

1 1. To secure the just, speedy and inexpensive determination of every action,
2 all counsel are ordered to familiarize themselves with and follow the Federal Rules of
3 Civil Procedure and the Local Rules of the Central District of California. This Court
4 follows these rules and they will govern this litigation.

5 2. Because this Order in some respects modifies or adds to the Local Rules,
6 counsel are advised to read it carefully. Counsel are advised to pay particular attention
7 to the requirements of the Court with respect to the filing of motions for summary
8 judgment and documents to be submitted at the Final Pretrial Conference and Trial.

9 3. The attorney attending any proceeding before this court must be an attorney
10 who is thoroughly knowledgeable about the case, responsible for the conduct of the
11 litigation, and who has authority to enter into stipulations and to make admissions
12 regarding all matters that the participants reasonably anticipate may be discussed. Lead
13 counsel who will actually try the case must attend the Pretrial Conference. A party who
14 is not represented must attend all proceedings in person.

15 4. **Courtesy Copies**: Courtesy copies of all electronically filed documents are
16 to be delivered to the courtesy box outside chambers by 3:00 p.m. the following business
17 day. Any original filings (such as under seal documents) are to be filed at the filing
18 window (Clerk's Office, Room G-19), NOT in chambers and NOT in the courtroom.

19 Courtesy copies **DO NOT** need to be blue-backed. All courtesy copies of pretrial
20 documents (e.g. witness lists, pretrial conference orders, etc.) shall be three-hole
21 punched.

22 5. **Discovery Cut-Off**: All discovery shall be completed by the discovery
23 cut-off date specified on the last page of this Order. **THIS IS NOT THE DATE BY**
24 **WHICH DISCOVERY REQUESTS MUST BE SERVED; IT IS THE DATE BY**
25 **WHICH ALL DISCOVERY IS TO BE COMPLETED.**

26 Any motion challenging the adequacy of responses to discovery must be heard
27 sufficiently in advance of the discovery cut-off date to permit the responses to be
28 obtained before that date if the motion is granted.

1 In an effort to provide further guidance to the parties, the Court notes the following:

2 a. **Depositions**: All depositions shall be scheduled to commence
3 sufficiently in advance of the discovery cut-off date to permit their completion and to
4 permit the deposing party enough time to bring any discovery motions concerning the
5 deposition prior to the cut-off date.

6 b. **Written Discovery**: All interrogatories, requests for production of
7 documents, and requests for admissions shall be served sufficiently in advance of the
8 discovery cut-off date to permit the discovering party enough time to challenge (via
9 motion practice) responses deemed to be deficient.

10 c. **Discovery Motions**: Whenever possible, the Court expects the
11 parties to resolve discovery issues among themselves in a courteous, reasonable and
12 professional manner. The Magistrate Judge assigned to this case will rule on discovery
13 motions. (The Magistrate Judge's initials follow the district judge's initials next to the
14 case number on the first page of this Order.) Counsel are directed to contact the
15 Magistrate Judge's courtroom deputy clerk to schedule discovery matters for hearing.
16 Counsel should not deliver courtesy copies of these discovery documents to this court.

17 d. **Expert Discovery**: If expert witnesses are to be called at trial, the
18 parties shall designate affirmative experts to be called at trial and provide reports
19 required by Fed. R. Civ. P. 26(a)(2)(B) not later than eight weeks prior to the discovery
20 cut-off date. Rebuttal expert witnesses shall be designated and reports provided as
21 required by Fed. R. Civ. P. 26(a)(2)(B) not later than five weeks prior to the discovery
22 cut-off date. Failure to timely comply with deadlines may result in the expert being
23 excluded at trial as a witness.

24 6. **Motions and Motion Cut-Off Date**

25 a. **General Provisions**: All law and motion matters, except for motions
26 in limine, must be set for hearing (not filing) by the motion cut-off date specified on the
27 last page of this Order.

28 This Court hears motions on Mondays, beginning at 1:30 p.m.

1 The parties must adhere to the requirements of the Local Rules. See Local Rules
2 7-1 et seq. If any party does not oppose a motion, that party shall submit a written
3 statement that it does not oppose the motion in accordance with Local Rule 7-9. The
4 parties should note that failure to meet the time limits for filing an opposition set forth
5 in Local Rule 7-9 shall be deemed consent to the granting of the motion. See Local Rule
6 7-12.

7 The title page of all motions must state the Pre-Trial Conference date and the Trial
8 date. Counsel must comply with Local Rule 7-3, which requires counsel to engage in
9 a pre-filing conference "to discuss thoroughly . . . the substance of the contemplated
10 motion and any potential resolution."

