

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STANDING ORDER FOR CIVIL TRIALS BEFORE JUDGE CHHABRIA

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SUMMARY TABLE OF DEADLINES

DEADLINE	DATE
Meet and confer regarding pretrial conference, serve motions in limine	28 Days Before Pretrial Conference
Serve oppositions to motions in limine	21 Days Before Pretrial Conference
File proposed supplemental juror questionnaire and proposed jury instructions	21 Days Before Pretrial Conference
File joint pretrial conference statement, motions in limine and oppositions to motions in limine	14 Days Before Pretrial Conference
File involved individuals list, proposed verdict forms, statement of the case, exhibit list	7 Days Before Pretrial Conference
Arrangement of daily transcript or real-time reporting	14 Days Before Trial
Filing of proposed order for bringing exhibit presentation equipment and technology into the building	14 Days Before Trial
Contact Bhavna Sharma regarding courtroom layout and technology	10 Days Before Trial
Joint filing of all designations of deposition testimony	7 Days Before Trial
Deliver original trial exhibit set and thumb drive of exhibits	5 Days Before Trial

FINAL PRETRIAL CONFERENCE

1. The final pretrial conference will be held roughly 14 days before the start of trial. Lead trial counsel for each party shall attend. The parties should meet and confer at least 28 days before the final pretrial conference about the matters discussed below.

PRETRIAL FILINGS

Proposed Supplemental Juror Questionnaire (Due 21 Days Before PTC)

2. In advance of the trial, the Jury Office will send prospective jurors an online questionnaire. The questionnaire includes standard questions that are asked in every case, as well as a maximum of ten supplemental questions specific to a given case. One of those questions will ask about scheduling conflicts, so the parties should propose nine other questions. The parties shall file these questions on the docket and submit a Word version to vcpo@cand.uscourts.gov. However, no argument may be included in this submission. For a copy of the standard questionnaire, as well as other questions that Judge Chhabria tends to include in the supplemental questionnaire, see the Standing Order section of Judge Chhabria's website.

3. The parties need not include a question that asks prospective jurors whether they know any of the individuals involved in the case. The prospective jurors will be given an "Involved Individuals" list when they are called in.

Proposed Jury Instructions (Due 21 Days Before PTC)

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

5. The parties should use the Ninth Circuit Model Jury Instructions where possible. Any modifications to a form instruction must be plainly identified. The Court at times deviates from the Ninth Circuit Model Jury Instructions to make the instructions more readable, and the parties are encouraged to look at the Court's past jury instructions when drafting their proposed instructions. The parties do not need to submit instructions from Chapters 1-3 of the Ninth Circuit Manual, but they must indicate which of these instructions should be included.

6. Instructions upon which the parties agree shall be identified as “Stipulated Instruction No. ____ Re _____,” with the blanks filled in as appropriate.

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

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

9. If either party believes that a dispute about jury instructions must be resolved before opening statements, it must be raised when the proposed jury instructions are filed and at the pretrial conference. Otherwise, the Court will discuss jury instructions with the parties during trial.

Joint Pretrial Conference Statement (Due 14 Days Before PTC)

10. The parties shall file a Joint Pretrial Conference Statement that contains the following:

- a. a brief description of all claims and defenses that remain to be decided (including whether any issues are for the Court to decide rather than the jury);
- b. a statement of all relief sought;

- c. a statement of all relevant stipulated or undisputed facts;
- d. a list of all witnesses likely to be called at trial by each side, a brief statement describing the substance of the testimony to be given by each witness, and the estimated number of minutes or hours the testimony will take (on direct and cross);
and
- e. an estimate of the total length of the trial.

Motions in Limine with Oppositions (Due 14 Days Before PTC)

11. Unless otherwise ordered by the Court, each party is limited to bringing five motions in limine. Each motion should address a single, separate topic. Rather than trying to squeeze multiple topics into one motion in limine, the parties must seek relief from the five-motion limit at least 35 calendar days before the final pretrial conference. That request for relief must list the topics of each motion in limine each side wishes to file.

