

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA**

**STANDING ORDER FOR CIVIL BENCH TRIALS BEFORE
DISTRICT JUDGE JON S. TIGAR**

A. Meeting and Disclosure Prior to Pretrial Conference

At least twenty-one calendar days before the final pretrial conference, lead trial counsel shall meet and confer with respect to:

1. Settlement of the case;
2. Preparation of the joint pretrial statement;
3. Preparation and exchange of pretrial materials to be served and lodged pursuant to Federal Rule of Civil Procedure 26(a)(3); and
4. Clarifying and narrowing the contested issues for trial in order to achieve a just, speedy, and efficient determination of the case.

B. Joint Pretrial Statement

Unless otherwise ordered, the parties shall file and serve a joint pretrial statement no later than seven calendar days before the pretrial conference. The statement shall contain the following information:

1. Substance of the Action. A brief description of the parties, the substance of claims and defenses that remain to be decided, and the operative pleadings.
2. Relief Requested. A detailed statement of all requested relief, including an itemization of all elements of damages claimed.
3. Undisputed Facts. A plain and concise statement of all relevant facts to which the parties will stipulate for incorporation into the trial record without supporting testimony or exhibits. The parties shall exercise good faith in stipulating to facts that are not reasonably disputable.
4. Disputed Factual Issues. A plain and concise list of the issues of fact that are contested and remain to be litigated at trial.
5. Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.
6. Stipulations. A statement of proposed stipulations or agreements that will expedite the presentation of evidence.

7. Witnesses to be Called. A list of all witnesses likely to be called at trial other than solely for impeachment or rebuttal, and a brief statement following each name describing the substance of the testimony to be given. No party shall be permitted to call any witness in its case-in-chief who is not disclosed in its pretrial statement without leave of court.
8. Exhibits, Schedules, and Summaries. A list of all documents or other items to be offered as exhibits at trial, other than solely for impeachment or rebuttal, and a brief statement following each that describes: (1) its substance or purpose; (2) the identity of the sponsoring witness; and (3) whether the parties have stipulated to its admissibility and, if they have not, the objection to its admission, the grounds for the objection, and the position of the offering party.
9. Disputed Legal Issues. Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and decisions.
10. Pending Motions or Matters. A statement of any motions or other matters that must be resolved prior to trial.
11. Bifurcation or Separate Trial of Issues. A statement of whether either party requests bifurcation or a separate trial of specific issues and why.
12. Use of Discovery Responses. Citations to all evidence that a party might introduce at trial, other than that to be used solely for impeachment or rebuttal, that was obtained from deposition testimony, interrogatory responses, or responses to requests for admission. Counsel shall state any objections to the use of these materials and shall certify that they have conferred regarding such objections. Counsel shall separately file a document containing each disputed discovery response or deposition testimony excerpt, and as to each shall state the objection to its admission, the grounds for the objection, and the position of the offering party.
13. Estimate of Trial Time. An estimate of the number of hours or days needed for the trial.
14. Settlement Discussion. A brief summary of the status of settlement negotiations, without indicating specific dollar amounts, and an indication of whether further negotiations are likely to be productive and what, if anything, would facilitate settlement.
15. Miscellaneous. Any other matters that will facilitate the just, speedy, and efficient resolution of the action.

C. Binding Effect of the Joint Pretrial Statement

The joint pretrial statement described above shall include the following language directly above the signature lines:

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

D. Trial Exhibits

1. Exchange of Exhibits. At least twenty-one calendar days before the final pretrial conference, the parties shall exchange copies of all exhibits, summaries, charts, schedules, diagrams, and other similar documentary materials to be used in their case-in-chief, together with a complete list of all such proposed exhibits. Voluminous exhibits shall be reduced by elimination of irrelevant portions or through the use of summaries.
2. Objections to Exhibits. Following the exchange, the parties shall immediately meet and confer about the exhibits and any potential objections thereto, and shall make a good faith effort to stipulate to exhibits' admissibility. If the parties cannot so stipulate, they shall make every effort to stipulate at least to authenticity and foundation absent a legitimate (not tactical) objection.
3. Pre-Marking. Each exhibit shall be pre-marked with a trial exhibit sticker (not a deposition exhibit label). The sticker shall be in the following format:

