

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 **STANDING ORDER FOR CIVIL TRIALS BEFORE JUDGE CHABRIA**

4 **FINAL PRETRIAL CONFERENCE**

5 The final pretrial conference will be held roughly two weeks before the start of trial. Lead
6 trial counsel for each party shall attend. The parties should meet and confer at least 28 days before
7 the final pretrial conference about the matters discussed below.

8 **PRETRIAL FILINGS**

9 No later than 10 days before the final pretrial conference, the parties shall file the
10 documents listed in subsections A-G below (i.e. the proposed joint trial order, proposed jury
11 instructions, proposed voir dire questions, trial briefs, verdict forms, statement of the case, and any
12 motions in limine).

13 Two three-hole punched courtesy copies of these documents shall be delivered to the
14 Clerk's office by noon the day after filing. For motions in limine, the moving party is responsible
15 for delivering courtesy copies of all motion papers (both those in support and those in opposition).

16 In addition, no later than 10 days before the final pretrial conference, the Joint Proposed
17 Final Pretrial Order, jury instructions, voir dire, and verdict form(s) shall be submitted in Word
18 format via e-mail to vcpo@cand.uscourts.gov.

19 **A. Proposed Joint Pretrial Order**

20 Instead of a Joint Pretrial Conference Statement, the parties shall file a Joint Proposed
21 Final Pretrial Order that contains the following:

- 22 1. a brief description of all claims and defenses that remain to be decided (including
23 whether any issues are for the Court to decide rather than the jury);
- 24 2. a statement of all relief sought;
- 25 3. a statement of all relevant stipulated or undisputed facts;
- 26 4. a description of the efforts the parties have made to settle the case and a statement
27 about whether the parties believe a settlement conference with a magistrate judge could
28 be fruitful;

- 1 5. a list of all witnesses (other than for impeachment or rebuttal) likely to be called at trial
- 2 by each side, a brief statement describing the substance of the testimony to be given by
- 3 each witness, and the estimated number of minutes or hours the testimony will take
- 4 (direct and cross);
- 5 6. an estimate of the total length of the trial; and
- 6 7. as an appendix to the proposed order, a joint exhibit list in tabular form with the
- 7 following columns: (1) exhibit number; (2) name or brief description of the exhibit; (3)
- 8 the exhibit's purpose and sponsoring witness; (4) a brief description of any objections
- 9 to the admissibility of the exhibit or, alternatively, a statement that the parties have
- 10 stipulated to the exhibit's admissibility; (5) a brief response to any objections; and (6) a
- 11 blank column for the Court's use.

12 The Proposed Final Pretrial Order must be signed by the parties and must include the
13 following recitation directly above the signature line:

14 *The foregoing admissions having been made by the parties, and the*
15 *parties having specified the foregoing issues of fact and law*
16 *remaining to be litigated, this order shall supplement the pleadings*
and govern the course of trial of this cause, unless modified to
prevent manifest injustice.

17 **B. Proposed Jury Instructions**

18 The parties shall file a joint set of proposed jury instructions, arranged in the order the
19 parties propose the Court give the instructions.

20 The parties should use the Ninth Circuit Model Jury Instructions where possible. Any
21 modifications to a form instruction must be plainly identified.

22 The parties should include proposed text for all instructions, even for any form preliminary
23 instructions, general instructions, or concluding instructions on which they agree.

24 Instructions upon which the parties agree shall be identified as "Stipulated Instruction No.
25 ____ Re _____," with the blanks filled in as appropriate.

26 If the parties disagree on an instruction, each party's proposed version of the disputed
27 instruction shall be provided and identified as "Disputed Instruction No. ____ Re _____"
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1 Offered by _____,” with the blanks filled in as appropriate. All proposed versions
2 of the same instruction shall bear the same number. Following each set of proposed versions of a
3 disputed instruction, each party shall explain, in no more than one page, why the Court should
4 give that party's proposed instruction.

5 If the parties dispute whether a particular instruction should be given at all, the proponent
6 of the instruction shall provide proposed language, identified as “Disputed Instruction No. ____
7 Re _____ Offered by _____,” with the blanks filled in as appropriate.
8 Following the disputed instruction, each party shall explain, in no more than one page, why the
9 instruction should or should not be given.

10 **C. Voir Dire Questions**

11 The parties should file a joint set of proposed voir dire questions. If the parties disagree on
12 any proposed question, such disagreement should be noted, and each party should provide its
13 proposed version of the question (or state that in its view, the question should not be asked at all).
14 Note that during voir dire the Court will ask the jurors to respond to a set of questions similar to
15 those contained in the attached questionnaire, so those questions need not be included in the
16 parties' set of proposed questions.

17 **D. Trial Briefs**

18 The parties shall file trial briefs of no longer than seven pages.

19 **E. Verdict Forms**

20 The parties shall file either a joint proposed verdict form, or, if they disagree, separate
21 proposed verdict forms.

