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5 **IN THE UNITED STATES DISTRICT COURT**  
6 **FOR THE DISTRICT OF ARIZONA**

8 Keith P. Nance,

9 Plaintiff,

10 v.

11 Allen Miser, et al.,

12 Defendants.

No. CV-12-00734-PHX-RCB

**ORDER**

13 The deadlines set forth in the Scheduling and Discovery Order (Doc. 36) as  
14 amended by Order (Doc. 53) have passed. Further, although this court dismissed the  
15 plaintiff's damage claims under the Religious Land Use and Institutionalized Persons  
16 Act, 42 U.S.C. § 2000cc et seq. ("RLUIPA") there are four claims remaining: (1) the  
17 claims for injunctive relief under RLUIPA; (2) the claim for damages under the First  
18 Amendment; (3) the equal protection claims for injunctive relief and damages for the  
19 Halal diet with meat; and (4) the First Amendment damage claims for denial of the  
20 shaving waiver for 7 months. See Ord. (Doc. 69) at 19:3-10, ¶ (5)(a)-(d). Moreover, just  
21 recently, this court denied the defendants' motion for reconsideration of the foregoing.  
22 See Ord. (Doc. 75) at 1:14. Thus, because this action now is ready for trial, the court  
23 hereby **ORDERS** that plaintiff *pro se* and the attorney or attorneys who will be  
24 responsible for the trial of this lawsuit prepare a proposed Joint Final Pretrial Order and  
25 lodge it with the Clerk of the Court by no later than January 13, 2014.

26 Although it is the responsibility of plaintiff *pro se* to ensure that the proposed  
27 Joint Final Pretrial Order is properly prepared and timely lodged, the defendants shall  
28 fully cooperate with the plaintiff *pro se* to ensure that such Order is properly prepared

1 and timely lodged. That proposed Joint Final Pretrial Order shall be signed by plaintiff  
2 *pro se* and defense counsel. Plaintiff *pro se* may authorize defense counsel to sign on his  
3 behalf.

4 The content of the proposed Joint Final Pretrial Order shall include, but is not  
5 limited to, that prescribed in the form of the proposed Joint Final Pretrial Order attached  
6 hereto.

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

12 After the lodging of the signed proposed Joint Final Pretrial Order, at a date to be  
13 set by the court, the parties shall participate telephonically in a Pretrial Conference to  
14 discuss that Proposed Order. Plaintiff may appear by telephone. Counsel for the  
15 defendants shall provide the Court with a telephone number where plaintiff may be  
16 contacted and make the necessary arrangements for his appearance by telephone at the  
17 hearing. Following that Pretrial Conference, the court will issue the Final Pretrial  
18 Order and set a trial date for this action.

19 **IT IS ORDERED** that:

20 (1) the parties shall lodge a Proposed Joint Final Pretrial Order  
21 in accordance herewith by no later than January 13, 2014; and

22 (2) any future filings in this case shall be directed to the undersigned.

23 DATED this 13th day of December, 2013.

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25 \_\_\_\_\_  
26 Robert C. Broomfield  
27 Senior United States District Judge

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

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FINAL PRETRIAL ORDER

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

A. STATEMENT OF JURISDICTION. Cite the statute(s) which gives this Court jurisdiction: (example - Jurisdiction in this case is based on diversity of citizenship under Title 28 U.S.C. §1332.)

B. NATURE OF ACTION. Provide a concise statement of the type of case, the cause of the action, and the relief sought: (example - This is a products liability case wherein the plaintiff seeks damages for personal injuries sustained when he fell from the driver's seat of the forklift. The 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.)

C. CONTENTIONS OF THE PARTIES. With respect to each count of the complaint, counterclaim or cross-claim, and to any defense, affirmative defense, or the rebuttal of a presumption where the burden of proof has shifted, the party having the burden of proof shall list the elements or standards that must be proved in order for the party to prevail on that claim or defense: (example - In order to prevail on this products liability case, the plaintiff, must prove the following elements...); (example - In order to defeat this products liability claim based on the statute of limitations or repose, the defendant must prove the following elements. . .).

D. STIPULATION AND UNCONTESTED FACTS

E. CONTESTED ISSUES OF FACT AND LAW (See and refer to subpart C above)

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

G. LIST OF EXHIBITS. Include or separately attach a list(s) of numbered

1 exhibits, identifying each as either plaintiff's or defendants', with a description of each  
2 containing sufficient information to identify the exhibit, indicating whether there is an  
3 objection to its admission and, if so, the nature of the objection(s) anticipated. The actual  
4 exhibits must be later marked according to instructions which will be provided at the final  
5 pre-trial conference.

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

9 I. MOTIONS IN LIMINE. Motions in Limine are intended to encompass only  
10 significant evidentiary issues and are generally discouraged. Such motions, if allowed,  
11 shall be filed by \_\_\_\_\_, 2014. Any responses shall be filed by  
12 \_\_\_\_\_, 2014. No replies may be filed without permission of the court. Motions in  
13 Limine are deemed submitted without argument.

14 J. LIST OF ANY PENDING UNRULED UPON MOTIONS.

15 K. PROBABLE LENGTH OF TRIAL \_\_\_\_\_.

16 **For a Jury Trial**

17 L. INSTRUCTIONS. The parties shall seek to stipulate to jury instructions and  
18 any stipulated jury instructions shall be filed by \_\_\_\_\_, 2014.  
19 Instructions which are not agreed upon shall include citation to authority which shall not  
20 exceed one page per instruction and shall be filed by \_\_\_\_\_, 2014.  
21 Objections to any non-agreed upon instruction shall include citation to authority which  
22 shall not exceed one page per instruction and may be filed by \_\_\_\_\_, 2014 .

23 M. VOIR DIRE QUESTIONS. Any proposed voir dire questions shall be filed by  
24 \_\_\_\_\_, 2014 .

25 N. CERTIFICATIONS. The plaintiff *pro se* and the undersigned counsel for each  
26 of the parties in this action do hereby certify and acknowledge the following:

- 27 1. All discovery has been completed.  
28 2. The identity of each witness has been disclosed to plaintiff *pro se* and

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opposing counsel.

3. Each exhibit listed herein (a) is in existence; and (b) has been disclosed and shown to plaintiff *pro se* and opposing counsel .

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_

Plaintiff *Pro Se*

\_\_\_\_\_

Attorney for Defendants

THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED AND TRIAL IS SET FOR \_\_\_\_\_, 2014, at \_\_\_\_\_ A.M., COURTROOM 606, Sixth Floor, Sandra Day O'Connor United States Courthouse, 401 W. Washington Street, Phoenix, Arizona; plaintiff *pro se* and counsel SHALL APPEAR at \_\_\_\_\_ A.M.