



1           III.    UNDISPUTED FACTUAL ISSUES

2           1.    Dynamic Technical Services and MCI Worldcom entered  
3 into a master services agreement for Dynamic to provide technical  
4 staffing when requested by MCI Worldcom for work at its  
5 facilities or on its projects.

6           2.    One project MCI requested installation technicians on  
7 was in Sacramento, California.

8           3.    Dynamic Technical Services hired Ms. White and assigned  
9 her to provide installation services to MCI Worldcom.

10          4.    Ms. White began working on the project in or about  
11 January 2000.

12          5.    On or about January 3, 2001, Ms. White was terminated  
13 by Dynamic Technical Services.

14           IV.   DISPUTED FACTUAL ISSUES

15          The remaining claims for trial are:

16          1.    Whether during her employment with Dynamic Technical  
17 Services Plaintiff was subjected to sexual harassment and  
18 discrimination because of her gender;

19          2.    Whether Ms. White was terminated from her employment  
20 with Dynamic Technical Services because she complained of sexual  
21 harassment and discrimination;

22          3.    Whether Plaintiff ever complained of the alleged  
23 harassment and discrimination to Dynamic Technical Services;

24          4.    Whether DTS had any control over MCI's ability or  
25 decision to release Plaintiff; and

26          5.    Whether there were any positions available for DTS to  
27 assign Plaintiff after she was released by MCI.

28        ///  
29

1 All issues of fact remaining in dispute are subject to proof  
2 at the time of trial.

3 V. WITNESSES

4 Plaintiff anticipates calling the witnesses listed on  
5 Attachment "A".

6 Defendants anticipate calling the witnesses listed on  
7 Attachment "B".

8 Each party may call a witness designated by the other.

9 A. No other witnesses will be permitted to testify unless:

10 (1) The party offering the witness demonstrates that  
11 the witness is for the purpose of rebutting evidence which could  
12 not be reasonably anticipated at the Final Pretrial Conference,  
13 or

14 (2) The witness was discovered after the Final  
15 Pretrial Conference and the proffering party makes the showing  
16 required in "B" below.

17 B. Upon the post-pretrial discovery of witnesses, the  
18 attorney shall promptly inform the Court and opposing parties of  
19 the existence of the unlisted witnesses so that the Court may  
20 consider at trial whether the witnesses shall be permitted to  
21 testify. The evidence will not be permitted unless:

22 (1) The witnesses could not reasonably have been  
23 discovered prior to pretrial;

24 (2) The Court and opposing counsel were promptly  
25 notified upon discovery of the witnesses;

26 (3) If time permitted, counsel proffered the witnesses  
27 for deposition;

28 ///

1 (4) If time did not permit, a reasonable summary of  
2 the witnesses' testimony was provided by opposing counsel.

3 VI. EXHIBITS - SCHEDULES AND SUMMARIES

4 At present, Plaintiff contemplates by way of exhibits those  
5 listed on Attachment "C".

6 At present, Defendants contemplate by way of exhibits those  
7 listed on Attachment "D".

8 **Plaintiff's exhibits shall be listed numerically.**

9 **Defendants' exhibits shall be listed alphabetically.** The parties  
10 shall use the standard exhibit stickers provided by the Court  
11 Clerk's Office: pink for Plaintiff and blue for Defendants.  
12 After three letters, note the number of letters in parenthesis  
13 (i.e., "AAAA(4)" to reduce confusion during the trial. All  
14 multi-page exhibits shall be stapled or otherwise fastened  
15 together and each page within the exhibit shall be numbered. All  
16 photographs shall be marked individually. The list of exhibits  
17 shall not include excerpts of depositions which may be used to  
18 impeach witnesses.

19 Each party may use an exhibit designated by the other. In  
20 the event that Plaintiff and Defendants offer the same exhibit  
21 during trial, that exhibit shall be referred to by the  
22 designation the exhibit is first identified. The Court cautions  
23 the parties to pay attention to this detail so that all  
24 concerned, including the jury, will not be confused by one  
25 exhibit being identified with both a number and a letter.

26 ///

27 ///

28 ///

1           A.    No other exhibits will be permitted to be introduced  
2 unless:

3                   (1)   The party proffering the exhibit demonstrates that  
4 the exhibit is for the purpose of rebutting evidence which could  
5 not be reasonably anticipated at the Pretrial Scheduling  
6 Conference, or

7                   (2)   The exhibit was discovered after the Pretrial  
8 Scheduling Conference and the proffering party makes the showing  
9 required in paragraph "B", below.

10           B.    Upon the post-pretrial discovery of exhibits, the  
11 attorneys shall promptly inform the Court and opposing counsel of  
12 the existence of such exhibits so that the Court may consider at  
13 trial their admissibility.  The exhibits will not be received  
14 unless the proffering party demonstrates:

15                   (1)   The exhibits could not reasonably have been  
16 discovered prior to pretrial;

17                   (2)   The Court and counsel were promptly informed of  
18 their existence;

19                   (3)   Counsel forwarded a copy of the exhibit(s) (if  
20 physically possible) to opposing counsel.  If the exhibit(s) may  
21 not be copied, the proffering counsel must show that he has made  
22 the exhibit(s) reasonably available for inspection by opposing  
23 counsel.

