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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

XXXXXX,

Plaintiff,

v.

XXXXXX,

Defendants.

No. C JL

CASE MANAGEMENT AND  
PRETRIAL ORDER

Pursuant to Fed. R. Civ. P. 16 and Civ. L.R. 16-10(b), the following case management and pretrial order is entered:

1. TRIAL DATE

a. Jury trial will begin on July 19, 2010 at 9:00 a.m. in Courtroom F, 15th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102.

b. The length of the trial will be not more than 5-7 days.

2. DISCOVERY

a. Experts shall be disclosed by May 1, 2010.

b. All discovery from experts shall be completed by May 15, 2010.

c. All non-expert discovery shall be completed by May 15, 2010.

d. In the event of a discovery dispute the parties shall use the following procedure:

1 Parties shall meet and confer in person, or, if counsel are located outside the Bay  
2 Area, by telephone, to attempt to resolve their dispute informally. A mere exchange of  
3 letters, e-mails, telephone calls, or facsimile transmissions does not satisfy the requirement  
4 to meet and confer.

5 If, after a good faith effort, the parties have not resolved their dispute, they shall  
6 prepare a concise joint statement, of five pages or less, stating the nature and status of  
7 their dispute. The parties shall not file affidavits or exhibits. If a joint statement is not  
8 possible, each side may submit a two-page individual statement. The Court will advise the  
9 parties regarding the need, if any, for formal briefing or a hearing.

10 3. MOTIONS

11 All dispositive motions shall be served and filed not less than **thirty-five (35)** days  
12 prior to the scheduled hearing date. Any opposition shall be served and filed no later than  
13 **twenty-one (21)** days prior to the hearing date. Any reply to the opposition shall be served  
14 and filed no later than **fourteen (14)** days prior to the hearing. Prior to a dispositive motion,  
15 the parties shall meet and confer and, at the time the motion is filed, submit a joint  
16 statement of undisputed facts. If any need for hearing of dispositive motion the hearing  
17 shall take place, June 2, 2010 at 9:30 a.m.

18 4. ALTERNATIVE DISPUTE RESOLUTION (ADR)

19 Referral to ADR for purpose of scheduling ENE. Private mediation shall take  
20 place by January 29, 2010.

21 5. A further Case Management Conference will be held within 30 days of  
22 unsuccessful settlement conference or ADR proceedings. Parties shall jointly propose a  
23 date on a Wednesday at 10:30 a.m.

24 6. PRETRIAL CONFERENCE

25 a. A final pretrial conference shall be held on \_\_\_\_\_, at 11:00  
26 a.m., in Courtroom F, 15th Floor. Each party shall attend personally or by counsel who will  
27 try the case.

28

1                   b.     **Not less than thirty (30) days** prior to the date of the pretrial  
2 conference, all counsel or parties shall meet and fulfill the requirements of Civil Local Rule  
3 16-10(b).

4                   c.     **Not less than twenty (20) days** prior to the pretrial conference,  
5 counsel or parties shall

6                             (l)   serve and file a joint pretrial statement pursuant to Local Rule 16-10  
7                                     (b)(6);

8                   The pretrial statement shall include the disclosures required by Fed. R. Civ. P.  
9 26(a)(3) as well as the following:

10                   THE ACTION

11                             Substance of the Action

12                             Relief Prayed

13                   FACTUAL BASIS FOR THE ACTION

14                             Undisputed Facts

15                             Disputed Factual Issues

16                             Agreed Statement

17                             Stipulations

18                   DISPUTED LEGAL ISSUES

19                             (List)

20                   TRIAL PREPARATION

21                             Witnesses to be Called

22                             Exhibits, Schedules and Summaries;

23                             Trial

24                             Estimate of Trial Time

25                             Use of Discovery Responses at Trial

26                             Further Discovery or Motions

27                   TRIAL ALTERNATIVES AND OPTIONS

28                             Settlement Discussions

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Amendments - Dismissals  
Bifurcation, Separate Trial of Issues

MISCELLANEOUS

Any other concerns of the parties

d. At the same time that the parties file their joint pretrial statement they shall also:

(ii) Serve and file trial briefs, which shall specify each cause of action and defense remaining to be tried along with a statement of the applicable legal standard (no opposition shall be filed);

(iii) Serve and file motions *in limine*, which shall be contained in one document. Motions in limine will be decided at the Pretrial Conference.

e. Serve and file a list of excerpts from discovery that will be offered at trial, specifying the witness, page and line references and whether the excerpt is to be offered in lieu of testimony or as impeachment;

f. Serve and file a list of witnesses likely to be called at trial, in person or by deposition, other than solely for impeachment or rebuttal, with a brief statement describing the substance of the testimony to be given;

g. Serve and file a numerical list of exhibits (including demonstrative exhibits that may be admitted into evidence but not those that are purely illustrative), with a brief statement describing the substance and purpose of each exhibit and the name of the sponsoring witness;

h. Exchange exhibits which shall be premarked, tabbed and in binders (plaintiff shall use numbers and defendant shall use letters); and deliver the original and **two** duplicate sets of all premarked exhibits to chambers (exhibits are not to be filed) at least one week before trial.

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(See Label)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Case No. \_\_\_\_\_

Exhibit No. \_\_\_\_\_

Date entered: \_\_\_\_\_

RICHARD W. WIEKING, Clerk

By: \_\_\_\_\_

Deputy Clerk

j. Serve and file proposed joint voir dire questions and joint jury instructions for cases to be tried by jury (further instructions regarding jury instructions below);

k. Serve and file proposed findings of fact and conclusions of law for cases to be tried by the Court.

l. Serve and file a proposed verdict form which contains no reference to submitting party.

m. **Two courtesy copies** of trial briefs and motions in limine shall be provided.

n. No party shall be permitted to call any witness or offer any exhibit in its case in chief that is not disclosed in these pretrial filings without leave of court and for good cause.

7. **Not less than nine calendar days** prior to the pretrial conference, counsel or parties shall serve and file any opposition or objection to those items required by section 6

1 (e), (f),(j), (k) and (l) of this order. Additionally, counsel or parties shall file any objections to  
2 the qualifications of expert witnesses contained in the opposing party's witness list.  
3 Objections not filed as required will be deemed waived. No replies shall be filed. All  
4 motions and objections shall be heard at the pretrial conference unless otherwise ordered.

5 8. JURY TRIAL

6 a. Counsel shall submit an **agreed upon set** of additional voir dire  
7 questions to be posed by the Court. Any voir dire questions on which counsel cannot  
8 agree may be submitted separately. Counsel will be allowed brief follow-up voir dire after  
9 the Court's questioning.

10 b. The following jury instructions from the Manual of Model Civil Jury  
11 Instructions for the Ninth Circuit (April 2007, and subsequent modifications) will be given  
12 absent objection: 1.1B, 1.1C, 1.3, 1.6 - 1.14, 1.18, 1.19, 2.1 - 2.4, 2.11, 3.1 - 3.4.. The  
13 Ninth Circuit Manual of Model Civil Jury Instructions is available on the web site for the U.S.  
14 District Court for the Northern District of California at [www.cand.uscourts.gov](http://www.cand.uscourts.gov). Click on the  
15 9<sup>th</sup> Circuit home page icon and then choose the Civil Jury Instructions from the list on the  
16 lefthand tool bar in the next screen. Counsel shall also submit an agreed upon set of case-  
17 specific instructions, using the Ninth Circuit Manual of Model Civil Jury Instructions where  
18 appropriate. Do not submit duplicates of those listed above. Any instructions to which  
19 counsel cannot agree may be submitted separately. Each requested instruction shall be  
20 typed in full on a separate page with citations to the authority upon which it is based and a  
21 reference to the party submitting it. A **second blind copy** of each instruction and verdict  
22 form shall also be submitted omitting the citation to authority and the reference to the  
23 submitting party.

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9. All documents filed with the Clerk of the Court shall list the civil case number followed by the initials "JL." One copy shall be clearly marked as a **chambers** copy.

IT IS SO ORDERED.

DATED:

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James Larson  
United States Magistrate Judge

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