22 **F. Statement of the Case**

23 The parties shall jointly file a proposed simplified Statement of the Case to be read to the
24 jury during voir dire. Unless the case is extremely complex, this statement should not exceed one
25 page (double-spaced).

26 **G. Motions in Limine.**

27 The parties are encouraged to resolve as many trial issues by stipulation as possible.

28 Each party is limited to bringing five motions in limine. Each motion should address a

1 single, separate topic. Each motion should be clearly identified as " _____'s Motion in
2 Limine No. ___ Re: _____."

3 The memoranda in support of and in opposition to each motion in limine shall be no longer
4 than five pages. The moving party shall not file a reply brief.

5 Motions in limine shall be submitted as follows: At least 21 calendar days before the final
6 pretrial conference, the moving party shall serve, but not file, the opening brief. At least 14
7 calendar days before the conference, the responding party shall serve, but not file, the opposition.
8 Once the moving party has received the opposition, that party should collate each motion with its
9 opposition, back-to-back, and then file the paired sets at least 10 calendar days before the final
10 pretrial conference.

11 **EXHIBITS**

12 **A. Original Trial Exhibits**

13 The parties must jointly prepare a single set of all trial exhibits that will be the official
14 record set to be used with the witnesses at trial and, if applicable, on appeal.

15 No later than 5 days before trial, the parties shall deposit this set of trial exhibits with the
16 Clerk's office. The exhibits shall be provided in three-ring binders, with each exhibit tagged,
17 three-hole-punched, and separated with a label divider identifying the exhibit number. A spine
18 label on each binder should be marked "Original" and indicate the numbers of the exhibits
19 contained therein.

20 Exhibits shall be sequentially numbered (not lettered). If possible, parties shall use the
21 same number to mark an exhibit for trial as that used in depositions. Blocks of numbers should be
22 assigned to fit the need of the case (e.g., Plaintiff has 1 to 100, Defendant A has 101 to 200,
23 Defendant B has 201 to 300, etc.). On the first day of trial, the parties shall inform the Courtroom
24 Deputy which exhibits are offered by which party.

25 A single exhibit should be marked only once. If the plaintiff has marked an exhibit, the
26 defendant should not re-mark the same document with another number. Different versions of the
27 same document (e.g. versions of a document with and without additional handwriting), however,
28 must be treated as different exhibits and marked with different numbers.

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To avoid any party claiming “ownership” of an exhibit, all exhibits shall be marked and referred to as “Trial Exhibit No. _____,” not as “Plaintiff’s Exhibit” or “Defendant’s Exhibit.”

Each exhibit shall be tagged as follows:

<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA</p> <p>TRIAL EXHIBIT 100</p> <p>Case No. _____</p> <p>Date Entered _____</p> <p>By _____ Deputy Clerk</p>
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The Court prefers but does not require that the exhibit tags be in a color that will stand out (yet still allow for photocopying).

Counsel should fill in the exhibit and case numbers, but leave the other spaces ("Date Entered" and "By") blank.

Exhibit tags shall be placed on or near the lower right-hand corner of each exhibit, unless the exhibit is a photograph, in which case the tag shall be placed on the back.

B. Copy Sets of Exhibits

In addition to the official record exhibits, two sets of binders containing copies of the exhibits must be provided to the Clerk's office five days before trial. One should be marked as “Chambers Copies” and the other as “Clerk’s Copies.” Each exhibit must be separated with a label divider identifying the exhibit number. Exhibit tags are unnecessary (but permitted) for the copy sets. Each binder should bear a spine label indicating the numbers of the exhibits contained therein.

C. Treatment of Exhibits During Trial.

1 Counsel must consult with each other and with the Courtroom Deputy at the end of each
2 trial day about which exhibits are in evidence and any limitations thereon. If there are any
3 disagreements, counsel should bring them promptly to the Court's attention.

4 The parties must provide agreed-upon written transcripts of the content of any audio or
5 video exhibit to be used at trial. Failure to provide an agreed-upon transcript by the day an exhibit
6 is offered will preclude the exhibit's admission.

7 At the close of evidence, before closing arguments, counsel must confer with the
8 Courtroom Deputy to make sure the exhibits in evidence are in good order.

9 Exhibit notebooks for the jury will not be permitted without prior permission from the
10 Court.

11 Publication must be by poster blow-up, overhead projection, or such other method as is
12 allowed in the circumstances. It is permissible to highlight, circle, or underscore in the
13 enlargements as long as it is clear that it was not on the original.

14 Upon the conclusion of the trial, each party shall retain a full set of exhibits through the
15 appellate process. It is each party's responsibility to make arrangements with the Clerk of the
16 Court to file the record on appeal.

17 **DEPOSITION AND DISCOVERY DESIGNATIONS**

18 Unless otherwise ordered, no later than 5 days before trial begins, the parties shall jointly
19 file all excerpts of deposition testimony or other discovery to be offered by any party at trial for
20 any reason other than impeachment or rebuttal. Each party shall designate the excerpts of any
21 deposition testimony or other discovery it wishes to offer, as well as any counter-designations or
22 objections to the deposition testimony or discovery offered by any other party.