11 Issues left undetermined after the passage of the motion cut-off date should be
12 listed as issues for trial in the Final Pre-Trial Conference Order. As an exception to the
13 above, motions in limine dealing with evidentiary matters may be heard pursuant to the
14 schedule specified on the last page of this Order.

15 Ex parte practice is discouraged. See *Mission Power Eng'g v Co. vs. Continental*
16 *Cas. Co.*, 883 F. Supp. 488 (C.D. Cal. 1995). The Court will require strict adherence to
17 proper ex parte procedures for any ex parte application filed with the Court. *Id.* at 492;
18 see also Judge Wright's Standing Order and Local Rule 7-19.

19 b. **Applications and Stipulations to Extend Time:** Applications to
20 extend the time to file any required document or to continue any hearing, Pre-Trial
21 Conference or Trial date must set forth the following:

- 22 (i) the existing due date or hearing date, as well as the discovery
23 cut-off date, the Pre-Trial Conference date, and the Trial date;
- 24 (ii) specific, concrete reasons supporting good cause for granting
25 the extension; and
- 26 (iii) whether there have been prior requests for extensions, and
27 whether these requests were granted or denied by the Court.

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1 c. **Joinder of Parties and Amendment of Pleadings**: The deadline for
2 joining parties and amending pleadings is ninety days after the date of this Order. Any
3 motions to join other parties or for leave to amend the pleadings shall be filed within
4 sixty days of the date of this Order so that they can be heard and decided prior to the
5 deadline.

6 In addition to the requirements of Local Rule 15-1, all motions to amend the
7 pleadings shall: (1) state the effect of the amendment; (2) be serially numbered to
8 differentiate the amendment from previous amendments; and (3) state the page, line
9 number(s), and wording of any proposed change or addition of material.

10 The parties shall deliver to Chambers a redlined version of the proposed
11 amended pleading indicating all additions and deletions of material.

12 d. **Summary Judgment Motions**: Parties need not wait until the
13 motion cutoff to bring motions for summary judgment or partial summary judgment.
14 However, the court expects that the party moving for summary judgment will provide
15 more than the minimum twenty-eight (28) day notice for motions. Because summary
16 judgment motions are fact-dependent, parties should prepare papers in a fashion that will
17 assist the court in absorbing the mass of facts (*e.g.*, generous use of tabs, tables of
18 contents, headings, indices, etc.). The parties are to comply precisely with Local Rule
19 56-1 through 56-4. The Court will also require adherence to the following requirements:

20 (i) **Statement of Uncontroverted Facts and Statement of**
21 **Genuine Issues of Material Fact**:

22 The Separate Statement of Uncontroverted Facts is to be prepared in a two column
23 format. The left-hand column should set forth the allegedly undisputed fact. The
24 right-hand column should set forth the evidence that supports the factual statement. The
25 factual statements should be set forth in sequentially numbered paragraphs. Each
26 paragraph should contain a narrowly focused statement of fact. Each numbered
27 paragraph should address a single subject in as concise a manner as possible.
28

1 The opposing party's Statement of Genuine Issues of Material Fact must be in two
2 columns and track the movant's Separate Statement exactly as prepared. The document
3 must be in two columns; the left-hand column must restate the allegedly undisputed fact,
4 and the right-hand column must indicate either undisputed or disputed. The opposing
5 party may dispute all or only a portion of the statement, but if disputing only a portion,
6 must clearly indicate what part is being disputed. Where the opposing party is disputing
7 the fact in whole or part, the opposing party must, in the right-hand column, label and
8 restate the moving party's evidence in the support of the fact, followed by the opposing
9 party's evidence controverting the fact. Where the opposing party is disputing the fact
10 on the basis of an evidentiary objection, the party must cite the evidence alleged to be
11 objectionable and state the ground of the objection and nothing more. **No argument**
12 **should be set forth in this document.**

13 The opposing party may submit additional material facts that bear on or relate to
14 the issues raised by the movant, which shall follow the format described above for the
15 moving party's Separate Statement. These additional facts shall follow the movant's
16 facts, shall continue in sequentially numbered paragraphs (i.e. if movant's last statement
17 of fact was set forth in paragraph 30, then the first new fact will be set forth in paragraph
18 31), and shall set forth in the right-hand column the evidence that supports that
19 statement.

20 The moving party, in its reply, shall respond to the additional facts in the same
21 manner and format that the opposing party is required to adhere to in responding to the
22 Statement of Uncontroverted Facts, as described above.

