

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 [PLAINTIFF'S NAME],

12 Plaintiff,

13 v.

14
15 [DEFENDANT'S NAME],

16 Defendant.
17
18
19

Case No.:

**ORDER SETTING SCHEDULING
CONFERENCE**

20 **PLEASE READ THIS ORDER CAREFULLY. IT GOVERNS THIS CASE AND**
21 **DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

22 This matter is set for a Scheduling Conference on the above date in Courtroom 5D
23 of the United States Courthouse, 350 West First Street, Los Angeles, CA 90012.¹ If
24 Plaintiff has not already served the operative complaint on *all* Defendants, Plaintiff
25 shall do so *promptly* and shall file proofs of service within three (3) days thereafter.
26

27
28 ¹ By default, all scheduling conferences shall proceed in-person, unless a request is made by the parties and granted by the Court. Requests to appear via Zoom must be e-filed by the Friday before the conference and must indicate that counsel has met and conferred per Local Rule 7-3.

1 See Fed. R. Civ. P. 4; Local Rule 4. Defendants shall also timely file and serve their
2 responsive pleadings and file proofs of service within three (3) days thereafter, in
3 compliance with the requirements of Local Rule 5-3.2. At the Scheduling Conference,
4 the Court will dismiss all remaining fictitiously named Defendants. The Court will
5 also set a date by which motions to amend the pleadings or add parties must be heard.

6 The Scheduling Conference will be held pursuant to Federal Rule of Civil
7 Procedure 16(b). The parties are reminded of their obligations under Federal Rule of
8 Civil Procedure 26(f) to confer on a discovery plan no later than twenty-one (21) days
9 before the Scheduling Conference. The Court encourages counsel to agree to begin to
10 conduct discovery actively *before* the Scheduling Conference. At the very least, the
11 parties shall comply fully with the letter and spirit of Federal Rule of Civil Procedure
12 26(a) and thereby obtain and produce most of what would be produced in the early
13 stages of discovery, because at the Scheduling Conference the Court will impose strict
14 deadlines to complete discovery.

15 **This Court does not exempt parties appearing *pro se* from compliance with**
16 **any of the Federal Rules of Civil Procedure and the Local Rules, including Local**
17 **Rule 16. See Local Rule 1-3, 83-2.2.3. “Counsel,” as used in this Order, includes**
18 **parties appearing *pro se*.**

19 **I. Joint Rule 26(f) Report**

20 The Joint Rule 26(f) Report **must be filed no later than seven (7) days** after the
21 meeting of counsel and **fourteen (14) days** before the Scheduling Conference. The
22 Court discourages the submission of courtesy chambers copies of Joint Rule 26(f)
23 Reports that have been electronically filed.

24 The Joint Rule 26(f) Report shall be drafted by Plaintiff or, if the parties otherwise
25 agree, by Defendant’s counsel. If Plaintiff is appearing *pro se*, the Joint Rule 26(f)
26 Report shall be drafted by Defendant’s counsel unless Plaintiff prefers to do so. In all
27 circumstances, the Joint Rule 26(f) Report must be signed jointly. “Jointly” means a
28 single report, regardless of how many separately represented parties are involved in

1 the case. The Joint Rule 26(f) Report shall specify the date of the Scheduling
2 Conference on the caption page.

3 The Joint Rule 26(f) Report shall address the matters set forth in Federal Rule of
4 Civil Procedure 26(f) and Local Rule 26, some of which are enumerated below, and
5 shall also contain the following:

6 **A. Statement of the Case:** A short statement by each party, not to exceed
7 two (2) pages, setting forth that party's factual summary of the case, including the
8 basis for any claims, counterclaims, or defenses.

9 **B. Subject Matter Jurisdiction:** A statement of the specific basis for
10 federal jurisdiction, including supplemental jurisdiction. If there is a federal question,
11 cite the federal law under which the claim arises.

12 **C. Legal Issues:** A brief description of the key legal issues, including any
13 unusual substantive, procedural, or evidentiary issues.