12. Each motion should be clearly identified as “_____’s Motion in Limine No. __ Re: _____.”

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

14. Motions in limine shall be submitted as follows: At least 28 calendar days before the final pretrial conference, the moving party shall serve, but not file, the opening brief. At least 21 calendar days before the conference, the responding party shall serve, but not file, the opposition. Once the moving party has received the opposition, that party should collate each motion with its opposition, back-to-back, and then file the paired sets at least 14 calendar days before the final pretrial conference. The moving party is responsible for delivering courtesy copies of all motion papers (both those in support and those in opposition).

Statement of Objection to Unconscious Bias Video (Due 7 Days Before PTC)

15. Starting January 1, 2019, prospective jurors will be shown a video on unconscious bias in the jury office. The video can be accessed at <https://www.cand.uscourts.gov/attorneys/jury-video>. If a party objects to prospective jurors' viewing this video, the party must file a short statement (not to exceed one page double-spaced) explaining its objection. The party should then alert the Court to its objection at the pretrial conference.

Involved Individuals List (Due 7 Days Before PTC)

16. The parties shall jointly file, and send in Word format to vcpo@cand.uscourts.gov, a list of people involved in the case. This list will be shown to prospective jurors during jury selection. The list should include counsel, the parties, the potential witnesses, and any other people significantly involved in the case.

Verdict Forms (Due 7 Days Before PTC)

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

Statement of the Case (Due 7 Days Before PTC)

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

Exhibit List (Due 7 Days Before PTC)

19. The parties shall file a joint exhibit list in tabular form with the following columns: (1) exhibit number; (2) name or brief description of the exhibit; (3) the exhibit's purpose and sponsoring witness; (4) a brief description of any objections to the admissibility of

the exhibit or, alternatively, a statement that the parties have stipulated to the exhibit's admissibility; (5) a brief response to any objections; and (6) a blank column for the Court's use.

Chambers Copies of All Pretrial Filings

20. Two three-hole punched courtesy copies of all pretrial filings shall be delivered to the Clerk's office by noon the day after filing.

21. In addition, the proposed supplemental jury questions, Joint Pretrial Conference Statement, jury instructions, involved individuals list, and verdict form(s) shall be submitted in Word format via e-mail to vcpo@cand.uscourts.gov when they are filed.

EXHIBITS

22. The parties must jointly prepare a single set of all trial exhibits that will be the official record and, if applicable, used on appeal.

23. No later than 5 days before trial, the parties shall deposit one binder or set of binders (judge's copy) and one thumb drive (official copy) with the Courtroom Deputy. Arrangement for delivery of these exhibits shall be made prior to the date of delivery with Bhavna Sharma at vcprd@cand.uscourts.gov. The judge's copy of the exhibits shall be provided in three-ring binders, with each exhibit tagged, three-hole-punched, and separated with a label divider identifying the exhibit number. A spine label on each binder should indicate the numbers of the exhibits contained therein. The official copy shall be submitted on a thumb drive and should contain each exhibit as a separate file, with each file named so that the exhibits appear sequentially when sorted by file name. The parties should discuss with Judge Chhabria and the Courtroom Deputy how they will handle showing exhibits to witnesses, including whether witness binders are necessary.

24. Exhibits shall be sequentially numbered (not lettered). If possible, parties shall use the same number to mark an exhibit for trial as that used in depositions. Blocks of numbers should be assigned to fit the needs of the case (e.g., Plaintiff has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.).

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

26. 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.”

27. 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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28. The Court prefers but does not require that the exhibit tags be in a color that will stand out (yet still allow for photocopying).

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

30. 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. If an exhibit is a multipage document and there is no room on the front of the first page then the exhibit sticker must be placed on the back of the last page of the document in the lower left corner.

Treatment of Exhibits During Trial

31. Counsel must clearly announce the number of any exhibit used during the proceedings, even if it has already been admitted.