23 (ii) Supporting Evidence. No party should submit any evidence
24 other than the specific items of evidence or testimony necessary to support or controvert
25 a proposed statement of undisputed fact. Thus, for example, the entire transcripts of
26 depositions and/or entire sets of interrogatory responses should generally not be
27 submitted in support of or in opposition to a motion for summary judgment.

1 Evidence submitted in support of or in opposition to a motion for summary
2 judgment should be submitted either by way of stipulation or as exhibits to a declaration
3 sufficient to authenticate the proffered evidence, and should not be attached to the
4 memorandum of points and authorities. The Court will accept counsel's authentication
5 of deposition transcripts, written discovery responses, and the receipt of documents in
6 discovery if the fact that the document was in the opponent's possession is of
7 independent significance. Documentary evidence as to which there is no stipulation
8 regarding foundation must be accompanied by the testimony, either by declaration or
9 properly authenticated deposition transcript, of a witness who can establish its
10 authenticity.

11 All evidence in support of or in opposition to a motion for summary judgment,
12 including declarations and exhibits to declarations, shall be separated by a tab divider
13 on the bottom of the page. If evidence in support of or in opposition to a motion for
14 summary judgment exceeds twenty pages, the evidence must be in a separately bound
15 volume and include a Table of Contents. If the supporting evidence exceeds fifty pages,
16 the documents shall be placed in a Slant D-Ring binder with each item of evidence
17 separated by a tab divider on the right side. All documents contained in the binder
18 should be three-hole-punched.

19 (iii) Objections to Evidence. If a party disputes a fact based in
20 whole or in part on an evidentiary objection, the ground for the objection, as indicated
21 above, should be stated in the Separate Statement, but not argued in that document.
22 Evidentiary objections should be addressed in a separate memorandum to be filed with
23 the opposition or reply brief of the party. This memorandum should be organized **to**
24 **track the paragraph numbers of the Separate Statement in sequence**. It should
25 identify the specific item of evidence to which objection is made, the ground for the
26 objection, and a very brief argument with citation to authority as to why the objection
27 is well taken. The following is an example of the format contemplated by the Court:
28

1 Separate Statement Paragraph 1: Objection to the supporting deposition
2 transcript of Jane Smith at 60:1-10 on the grounds that the statement constitutes
3 inadmissible hearsay and no exception is applicable. To the extent it is offered to prove
4 her state of mind, it is irrelevant since her state of mind is not in issue. Fed. R. Evid.
5 801, 802.

6 **DO NOT SUBMIT BLANKET OR BOILERPLATE OBJECTIONS TO THE**
7 **OPPONENT'S STATEMENTS OF UNDISPUTED FACT. THESE WILL BE**
8 **DISREGARDED AND OVERRULED.**

9 (iv) The Memorandum of Points and Authorities.

10 The movant's memorandum of points and authorities should be in the usual form
11 required under Local Rule 7 and should contain a narrative statement of facts as to those
12 aspects of the case that are before the Court. All facts should be supported with citations
13 to the paragraph number in the Separate Statement that supports the factual assertion.

14 Unless the case involves some unusual twist, the motion need only contain a brief
15 statement of the Fed. R. Civ. P. 56 standard; the Court is familiar with the Rule and with
16 its interpretation under *Celotex* and its progeny. If at all possible, the argument should
17 be organized to focus on the pertinent elements of the claim(s) for relief or defense(s)
18 in issue, with the purpose of showing the existence or non-existence of a genuine issue
19 of material fact for trial on that element of the claim or defense.

20 Likewise, the opposition memorandum of points and authorities should be in the
21 usual form required by Local Rule 7. Where the opposition memorandum sets forth
22 facts, the memorandum should cite to paragraphs in the Separate Statement if they are
23 not in dispute, to the evidence that contravenes the fact where the fact is in dispute, or,
24 if the fact is contravened by an additional fact in the Statement of Genuine Issues of
25 Material Fact, the citation should be to such fact by paragraph number.

26 (v) Proposed Statement of Decision. Each party shall file and
27 serve a Proposed Statement of Decision, which shall contain a statement of the relevant
28 facts and applicable law with citations to case law and the record. The Proposed

1 Statement of Decision shall not exceed five pages and shall be in a form that would be
2 appropriate for the Court to enter as its final order on the motion.

3 (vi) Timing. In virtually every case, the Court expects that the
4 moving party will provide more than the minimum twenty-one day notice for such
5 motions. **[NOTE: Parties need not wait until the motion cut-off to bring motions
6 for summary judgment or partial summary judgment. Early completion of
7 non-expert discovery and filing of motions for summary judgment may eliminate
8 or reduce the need for expensive expert depositions that are normally conducted
9 in the last stages of discovery.]**

10 e. Avoid Composite Motions. Unless clearly justified under the
11 circumstances of the case, "motions to dismiss or in the alternative for summary
12 adjudication" are discouraged. These composite motions tend to blur the distinctions
13 between the two motions.