United States District Court Northern District of California
PLAINTIFF'S EXHIBIT 100
Case No. _____
Date Entered _____
By _____ Deputy Clerk

The parties shall mark their exhibits using non-overlapping ranges of numbers, leaving enough unused numbers that additional exhibits can be marked during trial. For example, the parties might agree that the plaintiff will use numbers 001–199 and the defendant will use numbers 200–399.

4. Delivery. Unless otherwise ordered, at least seven calendar days prior to the commencement of the trial, the parties shall deliver three sets of all pre-marked exhibits in clearly labeled three-ring binders to the Clerk's office, marked for the attention of the courtroom deputy. The quality, condition, and labeling of the binders should be such that the Court can easily transport and review the binders' contents. Whenever possible, the spine of a binder should not be wider than three inches.
5. All exhibits that have not been provided as required are subject to exclusion in the reasonable exercise of the Court's discretion.

E. Motions in Limine

Motions in limine are usually unnecessary in a bench trial. However, in any civil trial, unless otherwise ordered, any party wishing to have motions in limine heard prior to the commencement of trial shall file and serve any such motions at least ten calendar days before the final pretrial conference. Any oppositions thereto shall be filed and served at least three calendar days before the final pretrial conference. No party shall file a reply. Any party filing a motion in limine must first seek a stipulation from the opposing party or parties to the relief requested in the motion. The motions will be heard at the pretrial conference or at such other time as the Court may direct, unless the Court determines that oral argument is unnecessary. The Court ordinarily does not grant leave to file motions in limine under seal.

F. Proposed Findings of Fact and Conclusions of Law

At least seven calendar days prior to the pretrial conference, each party shall serve and lodge with the Court proposed findings of fact and conclusions of law on all material issues. The proposed findings shall be brief, written in plain English, and be free of pejorative language, conclusions, or argument. Conclusions of law shall be supported by appropriate citation to legal authority. Parties shall submit proposed findings of fact and conclusions of law in Word format via email to jstpo@cand.uscourts.gov.

G. Trial Briefs

Trial briefs are optional, but any party wishing to file a trial brief must do so at least seven calendar days prior to the commencement of trial.

H. Continuances and Settlements

Once set by the Court, trial dates are to be regarded as firm. Continuances are disfavored. For example, the Court will rarely continue a trial because the parties have "settled in principle." A stipulated dismissal will ordinarily be required.

I. Opportunities for Junior Lawyers

The Court strongly encourages the parties to permit junior lawyers to examine witnesses and to have an important role at trial.

J. Witnesses at Trial

Unless otherwise ordered, each party shall notify all other parties by the close of each trial day of the witnesses that party intends to call on the following trial day. Failure to comply with this order may, in the discretion of the Court, be grounds for exclusion of any witness who was not properly disclosed.

Once the cross-examination of a witness has commenced, and until cross-examination of the witness has concluded, counsel offering the witness on direct examination shall not: (a) consult or confer with the witness regarding the substance of the witness's testimony already given, or anticipated to be given, except for the purpose of conferring on whether to assert a privilege against testifying or on how to comply with a court order; or (b) suggest to the witness the manner in which any questions should be answered. Once cross-examination has concluded, counsel is permitted to confer with the witness before redirect examination begins.

K. Post-Trial Retention of Exhibits

At the conclusion of the trial, each party shall retain its exhibits throughout the appellate process. It is each party's responsibility to make arrangements with the Clerk to file the record on appeal.

L. Daily Transcripts and Real-Time Reporting

Any party who would like a daily transcript or real-time reporting must contact Oakland Court Reporter Supervisor Odile Hansen at least fourteen calendar days before the first day of trial at (510) 637-3544 or Odile_Hansen@cand.uscourts.gov.

Dated: August 26, 2019



JON S. TIGAR
United States District Judge