14 **D. Damages:** The realistic range of provable damages.

15 **E. Parties and Evidence:** A list of parties, percipient witnesses, and key
16 documents with respect to the main issues in the case. For conflict purposes, corporate
17 parties must identify all subsidiaries, parents, and affiliates. The parties should discuss
18 the likelihood of appearance of additional parties, if any.

19 **F. Insurance:** Whether there is insurance coverage, the extent of coverage,
20 and whether there is a reservation of rights.

21 **G. Manual for Complex Litigation:** Whether all or part of the procedures
22 of the Manual for Complex Litigation should be utilized.

23 **H. Motions:** A statement of the likelihood of motions seeking to add other
24 parties or claims, file amended pleadings, transfer venue, or challenge the Court's
25 jurisdiction.

26 **I. Dispositive Motions:** A description of the issues or claims any party
27 believes may be determined by motion to dismiss or motion for summary judgment.
28

1 **J. Status of Discovery:** A discussion of the present state of discovery,
2 including a summary of completed discovery, and any current or anticipated disputes.

3 **K. Discovery Plan:** A detailed discovery plan, as contemplated by Federal
4 Rule of Civil Procedure 26(f). State what, if any, changes in the disclosures under
5 Federal Rule of Civil Procedure 26(a) should be made, the subjects on which
6 discovery may be needed, whether discovery should be conducted in phases or
7 otherwise be limited, whether applicable limitations should be changed or other
8 limitations imposed, and whether the Court should enter other orders. A statement that
9 discovery will be conducted as to all claims and defenses, or other vague description
10 is not acceptable.

11 **L. Expert Discovery:** Proposed dates for initial and rebuttal expert witness
12 disclosures and expert discovery cut-off under Federal Rule of Civil Procedure
13 26(a)(2).

14 **M. Settlement Conference / Alternative Dispute Resolution (“ADR”):** A
15 statement of what settlement negotiations have occurred, excluding any statement of
16 the terms discussed. If a Notice to Parties of Court-Directed ADR Program (Form
17 ADR-08) was filed in this case, the Court will refer it to the magistrate judge, the
18 Court Mediation Panel, or private mediation at the parties’ expense. The parties must
19 indicate their preference in their Joint Rule 26(f) Report.² No case will proceed to trial
20 unless all parties, including an officer with full settlement authority for corporate
21 parties, have appeared personally at an ADR proceeding.

22 **N. Trial Estimate:** A realistic estimate, in days, of the court time required
23 for trial and whether trial will be by jury or by the Court. Each side should specify by
24 number, not by name, the number of witnesses it contemplates calling. If the time
25 estimate for trial given in the Joint Rule 26(f) Report exceeds four (4) court days,
26 counsel must be prepared to discuss in detail the basis for the estimate.

27 _____
28 ² Where the parties fail to select an ADR method, the Court will by default select the Court Mediation Panel
per Local Rule 16-15.3.

1 **O. Trial Counsel:** The name(s) of the counsel who will try the case.

2 **P. Magistrate Judge:** Whether the parties agree to try the case before a
3 magistrate judge. Pursuant to 28 U.S.C. § 636 and General Order 05-07 (also referred
4 to as General Order 194), the parties may consent to have a magistrate judge preside
5 over all proceedings, including jury trials. The parties may choose any magistrate
6 judge identified on the Central District website.³ The consent form may also be found
7 on the Central District website.⁴

8 **Q. Independent Expert or Master:** Whether the Court should consider
9 appointing a master pursuant to Federal Rule of Civil Procedure 53 or an independent
10 scientific expert at the parties' expense. The appointment of a master may be
11 especially appropriate in cases where the parties anticipate substantial discovery
12 disputes, numerous claims to be construed in connection with a motion for summary
13 judgment, a lengthy *Daubert* hearing, or a resolution of a difficult computation of
14 damages.