14 f. Motions in Limine. Before filing any motion in limine, counsel for
15 the parties shall confer pursuant to Local Rule 7-3 in a good faith effort to eliminate the
16 necessity for hearing the motion in limine or to eliminate as many of the disputes as
17 possible. It shall be the responsibility of counsel for the moving party to arrange for this
18 conference. The motion papers must include a declaration showing a good faith meet
19 and confer effort. The conference shall take place in person within ten calendar days of
20 service upon opposing counsel of a letter requesting such a conference, but in no event
21 later than twenty-one days before the Pre-Trial Conference. If both counsel are not
22 located in the same county in the Central District, the conference may take place by
23 telephone.

24 If counsel are unable to resolve their differences, they shall prepare a separate,
25 sequentially numbered Motion in Limine for each issue in dispute which contains a clear
26 caption which identifies the moving party and the nature of the dispute (i.e., "Plaintiff's
27 Motion in Limine #1 to exclude the testimony of Defendant's expert"). The Motion in
28 Limine shall contain a clear identification of the testimony, exhibits, or other specific

1 matters alleged to be inadmissible and/or prejudicial and a statement of the specific
2 prejudice that will be suffered by the moving party if the motion is not granted. The
3 identification of the matters in dispute shall be followed by the moving party's
4 contentions and memorandum of points and authorities. The title page of the Motion in
5 Limine must state the Pre-Trial Conference date, hearing date for the motions in limine,
6 and the trial date.

7 Motions in Limine made for the purpose of precluding the mention or display of
8 inadmissible and/or prejudicial matter in the presence of the jury shall be accompanied
9 by a declaration that includes the following: (1) a clear identification of the specific
10 matter alleged to be inadmissible and/or prejudicial; (2) a representation to the Court that
11 the subject of the motion in limine has been discussed with opposing counsel, and that
12 opposing counsel has either indicated that such matter will be mentioned or displayed
13 in the presence of the jury before it is admitted in evidence or that counsel has refused
14 to stipulate that such matter will not be mentioned or displayed in the presence of the
15 jury unless and until it is admitted in evidence; and (3) a statement of the specific
16 prejudice that will be suffered by the moving party if the motion in limine is not granted.

17 Unless ordered otherwise, the Court will only consider the moving papers and any
18 opposition thereto. No replies are necessary.

19 All evidence in support of or in opposition to a motion in limine, including
20 declarations and exhibits to declarations, shall be separated by a tab divider on the
21 bottom of the page. If evidence in support of or in opposition to a motion in limine
22 exceeds twenty pages, the evidence must be in a separately bound volume and include
23 a Table of Contents. Though strongly discouraged, if by necessity the supporting
24 evidence exceeds fifty pages, the documents shall be placed in a Slant D-Ring binder
25 with each item of evidence separated by a tab divider on the right side. All documents
26 contained in the binder should be three-hole-punched.

27 Unless otherwise ordered by the Court, motions in limine will be heard on the date
28 specified on the last page of this Order. The moving party shall file with the Court and

1 serve its Motion in Limine on the responding party on or before the date for filing of
2 motions in limine indicated in the Schedule of Trial and Pre-trial Dates. The responding
3 party shall then file with the Court and serve an opposition to the Motion in Limine on
4 the moving party at least seven (7) days prior to the date for the hearing on motions in
5 limine. Neither party's submissions with respect to a Motion in Limine shall exceed
6 eight (8) pages.

7 7. **Final Pre-Trial Conference and Local Rule 16 Filings**

8 Please read this portion carefully, as there are some differences between the
9 Court's requirements and the Local Rules.

10 a. **General Provisions.**

11 The Final Pre-Trial Conference ("PTC") will be held on the date specified on the
12 last page of this Order, unless the Court expressly waived the PTC at the Scheduling
13 Conference. (In the rare cases where the Court waives a PTC, the parties must follow
14 Local Rule 16-10.) If adjustments in the Court's calendar to accommodate congestion
15 become necessary, the Court may re-schedule the PTC instead of the trial date.
16 Therefore, the parties should assume that if the PTC goes forward, the trial will go
17 forward without continuance, although some brief period of trailing may prove
18 necessary.

19 The lead trial attorney on behalf of each party shall attend both the PTC and all
20 meetings of the parties in preparation for the PTC, unless excused for good cause shown
21 in advance of the PTC.