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

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

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

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

36. Publication must be by poster blow-up, transmission via courtroom technology, or such other method as is allowed in the circumstances. It is permissible to highlight, circle, or underscore in the enlargements as long as it is clear that it was not on the original.

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

DEPOSITION AND DISCOVERY DESIGNATIONS

38. Unless otherwise ordered, no later than 7 days before trial begins, the parties shall jointly file all designations of deposition testimony or other discovery it wishes to offer, as well as any counter-designations or objections to the deposition testimony or discovery offered by any other party.

39. There is no need to lodge deposition transcripts before trial. The lawyers should simply be prepared to hand to the Court a copy of a witness's deposition testimony once it is time to cross-examine them.

PRETRIAL ARRANGEMENTS

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

41. No later than five days before the start of trial, the parties must provide the Court Reporter a jointly-created list of names and places as well as any uncommon terms or acronyms that are likely to come up during the trial.

42. The parties should contact the Courtroom Deputy, Bhavna Sharma, at vccrd@cand.uscourts.gov, to discuss any questions or issues about the layout of the courtroom. Parties must contact Ms. Sharma at least 10 days prior to trial.

43. The Court may be able to provide access to an easel and the courtroom electronic evidence presentation system. The parties should consult www.cand.uscourts.gov/courtroomtech for information on the available courtroom technology. During trial, counsel may wish to use laser-disk/computer graphics, poster blow-ups, or models. Such equipment must be provided by the parties. Equipment should be shared by all counsel to the maximum extent possible. The

United States Marshal requires a court order to allow equipment into the courthouse. To request such an order, the parties should contact the Courtroom Deputy no later than 14 days before trial. For electronic equipment, parties should be prepared to maintain the equipment or have a technician handy at all times. The parties shall tape extension cords to the carpet for safety.

THE JURY

44. The parties do not need to submit proposed voir dire questions in advance of trial.

45. A day or so before jury selection, the Court will hold an “excusal hearing” for the purpose of determining which prospective jurors should be excused for hardship or cause based exclusively on their questionnaire responses. One to two days before the excusal hearing, the Court will send counsel a copy of the responses. The remaining jurors will be called in for jury selection.

46. During jury selection, the Court will circulate the list of “Involved Individuals” and ask prospective jurors if they know anyone on the list. The Court may ask some raise-your-hand questions. Counsel may then conduct a limited voir dire. Challenges for hardship and for cause and the exercise of each party’s allotment of peremptory challenges will then be addressed outside of the presence of the potential jurors. The 8 potential jurors (or such other number as will constitute the jury) surviving the challenge process with the lowest numbers become the final jury. The Court may alter this procedure in its discretion and after consultation with the parties.

47. Jury selection will typically occur immediately before the beginning of trial.

OBJECTIONS

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

USING PRIOR STATEMENTS AND REFRESHING RECOLLECTION AT TRIAL

49. The parties should review the guide for using prior statements of witnesses and refreshing recollection at trial, which is posted in the Standing Orders section of Judge Chhabria's website.

WITNESSES

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

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

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


52. In non-jury cases, all pretrial filings are due 7 days before the pretrial conference. They must include trial briefs not to exceed 10 pages each, and proposed findings of fact and conclusions of law. Judge Chhabria expects far fewer motions in limine for bench trials.

53. The parties will be required to submit revised proposed findings of fact and conclusions of law following the trial. 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. The parties should hyperlink the citations in the proposed findings of fact to the exhibits and trial transcripts and may provide the Court with the proposed findings of fact on a flash drive if needed. 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 (vcpo@cand.uscourts.gov) in Word format.

54. Within 7 days of the Court ruling on the admissibility of exhibits used at trial, the parties will be required to submit a thumb drive of all exhibits admitted into evidence to chambers, attention Bhavna Sharma, Judge Chhabria's Courtroom Deputy.

IT IS SO ORDERED.

Dated: April 25, 2023



Vince Chhabria
United States District Judge