15 **R. Schedule Worksheet:** The parties must make every effort to agree on all
16 pretrial and trial dates. The parties must submit a completed copy of the attached
17 Schedule of Pretrial and Trial Dates Worksheet ("Worksheet") with their Joint Rule
18 26(f) Report. The entries in the "Time Computation" column reflect what the Court
19 believes is appropriate for most cases and will allow the Court to rule on potentially
20 dispositive motions sufficiently in advance of the Final Pretrial Conference. However,
21 the parties may propose earlier dates by which the key requirements must be
22 completed. Each date should be stated as month, day, and year (*e.g.*, 2/10/2022).
23 Hearings shall be held on **Thursdays starting at 1:30 p.m.** Other deadlines not
24 involving the Court may be scheduled any day of the week. The parties must avoid
25

26 _____
27 ³ A list of magistrate judges in the Central District of California can be found at
<https://www.cacd.uscourts.gov/judges-schedules-procedures>.

28 ⁴ The Statement of Consent to Proceed Before a United States Magistrate Judge (CV-11D) can be found at
<https://www.cacd.uscourts.gov/sites/default/files/forms/CV-011D/CV-11D.pdf>.

1 holidays. The Court may order different dates than those required. The discovery cut-
2 off date is the last day by which all depositions must be completed, responses to
3 previously served written discovery must be provided, and motions concerning
4 discovery disputes must be heard, not filed. **In other words, any motion challenging**
5 **the adequacy of discovery responses must be filed timely, served, and calendared**
6 **sufficiently in advance of the discovery cut-off date to permit the responses to be**
7 **obtained before that date, if the motion is granted.** If the parties wish the Court to
8 set dates in addition to those on the Worksheet, they may so request by a separate
9 stipulation and proposed order. Additional hearings are often appropriate for class
10 actions, patent cases, and cases for benefits under the Employee Retirement Income
11 Security Act of 1974 (“ERISA”).

12 If the parties agree on a date, the agreed-upon date should be put in the
13 Plaintiff’s column while the Defendant’s column should be marked “Agree.” If the
14 parties disagree on a date, each party should put their proposed date in their respective
15 column.

16 **S. Class Actions:** If the action is a putative class action, the parties are to
17 use the Class Action Worksheet found on the Court’s website and provide a proposed
18 briefing schedule for the motion for class certification. The schedule must provide for
19 at least twenty-one (21) days between the filing of the reply and the hearing and
20 should include a discovery cut-off date in advance of the date for filing of the motion.
21 The Court expects the parties to act diligently and begin discovery immediately,
22 because the motion must be filed no later than one-hundred-twenty (120) days from
23 the date originally set for the Scheduling Conference, unless the Court orders
24 otherwise. In other words, a continuance of the date for the Scheduling Conference
25 will not extend the time to file the motion for class certification.

26 **T. Patent Cases:** If the action is a patent case, the parties are to use the
27 Patent Action Worksheet found on the Court’s website.
28

1 **U. Other Issues:** A statement of any other issues affecting the status or
2 management of the case, such as unusually complicated technical or technological
3 issues, disputes over protective orders, extraordinarily voluminous document
4 production, witnesses who will need the assistance of a court interpreter, reasonable
5 ADA accommodations, discovery in foreign jurisdictions, the applicability of foreign
6 law, the advanced age or health of parties or key witnesses, and any proposals
7 concerning severance, bifurcation, or other ordering of proof.

8 The Joint Rule 26(f) Report should set forth the above-described information under
9 section headings corresponding to those in this Order.

10 **II. Trade Secret Cases**

11 This provision shall apply in any case in which there is a claim, counterclaim,
12 or crossclaim for misappropriation of trade secrets in violation of either the California
13 Uniform Trade Secret Act (“CUTSA,” Cal. Civ. Code. § § 3426–3426.11) or Defend
14 Trade Secrets Act (“DTSA,” 18 U.S. Code §§ 1836–1839).

