

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**STANDING ORDER FOR CIVIL TRIALS BEFORE JUDGE CHHABRIA**

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**SUMMARY TABLE OF DEADLINES**

<b>DEADLINE</b>	<b>DATE</b>
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 joint pretrial conference statement, file motions in limine and oppositions to motions in limine	14 Days Before Pretrial Conference
File proposed jury instructions, voir dire questions, verdict forms, statement of the case, exhibit list	7 Days Before Pretrial Conference
Individuals involved list	7 Days Before Jury Selection
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 Kristen Melen 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**

### *Joint Pretrial Conference Statement (Due 14 Days Before PTC)*

2. 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 description of the efforts the parties have made to settle the case and a statement about whether the parties believe a settlement conference with a magistrate judge could be fruitful;
  - e. 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
  - f. an estimate of the total length of the trial

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

3. 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.

4. Each motion should be clearly identified as “\_\_\_\_\_’s Motion in Limine No. \_\_\_ Re: \_\_\_\_\_.”

5. 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.

6. 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. *See Regents of the Univ. of Cal. v. Cal. Berry Cultivars, LLC*, Case No. 3:16-cv-02477-JCS, Dkt. No. 256. The moving party is responsible for delivering courtesy copies of all motion papers (both those in support and those in opposition).

*Proposed Jury Instructions (Due 7 Days Before PTC)*

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

8. 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.

9. Instructions upon which the parties agree shall be identified as “Stipulated Instruction No. \_\_\_\_ Re \_\_\_\_\_,” with the blanks filled in as appropriate.

10. 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.

11. 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.

12. In most cases, the parties should be prepared to discuss jury instructions at the pretrial conference. Before the pretrial conference, the Court will usually file a document titled "Court's Draft Jury Instructions (1)" for discussion at the pretrial conference. It is the parties' responsibility to review that document carefully to make sure that nothing important is missing from their version of the proposed instructions, and to alert the Court if they believe something has been incorrectly excluded or changed. Typically, the Court will then issue a revised set of proposed jury instructions based on the discussion at the pretrial conference, and there will be a final charging conference towards the end of trial.

13. If Judge Chhabria is unable to discuss jury instructions at the pretrial conference, a draft will be provided later, and the parties will have the opportunity to discuss the draft as set forth above. If the parties want to find out in advance whether Judge Chhabria will be ready to

discuss jury instructions at the pretrial conference, they may email Kristen Melen, Judge Chhabria's Courtroom Deputy, a day or so beforehand.

*Voir Dire Questions (Due 7 Days Before PTC)*

14. Each side will typically get between 30 and 45 minutes of attorney voir dire, after the Court has gone through its questionnaire with the jurors verbally and asked a few "raise your hand" questions. The parties should therefore file a joint set of proposed voir dire questions. If the parties disagree on any proposed question, such disagreement should be noted, and each party should provide its proposed version of the question (or state that in its view, the question should not be asked at all). Because the Court will ask the jurors to respond to a set of questions similar to those contained in the attached questionnaire, those questions need not be included in the parties' set of proposed questions.

*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 [here](https://www.cand.uscourts.gov/attorneys/jury-video) (<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.

*Verdict Forms (Due 7 Days Before PTC)*

16. 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)

17. 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)

18. 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

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

20. In addition, the Joint Pretrial Conference Statement, jury instructions, voir dire, and verdict form(s) shall be submitted in Word format via e-mail to [vcpo@cand.uscourts.gov](mailto:vcpo@cand.uscourts.gov) when they are filed.

**EXHIBITS**

Original Trial Exhibits

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

22. No later than 5 days before trial, the parties shall deposit this set of trial exhibits with the Courtroom Deputy. Arrangements for delivery of the exhibits must be made in advance by contacting Kristen Melen, Judge Chhabria's Courtroom Deputy, via email at

vccrd@cand.uscourts.gov. 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 be marked “Original” and indicate the numbers of the exhibits contained therein.

23. 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.). On the first day of trial, the parties shall inform the Courtroom Deputy which exhibits are offered by which party.

24. 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.

25. 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.”

26. Each exhibit shall be tagged as follows:

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
<b>TRIAL EXHIBIT 100</b>
Case No. _____
Date Entered _____
By _____ Deputy Clerk



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

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

29. 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.

#### Copy Sets of Exhibits

30. In addition to the official record exhibits, one copy of the exhibits in electronic form (on a portable USB drive or compact disk) must be provided to the Courtroom Deputy 5 days before trial. The electronic copy of the exhibits should contain each exhibit as a separate file, with each file named so that the exhibits appear sequentially when sorted by file name.