22 A continuance of the PTC at the parties' request or by stipulation is highly
23 unlikely. **Specifically, failure to complete discovery is not a ground for continuance.**
24 In the unlikely event that the Court agrees to continue the PTC, the trial date is likely to
25 be delayed as a result. If a change to the trial date is necessitated or likely because of the
26 Court's calendar or otherwise, modifications of that date will be discussed at the PTC.

1 At the PTC, the parties should be prepared to discuss means of streamlining the
2 trial, including, but not limited to the following: bifurcation; presentation of foundational
3 and non-critical testimony and direct testimony by deposition excerpts; narrative
4 summaries and/or stipulations as to the content of testimony; presentation of testimony
5 on direct examination by affidavit or by declaration subject to cross-examination; and
6 qualification of experts by admitted resumes. The Court will also discuss settlement.

7 b. **FINAL PRETRIAL CONFERENCE ORDER (“PTCO”)**

8 The proposed PTCO shall be lodged seven calendar days before the PTC.
9 Adherence to this time requirement is necessary for in-chambers preparation of the
10 matter. The form of the proposed PTCO shall comply with Appendix A to the Local
11 Rules and the following:

12 1. Place in “ALL CAPS” and in "bold" the separately numbered headings
13 for each category in the PTCO (*e.g.*, “**1. THE PARTIES**” or “**7.**
14 **CLAIMS AND DEFENSES OF THE PARTIES**”).

15 2. Include a table of contents at the beginning.

16 3. In specifying the surviving pleadings under section 1, state which
17 claims or counterclaims have been dismissed or abandoned, *e.g.*, “Plaintiff’s
18 second cause of action for breach of fiduciary duty has been dismissed.” Also, in
19 multiple party cases where not all claims or counterclaims will be prosecuted
20 against all remaining parties on the opposing side, please specify to which party
21 each claim or counterclaim is directed.

22 4. In specifying the parties’ claims and defenses under section 7,
23 each
24 party shall closely follow the examples set forth in Appendix A of the Local
25 Rules.

26 5. In drafting the PTCO, the court expects that the parties will attempt
27 to agree on and set forth as many non-contested facts as possible. The court will
28 usually read the uncontested facts to the jury at the start of trial. A carefully

1 drafted and comprehensively stated stipulation of facts will reduce the length of
2 trial and increase jury understanding of the case.

3 6. In drafting the factual issues in dispute for the PTCO, the parties
4 should attempt to state issues in ultimate fact form, not in the form of
5 evidentiary fact issues. The issues of fact should track the elements of a claim
6 or defense on which the jury will be required to make findings.

7 7. Issues of law should state legal issues on which the court will be
8 required to rule during the trial, and should not list ultimate fact issues to be
9 submitted to the trier of fact.

10 8. The Court may submit fact issues to the jury in the form of
11 findings on a special verdict. The issues of fact should track the elements of a
12 claim or defense on which the jury will be required to make findings.

13 9. If expert witnesses are to be called at trial, each party must list
14 and identify its respective expert witnesses, both retained and non-retained.
15 Failure of a party to list and identify an expert witness in the PTCO could
16 result in a court order which precludes the party from calling that expert
17 witness at trial.

18 c. **Rule 16 Filings; Memoranda; Witness Lists; Exhibit**
19 **Lists.**

20 Unless otherwise indicated, the parties must comply fully with the
21 requirements of Local Rule 16. See the last page of this Order for applicable
22 dates.

23

24 Memorandum of Contentions of Fact and Law:

25 Memoranda of Contentions of Fact and Law shall be filed by the date
26 listed in this Scheduling Order, and shall comply with the requirements set
27 forth in Local Rule 16-4.

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1 Witnesses:

2 Counsel shall prepare a list of their witnesses, including a brief summary
3 (two to three paragraphs) of each witness's expected testimony, **what makes**
4 **the testimony unique** from any other witness testimony, an estimate of the
5 length of time needed for direct examination, and whether the witness will
6 testify by deposition or in person. Counsel shall exchange these lists with
7 opposing counsel. **Counsel shall jointly file a single list of witness**
8 **testimony summaries, including estimates for direct examination of their**
9 **own witnesses and estimates for cross-examination of opposing witnesses.**

10 The Joint Witness List shall contain a brief statement of the testimony for each
11 witness, and the time estimate for such testimony. The joint witness testimony
12 summaries shall be filed at the same time counsel lodge the PTC Order. If a
13 party intends to offer deposition testimony into evidence at trial, the party shall
14 designate the relevant portions of the deposition testimony to be read at trial
15 and advise opposing counsel of same. Opposing counsel shall then designate
16 any additional portions of such deposition testimony which counsel intends to
17 offer in evidence. All objections to any such testimony shall be made in
18 writing and filed at the same time counsel lodge the PTC Order so that the
19 Court may consider whether ruling on the objections will facilitate trial or
20 result in the disposition of evidentiary matters that may assist continuing
21 settlement negotiations.

