

SEND

**United States District Court
for the Central District of California**

Perfect 10)
 Plaintiff(s),)
 v.)
 Arlo Gilbert)
 Defendant(s).)

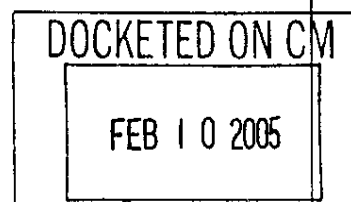
CASE NO. *CV 04-9098-ABC(SSX)*
 ORDER RE: CONFERENCE:
 1. PRETRIAL CONFERENCE
 PURSUANT TO F.R. CIV. P.
 16 and 26; AND LOCAL
 RULE 26
 2. MOTIONS & EX PARTE
 APPLICATIONS

This action has been assigned to the calendar of Judge Audrey B. Collins, Courtroom 680, Roybal Federal Building, 255 East Temple Street, Los Angeles, CA 90012.

The responsibility for the progress of litigation in the Federal Courts falls not only upon the attorneys in the action, but upon the Court as well. In order "to secure the just, speedy, and inexpensive determination of every action," (Fed. R. Civ. P. 1.) all counsel are hereby ordered to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of the Central District of California.

1. **SCHEDULING CONFERENCE**

This matter is set for a Pretrial/Scheduling Conference on *Apr. 11,* BY *sl* at *10:00* a.m. *2005*



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- 1 (a) The lead trial attorney must attend the Scheduling Conference, unless excused for
2 good cause shown in advance of the Scheduling Conference.
- 3 (b) The conference will be held pursuant to F. R. Civ. P. 16, 26(f), and Local Rule 26-
4 1. The parties are reminded of their obligations to disclose information and
5 confer on a discovery plan not later than 21 days prior to the scheduling
6 conference and report to the Court by filing a Joint Rule 26(f) Report not later
7 than 14 days after they confer as required by F. R. Civ. P. 26 and the Local Rules
8 of this Court. Failure to comply or to cooperate in the preparation of the Joint
9 Rule 26(f) Report may lead to the imposition of sanctions.
- 10 (c) Counsel should begin to conduct discovery before the Scheduling Conference.
11 This will expedite settlement discussions and early motion work on the litigation.
- 12 (d) If lead counsel for any party has his or her office outside Los Angeles County, the
13 Court will normally be willing to conduct the scheduling conference by
14 conference telephone call. *Counsel requesting the telephonic conference shall*
15 *contact the court clerk at (213) 894-3759 for approval.* Opposing counsel who
16 are outside of Los Angeles County may also participate by telephone. Counsel
17 requesting the telephonic will be responsible for originating the conference call to
18 the court after assembling all parties on the line. Counsel may be required to
19 remain available on the telephone until the case is called.

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21 **2. FILING AND CONTENTS OF THE JOINT RULE 26(F) REPORT**

22
23 The Joint Rule 26(f) Report shall be filed not later than one week before the scheduling
24 conference. Plaintiff is responsible for drafting the report, but it shall be submitted and signed
25 jointly. The Joint Rule 26(f) Report shall include the following:

- 26 (a) A short statement of the claims, counterclaims, and affirmative defenses, not to
27 exceed three (3) pages.
- 28 (b) A brief description of the key legal issues.

- 1 (c) A discussion of the likelihood of motions seeking to add other parties or claims,
2 file amended pleadings, or transfer venue.
- 3 (d) A discussion of discovery and experts pursuant to Rule 26(f).
- 4 (e) A description of any issues which may be resolved by motions for summary
5 judgment.
- 6 (f) A brief description of settlement discussions to date, and the settlement selection
7 pursuant to Local Rule 16.
- 8 (g) A realistic time estimate required for trial and whether it will be by jury or court.
- 9 (h) Proposed dates for:
- 10 ▶ Motion and Claims cut-off;
- 11 ▶ Discovery cut-off;
- 12 ▶ Motion cut-off;
- 13 ▶ Final Pre-Trial Conference; and
- 14 ▶ Jury or Court trial.
- 15 *Note: All motion cut-off and pre-trial dates are on Mondays. Trials are always*
16 *set on Tuesdays.*
- 17 (i) Any other matters affecting the status of the case.
- 18 (j) **ERISA cases.** Note that the court will not hear motions for summary judgment
19 (See Kearney v. Standard Insurance Co., 175 F.3d 1084 (1999)) but will hear
20 motions to determine the standard of review and the scope of the administrative
21 record. There will be a court trial (usually confined to oral argument) on the
22 administrative record, along with any other expanded testimony.
- 23 (k) **Patent Cases.** Counsel should propose dates for hearings on claim construction
24 and Markman hearings.
- 25
26
27
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- 1 (1) **Consent to Magistrate Judge.** The parties may consent to have a magistrate
2 judge preside over the entire case, including trial. The parties are free to select
3 from amongst all the magistrate judges available for this purpose, not just the
4 magistrate judge assigned to this case. (Please consult the court's website for the
5 list of Magistrate Judges.)
6

