reports shall not substitute for the narrative  
25 statements required.

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



1 submitting them to the Court. **It is expected that counsel will agree on the**  
2 **substantial majority of jury instructions.** This is in addition to the standard  
3 cautionary and introductory instructions regarding duties of the jury, the order of the  
4 trial, etc. found in Chapters 1, 2 & 3 of the *9th Circuit Manual of Model Jury*  
5 *Instructions*. The court requires little or no assistance in the preparation of these  
6 instructions. Counsel's attention should be focused on reaching agreement on the  
7 instructions covering the substantive legal issues. It is anticipated that working  
8 diligently and cooperatively counsel will be able to reach agreement on the vast  
9 majority of the substantive instructions. **Judicial involvement will be limited to**  
10 **resolving disputes on only a few instructions on which the parties are unable to**  
11 **agree.**

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

17 When the parties disagree on an instruction, the party opposing the instruction  
18 must attach a short statement (one to two paragraphs) supporting the objection, and  
19 the party submitting the instruction must attach a short reply supporting the  
20 instruction. Each statement should be on a separate page and should follow directly  
21 after the disputed instruction.

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

28 **The parties are encouraged to consider whether the Court should give**

1 preliminary instructions to the jury on the substantive issues they will be called  
2 upon to decide. Should the parties elect to give preliminary instructions, those  
3 substantive instructions should be produced to the Court on the first day of trial.

4 The Court directs counsel to use the instructions from the *Manual of Model*  
5 *Jury Instructions for the Ninth Circuit* where applicable. Where California law is to  
6 be applied and the above instructions are not applicable, the Court prefers counsel to  
7 use the California Jury Instructions in CACI. If none of these sources is applicable,  
8 counsel are directed to use the instructions in Devitt, Blackmar and Wolff, *Federal*  
9 *Jury Practice and Instructions*. Modifications of instructions from the foregoing  
10 sources (or any other form instructions) must specifically state the modification made  
11 to the original form instruction and the authority supporting the modification. **The**  
12 **Court will consider special jury instructions not derived from these sources only**  
13 **in exceptional circumstances.**

14 Each requested instruction shall be in the format specified by Local Rule 51-2  
15 and shall be set forth in full; be on a separate page with the caption "COURT'S  
16 INSTRUCTION NUMBER \_\_\_"; be numbered; cover only one subject or principle of  
17 law; not repeat principles of law contained in any other requested instructions; and  
18 cite the authority for a source of the requested instruction. In addition to the  
19 foregoing, each party shall file with the Courtroom Deputy Clerk (CRD) on the first  
20 day of trial a "clean set" of the aforesaid requested duplicate jury instructions. The  
21 "clean set" shall not cite the authority for a source of the requested instruction.

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

- 24 • the number of the instruction;
- 25 • a brief title of the instruction;
- 26 • the source of the instruction and any relevant case citation; and
- 27 • the page number of the instruction.

1 **EXAMPLE:**

2 <u>NO.</u>	<u>TITLE</u>	<u>SOURCE</u>	<u>PAGE NO.</u>
3 5	Evidence for Limited Purpose	9th Cir. 1.5	9

4

5 During the trial and again before argument, the Court will meet with counsel  
6 and settle the instructions. Strict adherence to time requirements is necessary for the  
7 Court to examine the submissions in advance so that there will be no delay in starting  
8 the jury trial, or the final instructions to the jury and the closing arguments of counsel.  
9 **Failure of counsel to strictly follow the provisions of this section may subject the**  
10 **non-complying party and/or its attorney to sanctions and SHALL**  
11 **CONSTITUTE A WAIVER OF JURY TRIAL in all civil cases.**

12 Joint Statement of the Case and Requests for Voir Dire

13 At the PTC, the parties shall file their proposed voir dire questions and their  
14 joint Statement of the Case which the Court will read to all prospective jurors prior to  
15 the commencement of voir dire. The statement should not be longer than two or three  
16 paragraphs, and contain no argument nor an excessive amount of information. The  
17 Statement of the Case is merely to advise the prospective jurors of the general nature  
18 of the case, i.e. securities law violations, bank robbery, copyright infringement, etc.