22 If expert witnesses are to be called at trial, each party shall list and
23 identify their respective expert witnesses. Failure of a party to list and identify
24 an expert witness may preclude a party from calling an expert witness at trial.
25 If expert witnesses are to be called at trial, the parties shall exchange at the
26 PTC short narrative statements of the qualifications of the expert and the
27 testimony expected to be elicited at trial. Previously prepared and exchanged
28 expert reports shall not substitute for the narrative statements required.

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Exhibits:

The parties shall prepare a Pre-Trial Exhibit Stipulation that shall contain each party's numbered list of all trial exhibits, with objections, if any, to each exhibit including the basis of the objection and the offering party's response. All exhibits to which there is no objection shall be deemed admitted. The parties shall stipulate to the authenticity of exhibits whenever possible, and the Pre-Trial Exhibit Stipulation shall identify any exhibits for which authenticity has not been stipulated to and the specific reasons for the party's failure to stipulate.

The Stipulation shall be substantially in the following form:

Pre-Trial Exhibit Stipulation

Plaintiff(s)'/Defendant(s)' Exhibits

Number Description If Objection, State Grounds Response to Objection

The Pre-Trial Exhibit Stipulation shall be filed at the same time counsel lodge the PTC Order. Failure to comply with this paragraph could be deemed to constitute a waiver of all objections. **Do not submit** blanket or boilerplate objections to the opposing party's exhibits. These will be disregarded and overruled. NOTE: Counsel are instructed not to bring excessive exhibits to trial, but only those exhibits that will actually be used.

Jury Instructions/Special Verdict Forms¹

The parties shall make every attempt to agree upon the jury instructions before submitting them to the Court. It is expected that counsel will agree on the substantial majority of jury instructions.

¹ This section applies only to jury trials.

1 On the date listed in this Scheduling Order, counsel shall file with the Court
2 a JOINT set of jury instructions on which there is agreement. Defendant's
3 counsel has the burden of preparing the joint set of jury instructions. At the same
4 time each party shall file its proposed jury instructions which are objected to by
5 any other party, accompanied by points and authorities in support of those
6 instructions.

7 When the parties disagree on an instruction, the party opposing the
8 instruction must attach a short statement (one to two paragraphs) supporting the
9 objection, and the party submitting the instruction must attach a short reply
10 supporting the instruction. Each statement should be on a separate page and
11 should follow directly after the disputed instruction.

12 The parties ultimately must submit one document, or if the parties disagree
13 over any proposed jury instructions, three documents. The three documents shall
14 consist of: (1) a set of Joint Proposed Jury Instructions; (2) Plaintiff's Disputed
15 Jury Instructions; and (3) Defendant's Disputed Jury Instructions. Any disputed
16 Jury Instructions shall include the reasons supporting and opposing each disputed
17 instruction in the format set forth in the previous paragraph.

18 The Court directs counsel to use the instructions from the *Manual of Model*
19 *Jury Instructions for the Ninth Circuit* where applicable. Where California law
20 is to be applied and the above instructions are not applicable, the Court prefers
21 counsel to use the California Jury Instructions in CACI. If none of these sources
22 is applicable, counsel are directed to use the instructions in Devitt, Blackmar and
23 Wolff, *Federal Jury Practice and Instructions*.

24 Modifications of instructions from the foregoing sources (or any other
25 form instructions) must specifically state the modification made to the original
26 form instruction and the authority supporting the modification.

27 Each requested instruction shall be in the format specified by Local Rule
28 51-2 and shall be set forth in full; be on a separate page with the caption

1 "COURT'S INSTRUCTION NUMBER ____"; be numbered; cover only one
2 subject or principle of law; not repeat principles of law contained in any other
3 requested instructions; and cite the authority for a source of the requested
4 instruction. In addition to the foregoing, each party shall file with the Courtroom
5 Deputy on the first day of trial a "clean set" of the aforesaid requested duplicate
6 jury instructions. The "clean set" shall not cite the authority for a source of the
7 requested instruction.

8 An index page shall accompany all jury instructions submitted to the
9 Court. The index page shall indicate the following:

- 10 • the number of the instruction;
- 11 • a brief title of the instruction;
- 12 • the source of the instruction and any relevant case citation; and
- 13 • the page number of the instruction.