#### Witness Binders

31. For each witness, the parties must prepare three copies of a binder that contains the exhibits that will be used during that witness’s examination. One copy should be provided to the witness, the second copy should be provided to Judge Chhabria, and the third should be provided to the law clerk. Judge Chhabria prefers that the parties provide him and his law clerk with their copies of the witness binder the day the witness is being called (as opposed to beforehand).

#### Treatment of Exhibits During Trial

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

33. 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.

34. 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.

35. 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.

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

37. 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.

38. 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**

39. 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.

40. 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 they are ready to request permission to read a portion of a witness's testimony into the record.

### **PRETRIAL ARRANGEMENTS**

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

42. 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.

43. The parties should contact the Courtroom Deputy, Kristen Melen, at (415) 522-4173, to discuss any questions or issues about the layout of the courtroom. Parties must contact Ms. Melen at least 10 days prior to trial.

44. 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](http://www.cand.uscourts.gov/courtroomtech) for information on the available courtroom technology.

45. 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.

## **TRIAL SCHEDULE**

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

47. Unless the Court directs otherwise, trials will begin on Mondays and will not take place on Thursdays.

## **THE JURY**

48. In civil cases, there are no alternate jurors, and the jury is selected as follows: 20 to 30 jurors are called to fill the jury box and the gallery. Counsel will be given a copy of a document listing the prospective jurors in the order they will be seated. Counsel must return their copies of the list of prospective jurors at the end of voir dire after the jury is sworn. Hardship excuses will usually be considered at this point. The Court will then ask questions of all prospective jurors using the questionnaire attached to this Standing Order as Exhibit A. The Court will conduct some “raise your hand” questions. Counsel may then conduct a limited voir dire. Challenges 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. For example, if the plaintiff strikes 1, 5, and 7 and the defendant strikes 2, 4, and 9, then 3, 6, 8, 10, 11, 12, 13, and 14 become the final jury. Once jury selection is completed, the jurors’ names will be read again, and they will be seated in the jury box and sworn. The Court may alter this procedure in its discretion and after consultation with the parties.

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

50. No later than 7 days before jury selection, the parties must jointly file, and send in Word format to [vcpo@cand.uscourts.gov](mailto:vcpo@cand.uscourts.gov), a list of people involved in the case. This list will be appended to the jury questionnaire, and prospective jurors will be asked whether they personally know any of those people. The list should include counsel, the parties, the potential witnesses, and any other people significantly involved in the case.

### **OBJECTIONS**

51. 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.

### **WITNESSES**

52. 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.

53. 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)**

54. 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.


55. Typically, the Court will defer ruling on the admissibility of exhibits until after the trial has concluded. At the end of each trial day, the parties should provide a list of which exhibits were used that day to the Courtroom Deputy. At the conclusion of the trial, the parties must file a joint list of all exhibits used during the trial and any outstanding objections to those exhibits.

56. 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](mailto:vcpo@cand.uscourts.gov)) in Word format.

57. Within 7 days of the Court ruling on the admissibility of exhibits used at trial, the parties will be required to submit a joint binder of all exhibits admitted into evidence to Kristen Melen, Judge Chhabria's Courtroom Deputy.

**IT IS SO ORDERED.**

Dated: May 7, 2019

  
\_\_\_\_\_  
Vince Chhabria  
United States District Judge

Appendix A  
JUROR QUESTIONNAIRE  
(Civil Cases)

This form will assist the judge and the lawyers in selecting a jury and will save time for them and for you. You do not need to fill out this form, but please be ready to answer each question as completely as possible when your turn comes. Thank you for your cooperation.

1. What is your name?
2. How old are you?
3. What city do you live in?
4. If you have lived there for fewer than five years, where did you live before?
5. Where were you born?
6. What is your job and how long have you worked in it? (If you are retired, please describe your job before you retired).
7. Who is your employer? (Or, if you are retired, who was your employer?)
8. Have you held your current job for fewer than five years? If so, please describe your previous job.
9. Are there any other adults (besides you) who live in your household? If so, what are their jobs?
10. Do you have children? If so, please state their ages. If they are employed, please state their job.
11. Please describe your educational background:  
Highest grade completed or degree received? Major area of study?
12. Do you have any difficulty understanding or reading English?
13. Have you ever served in the military? If so, in what capacity?
14. Have you ever served on a jury before?
15. If so, how many times have you served on a jury?

For each time you've previously served on a jury please state:

- (a) if it was in federal court or state/county court;
- (b) approximately when your service took place;
- (c) if it was a civil or criminal trial; and
- (d) if the jury reached a verdict (but without saying what that verdict was).