24 ///

25 ///

26 ///

27 ///

28 ///

1 C. As to each exhibit, each party is ordered to exchange a  
2 copy identical to the Court's copy, or other reproduction of the  
3 exhibit(s) in a three-ring binder(s) by **October 12, 2010**. The  
4 attorney or representative for each party is directed to present  
5 the original and two (2) copies of the exhibit(s) and exhibit  
6 list to the Court Clerk's Office, no later than **3:00 p.m.**,  
7 **October 12, 2010**, or at such earlier time as may be ordered by  
8 the Court. **NO EXCEPTIONS.**

9 D. **The Court shall be presented with a copy of the**  
10 **exhibit(s) in a 3-ring binder(s) with a side tab identifying each**  
11 **exhibit by number or letter. Each binder shall be no larger than**  
12 **three inches in width and have an identification label on the**  
13 **front and side panel.**

14 VII. DISCOVERY DOCUMENTS

15 A. Filing Depositions. It is the duty of counsel to  
16 ensure that any deposition which is to be used at trial has been  
17 lodged with the Clerk of the Court. In addition, two unmarked  
18 copies of the transcripts must be delivered to the Court Clerk's  
19 Office. Counsel are cautioned that a failure to discharge this  
20 duty may result in the Court precluding use of the deposition or  
21 imposition of such other sanctions as the Court deems  
22 appropriate.

23 B. Use of Depositions. The parties are ordered to file  
24 with the Court and exchange between themselves by **October 12,**  
25 **2010** a statement designating portions of depositions intended to  
26 be offered or read into evidence (except for portions to be used  
27 only for impeachment or rebuttal).

28 ///

1 C. Interrogatories. The parties are ordered to file with  
2 the Court and exchange between themselves by **October 12, 2010** the  
3 portions of Answers to Interrogatories which the respective  
4 parties intend to offer or read into evidence at the trial  
5 (except portions to be used only for impeachment or rebuttal).

6 VIII. FURTHER DISCOVERY OR MOTIONS

7 Pursuant to the Court's Pretrial Scheduling Order, all  
8 discovery and law and motion was to have been conducted so as to  
9 be completed as of the date of the Final Pretrial Conference.  
10 That Order is confirmed. The parties are free to engage in  
11 informal agreements regarding discovery and law and motion  
12 matters. However, any such agreements will not be enforceable in  
13 this Court.

14 IX. AGREED STATEMENTS - JOINT STATEMENT OF CASE

15 It is mandatory the parties shall file a short, jointly-  
16 prepared statement concerning the nature of this case that will  
17 be read to the jury at the commencement of trial (**NO EXCEPTIONS**).  
18 The joint statement of the case shall include in plain concise  
19 language the claims of Plaintiff and claims of other parties, if  
20 any, and the corresponding defenses to the claims. The purpose  
21 of the joint statement of the case is to inform the jury at the  
22 outset, what the case is about. The statement must be filed with  
23 the Court by **October 12, 2010**.

24 ///

25 ///

26 ///

27 ///

28 ///

1 X. PROPOSED JURY INSTRUCTIONS, VOIR DIRE, VERDICT FORM

2 A. Jury Instructions

3 Counsel are directed to meet and confer and to attempt to  
4 agree upon a joint set of jury instructions. Counsel shall use  
5 the Ninth Circuit Model Jury Instructions and any revisions.  
6 Alternate instruction or authority may only be used if a Ninth  
7 Circuit Model Jury Instruction is unavailable. The joint set of  
8 instructions must be filed by **October 12, 2010** and shall be  
9 identified as the "Jury Instructions Without Objection."

10 All instructions shall be, to the extent possible, concise,  
11 understandable, and free from argument. See Local Rule 163(c).  
12 Parties shall also note that any modifications of instructions  
13 from statutory authority, case law or from any form of pattern  
14 instructions must specifically state the modification by  
15 underlining additions and bracketing deletions.

16 B. Verdict Form

17 The parties must file a joint verdict form(s) concurrently  
18 with proposed jury instructions by **October 12, 2010**. If  
19 necessary, a special verdict or interrogatories shall be included  
20 for all factual disputes submitted to the jury that must be  
21 resolved before questions of law can be decided, and for any  
22 other issue on which specific responses are desired. See Local  
23 Rule 163(e).

24 ///

25 ///

26 ///

27 ///

28 ///



1 C. Voir Dire

2 The parties shall submit proposed voir dire questions to the  
3 Court. The Court reserves the right to conduct all examination  
4 of prospective jurors. Notwithstanding this reservation, the  
5 Court will permit each side up to ten (10) minutes to conduct  
6 voir dire, if desired. The voir dire questions shall be filed  
7 with the Court by **October 12, 2010**.

8 D. Submission of Documents to the Court

9 At the time of filing their respective proposed jury  
10 instructions, verdict form(s), and voir dire questions, counsel  
11 shall also electronically mail to the Court in digital format and  
12 compatible with Microsoft Word or WordPerfect, the proposed jury  
13 instructions and verdict form(s). **These documents should be sent**  
14 **to mceorders@caed.uscourts.gov.**

15 XI. AUDIO/VISUAL EQUIPMENT

16 The parties are required to **file electronically** a joint  
17 request to the Courtroom Deputy Clerk, Stephanie Deutsch, by  
18 **October 4, 2010** if they wish to reserve and arrange for  
19 orientation with all parties on the Court's mobile audio/visual  
20 equipment for presentation of evidence. There will be one date  
21 and time for such orientation.

22 XII. DATE AND LENGTH OF TRIAL

23 A trial is scheduled for **October 25, 2010**. The estimated  
24 length of trial is **two (2) days**. The trial will consist of **seven**  
25 **(7) jurors**. Counsel are to email Stephanie Deutsch, Courtroom  
26 Deputy Clerk, at mceorders@caed.uscourts.gov, or call at (916)  
27 930-4207, by **October 12, 2010** to ascertain the status of the  
28 trial date.