14 **EXAMPLE:**

| 15 <u>NO.</u> | <u>TITLE</u> | <u>SOURCE</u> | <u>PAGE NO.</u> |
|---------------|------------------------------|--------------------------|-----------------|
| 16 5 | Evidence for Limited Purpose | 9 th Cir. 1.5 | 9 |

17
18 During the trial and before argument, the Court will meet with counsel and
19 settle the instructions. Strict adherence to time requirements is necessary for the
20 Court to examine the submissions in advance so that there will be no delay in
21 starting the jury trial. **Failure of counsel to strictly follow the provisions of this**
22 **section may subject the non-complying party and/or its attorney to sanctions**
23 **and SHALL CONSTITUTE A WAIVER OF JURY TRIAL in all civil cases.**

24
25 Joint Statement of the Case and Requests for Voir Dire

26 At the PTC, the parties shall file their proposed voir dire questions and
27 their joint statement of the case which the Court shall read to all prospective
28

1 jurors prior to the commencement of voir dire. The statement should not be
2 longer than two or three paragraphs.

3 The Court conducts voir dire of all prospective jurors. The parties need
4 not submit requests for standard voir dire questions such as education, current
5 occupations, marital status, prior jury service, etc., but should include only
6 proposed questions specifically tailored to the parties and issues of the case.

7

8 Trial Exhibits:

9 Counsel are to prepare their exhibits for presentation at the trial by
10 placing them in binders which are indexed by exhibit number with tabs or
11 dividers on the right side. Counsel shall submit to the Court an original and
12 one copy of the binders. The exhibits shall be in a three-ring binder labeled on
13 the spine portion of the binder as to the volume number and contain an index
14 of each exhibit included in the volume. Exhibits must be numbered in
15 accordance with Fed. R. Civ. P. 16, 26 and the Local Rules. **NOTE:** Counsel
16 are instructed not to bring excessive exhibits to trial, but only those exhibits
17 that will actually be used.

18 The exhibit list shall indicate which exhibits are objected to, the reason
19 for the objection, and the reason it is admissible. Failure to object will result in
20 a waiver of objection.

21 The Court requires that the following be submitted to the Courtroom
22 Deputy Clerk on the first day of trial:

- 23 • The original exhibits with the Court's exhibit tags, which shall be
24 stapled to the front of the exhibit on the upper right-hand corner
25 with the case number, case name, and exhibit number placed on
26 each tag. Exhibit tags can be obtained from the Clerk's Office,
27 Room G-8, 312 North Spring Street, Los Angeles, CA 90012.

28

- 1 • One bench book with a copy of each exhibit for use by the Court,
2 tabbed with numbers as described above. (Court's exhibit tags not
3 necessary.)
- 4 • Three (3) copies of the exhibit list.
- 5 • Three (3) copies of the witness list, which shall include the names
6 of the witness in the order in which they may be called to
7 testify.
- 8 • All counsel are to meet not later than ten (10) days before trial and
9 to stipulate so far as is possible as to foundation, waiver of the
10 best evidence rule, and to those exhibits which may be received
11 into evidence at the start of trial. The exhibits to be so received
12 will be noted on the copies of the exhibit lists.
- 13 • Any items that have not been admitted into evidence and are left
14 in the courtroom overnight without prior approval will be
15 discarded.

16 17 Real-Time Reporting Requirement

18 Each party must file with the Court, at the same time counsel lodges the
19 PTCO, a document for the Court Reporter that contains proper names, unusual
20 or scientific terms, or any other foreign or uncommon words that are likely to
21 be used by the parties during the FPTC and the Trial.

22 d. Court Trials

23 24 Declarations of Witness Direct Testimony

25 Counsel in non-jury trials may submit the direct testimony of their
26 witnesses in writing in a declaration executed under penalty of perjury. These
27 declarations shall be in admissible form with appropriate foundation established
28 for the declarant's statements. Paragraphs in each declaration shall be numbered

1 consecutively to facilitate the identification of paragraphs for evidentiary
2 objections.

3 Counsel are to exchange and file these declarations with the Court at
4 least eleven calendar days before trial, unless otherwise ordered by the Court.
5 Seven calendar days before trial, counsel may file evidentiary objections to
6 those declarations. Counsel shall prepare a separate document for each
7 declaration for which they have an evidentiary objection in which they shall
8 quote the specific language from the declaration to which they object, followed
9 by the objection and any relevant argument. Counsel shall file any reply or
10 response to the objections by noon on the fourth calendar day before trial.
11 Courtesy copies of the declarations and evidentiary objections shall be
12 deposited in the drop box located in the entrance way to Chambers on the date
13 due. **Do not submit** blanket or boilerplate objections to the opposing party's
14 witness declarations. These will be disregarded and overruled.