7 **3. MOTIONS**

8 In motion matters, counsel should note the timing and service requirements of Local
9 Rules 6 and 7 including:
10

- 11 a. Local Rule 6-1: If mailed, Notice of Motion shall be served not later than
12 twenty-four (24) calendar days before the Motion Day
13 designated in the notice. If served personally, the Notice of
14 Motion shall be served not later than twenty-one (21) days
15 before the Motion Day designated in the notice.
- 16 b. Local Rule 7-3: Pre-Filing Conference of Counsel. Counsel should be
17 familiar with this rule, which requires a pre-filing meeting to
18 discuss the substance and potential resolution of non-
19 discovery motions. Note that counsel for the moving party
20 must notify the court in any notice of motion that the
21 meeting took place.
- 22 c. Local Rule 7: Note the requirements included in L.R. 7-4. The
23 Notice of Motion shall include a concise statement of
24 the relief or court action the movant seeks.
- 25 d. Local Rule 7-9: Opposing papers shall be served upon other parties and filed
26 with the Clerk not later than fourteen (14) days before the
27 hearing date; and
28

1 e. Local Rule 7-10: Reply papers, if any, shall be served and filed not later than
2 the seventh calendar date (not excluding Saturdays, Sundays,
3 and holidays) before the motion hearing date.

4
5 Adherence to the timing requirements of all Local Rules is mandatory for proper chambers
6 preparation of motion matters.

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8 **4. DISCOVERY**

9 This court refers all discovery motions and disputes to the magistrate judge assigned to
10 the case. Note that the discovery cut-off date means the last day by which depositions must be
11 completed and responses to all previously served written discovery must be provided. (See
12 further discussion in court's Civil Jury and Court Trial Orders.)

13
14 **5. EX PARTE APPLICATIONS**

15 Ex parte applications are considered on the papers and are not usually set for hearing.
16 Ex parte applications are to be reserved solely for extraordinary relief. [This court may impose
17 sanctions for misuse of ex parte applications. See Local Rule 7-19 and In re Intermagnetics
18 America, Inc., 101 B.R. 191 (Bankr. C.D. Cal. 1989).] Counsel are ordered to read and comply
19 with the requirement of Mission Power Engineering Co. v. Cont. Cas. Co., 883 F. Supp. 488
20 (C.D. Cal. 1995) before filing an ex parte application with this court.

21
22 Counsel must comply with Local Rule 7-19. The moving party shall serve the opposing
23 party by facsimile transmission. Opposing papers must be filed not later than twenty-four
24 hours following such facsimile service. Counsel must inform the Courtroom Deputy Clerk,
25 Daphne Alex, (213) 894-3759, if the ex parte application will not be opposed. Counsel must
26 deliver a conformed courtesy copy of the ex parte application and opposing papers to
27 chambers.
28

6. **SETTLEMENT PROCEDURE**

A settlement procedure appropriate to the particular case will be used in every civil action. Counsel must be familiar with the procedures and timing mandated by Local Rule 16-14. A Notice of Settlement Selection Procedure, signed by counsel for both sides, shall be filed no later than 10 days after entry of this order. Frank discussion of settlement options should begin now. **Note: Settlement Procedure No. 4 (the Civil Settlement Panel) is no longer available.**

7. **NOTICE TO BE PROVIDED BY COUNSEL**

Plaintiff's counsel or, if plaintiff is appearing *pro se*, defendant's counsel, shall provide this Order to any parties who first appear after the date of this Order and to parties who are known to exist but have not yet entered appearances.

8. **COURTESY COPIES**

Counsel should provide courtesy copies of all motions, oppositions, and replies in motion matters to Chambers.

9. **COURT'S WEBSITE**

Copies of this and all other orders of this Court that may become applicable to this case are available on the Central District of California website, at "www.cacd.uscourts.gov," under Judge's Requirements. Copies of the Local Rules are available on the website.¹

IT IS SO ORDERED.



AUDREY B. COLLINS
United States District Judge

Dated: 2-10-05

¹ Local Rules may be purchased from the following:

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| Los Angeles Daily Journal
915 East First Street
Los Angeles, CA 90012 | West Publishing Company
50 West Kellogg Boulevard
St. Paul, MN 55164-9979 | Metropolitan News
210 South Spring Street
Los Angeles, CA 90012 |
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