15 As a matter of case management, **this Court requires the identification of**
16 **trade secrets with particularity** that are akin to the disclosure required by California
17 law. *See* Cal. Civ. Proc. Code § 2019.210 (“In any action alleging the
18 misappropriation of a trade secret . . . before commencing discovery relating to the
19 trade secret, the party alleging the misappropriation shall identify the trade secret with
20 reasonable particularity”).

21 A party asserting a claim for trade secrets must both serve upon the opposing
22 party and file (under seal if appropriate) a **trade secret identification statement** that
23 includes: (1) a numbered list of each trade secret at issue, including a summary each
24 of trade secret, and specific elements that define each trade secret (and if appropriate,
25 elements that distinguish the claimed trade secret from similar and more broadly
26 known technologies); (2) the background of the trade secret and a description of how
27 each secret has derived independent, actual or potential economic value by virtue of
28

not being generally known to the public; and (3) a description of how each secret has been the subject of reasonable efforts to maintain its secrecy.

This identification statement shall be used throughout the litigation. For example, at summary judgment, either party may move for summary judgment as to any one of or combination of the individually identified trade secrets, and at trial, the jury may find that claims have been proven as to any one of or combination of the individually identified trade secrets. The trade secret identification may only be amended with leave of the Court (via either stipulation or motion). The identification must comply with the requirements of California law for trade secret identifications pursuant to Section 2019.210. *See, e.g., Advanced Modular Sputtering, Inc. v. Sup. Ct.*, 132 Cal. App. 4th 82, 836 (2005) (The plaintiff must identify the trade secrets with “sufficient particularity” to distinguish the trade secrets from “matters of general knowledge in the trade or of special knowledge of those persons skilled in the trade.” (internal alterations omitted)).

The identification must be filed and served within 60 days from the date of this order. Should the parties wish, they may agree to a later deadline and should state as such in the 26(f) report. Discovery into trade secrets shall not commence until the identification has been served and filed, but the plaintiff may commence discovery on any other subject prior to the identification.

III. Scheduling Conference

A. Continuance: A request to continue the Scheduling Conference will be granted only for good cause. The parties should refer to the Court’s Standing Order for additional guidance regarding requests for continuance.

B. Vacating Scheduling Conference: The Court may vacate the Scheduling Conference and issue the Scheduling Order based solely on the parties’ Joint Rule 26(f) Report pursuant to Federal Rule of Civil Procedure 16(b).

1 **C. Participation:** If the Court elects to conduct a Scheduling Conference,
2 lead trial counsel must attend unless excused by the Court for good cause before the
3 conference.

4 **D. Failure to Submit a Joint Rule 26(f) Report:** The failure to submit a
5 Joint Rule 26(f) Report in advance of the Scheduling Conference or to attend the
6 Scheduling Conference may result in dismissal of the action, striking of the answer
7 and entry of default, and/or imposition of sanctions.

8 **IV. Notice to Be Provided by Counsel**

9 Plaintiff's counsel or, if Plaintiff is appearing *pro se*, Defendant's counsel, shall
10 provide this Order to any parties who first appear after the date of this Order and to
11 parties who are known to exist but have not yet entered appearances.

12 **V. Disclosures to Clients**

13 Counsel are ordered to deliver to their clients a copy of this Order.

14 **VI. Court's Website**

15 This and all other generally applicable orders of this Court are available on the
16 Central District of California website⁵ and on Judge Murillo's webpage.⁶ The Local
17 Rules are also available on the Central District of California website.⁷

18 The Court thanks the parties and their counsel for their anticipated cooperation.

19 **IT IS SO ORDERED.**

20
21 Dated: _____

22 HON. SERENA R. MURILLO
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28

⁵ The website for the Central District of California can be found at <http://www.cacd.uscourts.gov/>.

⁶ Judge Murillo's webpage can be found at <https://www.cacd.uscourts.gov/honorable-serena-r-murillo>.

⁷ Copies of the Local Rules are available at <https://www.cacd.uscourts.gov/court-procedures/local-rules>.