15 At trial, the Court will rule on the evidentiary objections and, depending
16 upon the ruling, the declarations will be received in evidence, either in whole
17 or in part, or rejected. Counsel will then conduct the cross-examination and re-
18 direct examination at trial.

19 Failure to comply with the literal terms of this Order will result in
20 sanctions or the Court may refuse to allow that witness to testify.

21 22 Trial Briefs

23 Counsel for each party shall file and serve a trial brief, not to
24 exceed 15 pages in length, at least seven (7) days before the scheduled final
25 pretrial conference.

26 27 Findings of Fact and Conclusions of Law

1 Counsel for each party shall lodge and serve initial proposed
2 findings of fact and conclusions of law with the trial brief. Counsel shall then:

3 (1) Underline in red the portions which it disputes;

4 (2) Underline in blue the portions which it admits; and

5 (3) Underline in yellow the portions which it does not dispute, but
6 deems irrelevant.

7 Counsel may agree with a part of a finding or conclusion, disagree with a
8 part of it, and/or consider a part of it irrelevant.

9 Two marked copies of opposing counsel's proposed findings of fact and
10 conclusions of law shall be lodged with Court no later than seven (7) days after
11 the final pretrial conference.

12
13 **8. SETTLEMENT**

14 This court will not conduct settlement conferences in non-jury
15 cases unless counsel for all parties and their respective clients agree either in
16 writing or on the record. In jury cases, the Court will conduct a settlement
17 conference at the parties' joint request if three conditions exist:

18 (a) The parties are satisfied that the fact issues in the case will be tried
19 by a jury;

20 (b) All significant pre-trial rulings which the Court must make have been
21 made; and

22 (c) The parties desire the Court to conduct the conference, understanding
23 that if settlement fails, the Court will preside over trial of the case.

24 The parties must file a Status Report regarding settlement at the time
25 they lodge the Proposed Final Pre-Trial Conference Order. This Report shall
26 not disclose the parties' settlement positions, i.e. the terms of any offers or
27 demands. It shall merely describe the efforts made by the parties to resolve the
28 dispute informally, i.e. the occasions and dates when the parties participated in

1 mediation or settlement conferences. The Status report shall also include the
2 name and phone number of the Settlement Officer who assisted the parties with
3 their settlement conference.

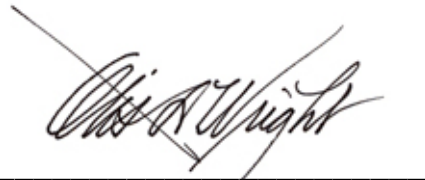
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5 **Caveat: If counsel fail to file the required Pre-Trial documents or fail to**
6 **appear at the Pre-Trial Conference and such failure is not otherwise**
7 **satisfactorily explained to the Court: (a) the cause shall stand dismissed**
8 **for failure to prosecute if such failure occurs on the part of the plaintiff;**
9 **(b) default judgment shall be entered if such failure occurs on the part of**
10 **the defendant; or (c) the Court may take such action as it deems**
11 **appropriate.**

12

13 Dated: April 29, 2011

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16 OTIS D. WRIGHT II
17 United States District Judge

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Revised: 10/09

JUDGE OTIS D. WRIGHT II
SCHEDULE OF TRIAL AND PRE-TRIAL DATES

| Event | Date |
|--|-----------------|
| Jury Trial at 9:00 a.m. Estimated length: 7days | 05/01/12 |
| Last Date to File Final Pretrial Exhibit Stipulation | 04/26/12 |
| Hearing on Motions in Limine at 2:30 p.m. | 04/23/12 |
| Pre-Trial Conference at 2:30 p.m. | 04/09/12 |
| Deadline to File Motions In Limine, Proposed Voir Dire Questions and an Agreed-to Statement of Case | |
| Deadline to: Lodge Proposed Pretrial Conference Order & Pretrial Exhibit Stipulation; File Contentions of Fact and Law, Exhibit and Witness Lists, Status Report Regarding Settlement, Agreed Upon Set of Jury Instructions and Verdict Forms, Joint Statement Re Disputed Jury Instructions, Verdicts, etc. | 04/02/12 |
| Last date for hearing motions at 1:30 p.m. | 03/12/12 |
| Last date to conduct Settlement Conference | 03/05/12 |
| Discovery cut-off | 01/30/12 |
| Last date to amend pleadings or add parties | 07/18/11 |

* Motions for class certification shall be filed in accordance with Local Rule 23-3.

Rev. 5/07