23 **PRETRIAL ARRANGEMENTS**

24 Should a daily transcript and/or real-time reporting be desired, the parties shall make
25 arrangements with Debra Campbell, Supervisor of the Court Reporting Services, at (415) 522-
26 2079, at least 14 days before the trial date.

27 Prior to the start of trial, the parties must provide the Court Reporter a jointly-created list
28 of names and places as well as any uncommon terms or acronyms that are likely to come up

1 during the trial.

2 The parties should contact the Courtroom Deputy, Kristen Melen, at (415) 522-4173, to
3 discuss any questions or issues about the layout of the courtroom. Parties must contact Ms. Melen
4 at least seven days prior to trial.

5 The Court provides no equipment other than an easel. During trial, however, counsel may
6 wish to use overhead projectors, laser-disk/computer graphics, poster blow-ups or models. Such
7 equipment must be provided by the parties. Equipment should be shared by all counsel to the
8 maximum extent possible. The United States Marshal requires a court order to allow equipment
9 into the courthouse. To request such an order, the parties should contact the Courtroom Deputy no
10 later than 1 week before trial. For electronic equipment, parties should be prepared to maintain the
11 equipment or have a technician handy at all times. The parties shall tape extension cords to the
12 carpet for safety.

13 **SCHEDULING**

14 Trial will be conducted from 8:30 a.m. to roughly 2:00 p.m. Counsel must arrive by 8:00
15 a.m. each day, or earlier if directed by the Court, to discuss any matters that need to be heard
16 outside of the presence of the jury. The jury will be called at 8:30 a.m.

17 Unless the Court directs otherwise, trials will begin on Mondays and will not take place on
18 Thursdays, which will be dark days.

19 **THE JURY**

20 In civil cases, there are no alternate jurors, and the jury is selected as follows: Eighteen to
21 twenty jurors are called to fill the jury box and the row in front of the bar, and are given numbers.
22 The remaining potential jurors will be seated in the public benches. Hardship excuses will usually
23 be considered at this point. The Court will then ask questions of those in the box and in front of
24 the bar. Counsel may then conduct a limited voir dire. Challenges for cause will then be
25 addressed outside of the presence of the potential jurors. The Court will consider whether to fill in
26 the seats of the stricken jurors. If so, questions will be asked of the additional jurors and cause
27 motions for the new jurors will be considered. After a short recess, each side may exercise its
28 allotment of peremptory challenges outside of the presence of the potential jurors. The eight

1 potential jurors (or such other number as will constitute the jury) surviving the challenge process
2 with the lowest numbers become the final jury. For example, if the plaintiff strikes 1, 5, and 7 and
3 the defendant strikes 2, 4, and 9, then 3, 6, 8, 10, 11, 12, 13, and 14 become the final jury. If more
4 (or fewer) than eight jurors are to be seated, then the starting number will be adjusted. Once jury
5 selection is completed, the jurors' names will be read again, and they will be seated in the jury box
6 and sworn. The Court may alter this procedure in its discretion and after consultation with the
7 parties.

8 Jury selection will typically occur on the Wednesday prior to trial beginning the following
9 Monday.

10 **OBJECTIONS**

11 In making objections counsel should state only the legal grounds for the objection and
12 should withhold all further comment or argument unless elaboration is requested by the Court.

13 **WITNESSES**

14 At the close of each trial day, counsel shall exchange a list of witnesses for the next two
15 full court days and the exhibits that will be used during direct examination (other than for
16 impeachment of an adverse witness). Within 24 hours of receiving such notice, opposing counsel
17 shall provide any objections to such exhibits and shall provide a list of all exhibits to be used with
18 the same witness on cross-examination (other than for impeachment). The first notice shall be
19 exchanged 48 hours prior to the first day of trial. All such notices shall be provided in writing.

20 At the start of each trial day, counsel shall alert the Court to any objections to the witnesses
21 or evidence planned for the day, which the Court will address before the jury comes in.

22 **CHARGING CONFERENCE**

23 As the trial progresses and the evidence is heard, the Court will fashion a comprehensive
24 set of jury instructions to cover all issues actually being tried. Prior to the close of the evidence,
25 the Court will provide a draft final charge to the parties. After a reasonable period for review, one
26 or more charging conferences will be held at which each party may object to any passage, ask for
27 modifications, or ask for additions. Any previous instruction request must be renewed specifically
28 at the conference or it will be deemed waived.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW (FOR BENCH TRIALS)

In non-jury cases, no later than 5 days after the close of evidence, each party shall file proposed Findings of Fact and Conclusions of Law on all material issues. All factual findings must be supported by citations to all pertinent portions of the record. If the citation is to witness testimony and a rough or final transcript is not yet available, the citation can simply be to the date of the testimony. Proposed Findings shall be brief, written in plain English, and free of pejorative language. In addition to being filed, the proposed Findings must be emailed to the Court in Word format.

IT IS SO ORDERED.

Dated: December 7, 2015



Vince Chhabria
United States District Judge

