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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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12 George Albert Brogdon, Jr. )

13 ) Plaintiff, )

No. CV 11-1389-PHX-RCB(MEA)

14 vs. )

O R D E R

15 Phoenix Police Department, )

16 et al., )

17 Defendants. )

18 Plaintiff George Albert Brogdon, Jr. brought this *pro se*  
19 civil rights action under 42 U.S.C. § 1983 against the City  
20 of Phoenix and City of Phoenix Police Officers Eric Boardman  
21 and Mylen Lubker for alleged Fourth Amendment violations  
22 (Doc. 14). On April 11, 2013, this court granted in part and  
23 denied in part the defendants' motion for summary judgment  
24 (Doc. 66). The only remaining claim in this lawsuit "is the  
25 Fourth Amendment claim in Count I alleging that [defendants]  
26 Boardman and Lubker lacked reasonable suspicion to stop and  
27 detain Plaintiff." Ord. (Doc. 57) at 13:1-2, ¶ (4).

28 Based upon that order, and consistent with his prior

1 order requiring, among other things, the lodging of a "joint  
2 pretrial statement and proposed order . . . **within 90 days of**  
3 **the Court's ruling on the last dispositive motion that does**  
4 **not dispose of the case[,]"** Ord. (Doc. 35) at 2:16-19  
5 (emphasis in original), also on April 11, 2013, United  
6 States Magistrate Judge Aspey ordered the parties to file a  
7 joint pretrial statement and proposed order "on or before  
8 July 11, 2013[.]" Ord. (Doc. 58) at 1:16-18. The Magistrate  
9 Judge advised that the "[d]efendants are responsible for  
10 initiating and drafting and submission of the proposed  
11 pretrial order in the form prescribed by the assigned trial  
12 judge." Id. at 1:18-20.

13 Because this action is now ready for trial, and in light  
14 of the foregoing, the court hereby **ORDERS** that plaintiff *pro*  
15 *se* and the attorney or attorneys who will be responsible for  
16 the trial of this lawsuit prepare a proposed Joint Final  
17 Pretrial Order and lodge it with the Clerk of the Court **by no**  
18 **later than July 11, 2013.**

19 Although it is the defendants' responsibility to ensure  
20 that the proposed Joint Final Pretrial Order is properly  
21 prepared and timely lodged, the plaintiff *pro se* shall fully  
22 cooperate with the defendants to ensure that such Order is  
23 properly prepared and timely lodged. That proposed Joint  
24 Final Pretrial Order shall be signed by plaintiff *pro se* and  
25 defense counsel. Plaintiff *pro se* may authorize defense  
26 counsel to sign on his behalf.

27 The content of the proposed Joint Final Pretrial Order  
28 shall include, but is not limited to, that prescribed in the

1 form of the proposed Joint Final Pretrial Order attached  
2 hereto.

3 Pursuant to Fed.R.Civ.P. 16(d) and 37(c), the court will  
4 not allow the parties to modify the Joint Final Pretrial  
5 Order or introduce at trial any exhibits, witnesses, or other  
6 information or to make any objections to exhibits that were  
7 not previously specified and/or disclosed as directed by the  
8 Court in the Joint Final Pretrial Order, except to prevent  
9 manifest injustice. Galdamez v. Potter, 415 F.3d 1015, 1020  
10 (9<sup>th</sup> Cir. 2005).

11 After the lodging of the signed proposed Joint Final  
12 Pretrial Order, at a date to be set by the court, the parties  
13 shall participate telephonically in a Pretrial Conference to  
14 discuss that Proposed Order. Following that Pretrial  
15 Conference, the court will issue the Final Pretrial Order and  
16 set a trial date for this action.

17 **IT IS ORDERED** that:

- 18 (1) the reference to the Magistrate Judge is  
19 withdrawn; and  
20 (2) the parties **shall** lodge a Proposed Joint Final  
21 Pretrial Order in accordance herewith **by no**  
22 **later than July 11, 2013.**

23 DATED this 26th day of April, 2013.

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Robert C. Broomfield  
Senior United States District Judge

28 Copies to counsel of record and plaintiff *pro se* Brogdon

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2 **FINAL PRETRIAL ORDER**

3 This Final Pretrial Order supersedes the pleadings and  
4 shall govern the trial and further proceedings in this case.