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

23 Trial Exhibits

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

- 26 (i) Judge's Copy: Counsel are to prepare the Judge's copy of the  
27 exhibits by placing them in 3-ring binders. The holes are to be  
28 3/8" in diameter. The notebooks are to be tabbed down the right

1 side with numeric tabs separating each exhibit.

- 2 (ii) Witnesses' Copy: Counsel are to prepare the Witnesses' copy of  
3 the exhibits by placing each exhibit in its own separate manilla  
4 folder. Each manilla folder should have a tab on the right side with  
5 the exhibit number written on it. The manilla folders should be put  
6 in a box in numerical order, with the tabs facing upward. The  
7 exhibits used in this folder should be the original exhibits, and  
8 should be tagged with Court-approved tags. Court-approved  
9 exhibit tags can be obtained from the Clerk's Office, Room G-8,  
10 312 North Spring Street, Los Angeles, CA 90012.

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

14 Deposition Transcripts

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

17 First Day of Trial

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

- 21 (i) Judge's copy of exhibits (as described above).  
22 (ii) Witnesses' copy of exhibits (as described above).  
23 (iii) Any preliminary instructions the parties have agreed may be read  
24 to the jury before the presentation of evidence.  
25 (iv) Three (3) copies of the exhibit list.  
26 (v) Three (3) copies of the witness list, which shall include the names  
27 of the witness in the approximate order in which they may be  
28 called to testify.

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

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

7 Real-Time Reporting Requirement

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

12 8. **Settlement**

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

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

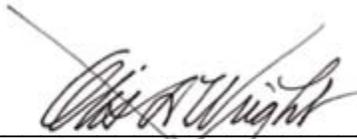
24 The parties must file a Status Report regarding settlement at the time they lodge  
25 the proposed PTCO. This Report shall not disclose the parties' settlement positions,  
26 i.e. the terms of any offers or demands. It shall merely describe the efforts made by  
27 the parties to resolve the dispute informally, i.e. the occasions and dates when the  
28 parties participated in mediation or settlement conferences. The Status Report shall

1 also include the name and phone number of the Settlement Officer who assisted the  
2 parties with their settlement conference.

3 **Caveat: If counsel fail to file the required Pre-Trial documents or fail to**  
4 **appear at the Pre-Trial Conference and such failure is not otherwise**  
5 **satisfactorily explained to the Court: (a) the cause shall stand dismissed for**  
6 **failure to prosecute if such failure occurs on the part of the plaintiff; (b) default**  
7 **judgment shall be entered if such failure occurs on the part of the defendant; or**  
8 **(c) the Court may take such action as it deems appropriate.**

9  
10 **IT IS SO ORDERED.**

11  
12 October 19, 2016

13  
14 

15 **OTIS D. WRIGHT, II**  
16 **UNITED STATES DISTRICT JUDGE**

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

<b>Event</b>	<b>Date</b>
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. Deadline to File: <ul style="list-style-type: none"> <li>• Motions in Limine;</li> <li>• Proposed Voir Dire Questions;</li> <li>• Agreed-to Statement of the Case</li> </ul>	3 weeks and 1 day before trial
Deadline to File: <ul style="list-style-type: none"> <li>• Proposed Pretrial Conference Order;</li> <li>• Memoranda and Contentions of Fact and Law;</li> <li>• Joint Witness List;</li> <li>• Joint Exhibit List and Exhibit Stipulation;</li> <li>• Proposed Verdict Form(s);</li> <li>• Proposed Jury Instructions / Disputed Jury Instructions;</li> <li>• Joint Report re: Settlement</li> </ul>	4 weeks and 1 day before trial
Last Date for Hearing Motions*	7 weeks and 1 day before trial
Last Date to Conduct Settlement Conference	8 weeks and 1 day before trial
Discovery Cutoff for <i>All</i> Discovery	13 weeks and 1 day before trial
Last Date to Hear Motions to Amend Pleadings or Add Parties	12 weeks after Sch. Conference

\* This does not apply to motions for class certification, which **must** be filed in accordance with Local Rule 23-3 unless expressly waived by Court order.