DISTRICT JUDGE SERENA R. MURILLO
SCHEDULE OF PRETRIAL AND TRIAL DATES WORKSHEET

Please complete this worksheet jointly and file it with your Joint Rule 26(f) Report.
The parties must make every effort to agree on dates or the court will set them.

Case No.	Case Name:		
Trial and Final Pretrial Conference Dates		Pl(s)' Date mm/dd/yyyy	Def(s)' Date mm/dd/yyyy
Check one: <input type="checkbox"/> Jury Trial or <input type="checkbox"/> Bench Trial [Tuesday at 9:00 a.m. within 12-15 months of Scheduling Conference based on complexity] Estimated Duration: _____ Days			
Final Pretrial Conference ("FPTC") [L.R. 16], Hearing on Motions <i>in Limine</i> [Thursday at 2:00 p.m. at least 19 days before trial]			
Event¹ <u>Note:</u> Hearings shall be on Thursdays at 1:30 p.m.² Other dates can be any day of the week.	Time Computation³	Pl(s)' Date mm/dd/yyyy	Def(s)' Date mm/dd/yyyy
Last Date to Hear Motion to Amend Pleadings or Add Parties [Thursday]	6 weeks after scheduling conference		
Fact Discovery Cut-Off (no later than deadline for filing dispositive motion)	24 weeks before FPTC		
Expert Disclosure (Initial)	23 weeks before FPTC		
Expert Disclosure (Rebuttal)	21 weeks before FPTC		
Expert Discovery Cut-Off	19 weeks before FPTC ⁴		
Last Date to Hear Motions [Thursday] • Parties shall take note of the Court's briefing schedule as set forth in the Civil Standing Order, found on Judge Murillo's website	12 weeks before FPTC		
Deadline to Complete Settlement Conference [L.R. 16-15] <u>Select one:</u> <input type="checkbox"/> 1. Magistrate Judge <input type="checkbox"/> 2. Court Mediation Panel <input type="checkbox"/> 3. Private Mediation	10 weeks before FPTC	<i>Select deadline and settlement method.</i>	<i>Select deadline and settlement method.</i>
<u>Trial Filings</u> (first round) • Motions <i>in Limine</i> • Memoranda of Contentions of Fact and Law [L.R. 16-4] • Witness Lists [L.R. 16-5] • Joint Exhibit List [L.R. 16-6.1] • Joint Status Report Regarding Settlement • Proposed Findings of Fact and Conclusions of Law [L.R. 52] (bench trial only) • Declarations containing Direct Testimony, if ordered (bench trial only)	4 weeks before FPTC		
<u>Trial Filings</u> (second round) • Oppositions to Motions <i>in Limine</i> • Joint Proposed Final Pretrial Conference Order [L.R. 16-7] • Joint Agreed Upon Proposed Jury Instructions (jury trial only) • Disputed Proposed Jury Instructions (jury trial only) • Joint Proposed Verdict Forms (jury trial only) • Joint Proposed Statement of the Case (jury trial only) • Proposed Voir Dire Questions, if any (jury trial only) • Evidentiary Objections to Declarations of Direct Testimony (bench trial only)	2 weeks before FPTC		

¹ The parties may seek dates for additional events by filing a separate stipulation and proposed order.

² By default, all hearings shall proceed in-person, unless a request is made by the parties and granted by the Court. Requests to appear via Zoom must be e-filed by the Friday before the hearing and must indicate that counsel has met and conferred per Local Rule 7-3.

³ The numbers below represent the court's recommended timeline. The parties may propose alternate dates based on the needs of each individual case. But in every case, the last date to hear motions shall be no later than eight (8) weeks before the deadline for Trial Filings (First Round), and the deadline for Trial Filings (First Round) and Trial Filings (Second Round) must be no later than four (4) and two (2) weeks before the FPTC, respectively.

⁴ The parties may choose to cut off expert discovery prior to the deadline to file a motion for summary judgment.