5 A. STATEMENT OF JURISDICTION. Cite the statute(s) which  
6 gives this Court jurisdiction:

7 (example - Jurisdiction in this case is based on  
8 diversity of citizenship under Title 28 U.S.C.  
§ 1332.)

9 B. NATURE OF ACTION. Provide a concise statement of the  
10 type of case, the cause of the action, and the relief sought:

11 (example - This is a products liability case wherein the  
12 plaintiff seeks damages for personal injuries sustained  
13 when he fell from the driver's seat of the forklift. The  
14 plaintiff contends that the forklift was defectively  
designed and manufactured by the defendant and the  
defects were a producing cause of his injuries and  
damages.)

15 C. CONTENTIONS OF THE PARTIES. With respect to each count  
16 of the complaint, counterclaim or cross-claim, and to any  
17 defense, affirmative defense, or the rebuttal of a  
18 presumption where the burden of proof has shifted, the party  
19 having the burden of proof shall list the elements or  
20 standards that must be proved in order for the party to  
21 prevail on that claim or defense:

22 (example - In order to prevail on this products liability  
23 case, the plaintiff, must prove the following elements  
24 . . .)

25 (example - In order to defeat this products liability  
26 claim based on the statute of limitations or repose,  
the defendant must prove the following elements . . . )

27 D. STIPULATION AND UNCONTESTED FACTS

28 E. CONTESTED ISSUES OF FACT AND LAW (See and refer to

1 subpart C above)

2 F. LIST OF WITNESSES. Include or separately attach a  
3 list(s) of witnesses, identifying each as either plaintiff's  
4 or defendants' witnesses and indicating whether the witness  
5 is a fact or expert witness.

6 G. LIST OF EXHIBITS. Include or separately attach a  
7 list(s) of numbered exhibits, identifying each as either  
8 plaintiff's or defendants', with a description of each  
9 containing sufficient information to identify the exhibit,  
10 indicating whether there is an objection to its admission  
11 and, if so, the nature of the objection(s) anticipated. The  
12 actual exhibits must be later marked according to  
13 instructions which will be provided at the final pre-trial  
14 conference.

15 H. LIST OF DEPOSITIONS. Include or separately attach  
16 those portions of depositions that will be read at trial by  
17 each party listed by page and line number, whether there is  
18 an objection to each passage and, if so, the nature of the  
19 objection.

20 I. MOTIONS IN LIMINE. Motions in Limine are intended to  
21 encompass only significant evidentiary issues and are  
22 generally discouraged. Such motions, if allowed, shall be  
23 filed by \_\_\_\_\_, 2013. Any responses shall be  
24 filed by \_\_\_\_\_, 2013. No replies may be  
25 filed without permission of the court. Motions in Limine are  
26 deemed submitted without argument.

27 J. LIST OF ANY PENDING UNRULED UPON MOTIONS

28 K. PROBABLE LENGTH OF TRIAL

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For a Bench Trial

L. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW shall be simultaneously filed by \_\_\_\_\_, 2013.

For a Jury Trial

M. INSTRUCTIONS. The parties shall seek to stipulate to jury instructions and any stipulated jury instructions shall be filed by \_\_\_\_\_, 2013. Instructions which are not agreed upon shall include citation to authority which shall not exceed one page per instruction and shall be filed by \_\_\_\_\_, 2013. Objections to any non-agreed upon instruction shall include citation to authority which shall not exceed one page per instruction and may be filed by \_\_\_\_\_, 2013.

N. VOIR DIRE QUESTIONS. Any proposed voir dire questions shall be filed by \_\_\_\_\_, 2013.

O. CERTIFICATIONS. Plaintiff *pro se* and defense counsel in this action do hereby certify and acknowledge the following:

- 1. All discovery has been completed.
- 2. The identity of each witness has been disclosed to plaintiff *pro se* and defense counsel.
- 3. Each exhibit listed herein (a) is in existence; and (b) has been disclosed and shown to plaintiff, *pro se*, and defense counsel.

. . .

1 APPROVED AS TO FORM AND CONTENT:

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\_\_\_\_\_  
Plaintiff *pro se*

\_\_\_\_\_  
Attorney for Defendants

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5 THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED AND TRIAL IS SET

6 FOR \_\_\_\_\_, 2013 AT 9:00 A.M., COURTROOM 606,

7 Sixth Floor, Sandra Day O'Connor United States Courthouse,

8 401 West Washington Street, Phoenix, Arizona. COUNSEL SHALL

9 APPEAR AT 8:30 A.M.

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