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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11  
12 CARDTE HICKS,

13 Plaintiff,

14 v.

15 LOWE'S HIW, INC., et al.,

16 Defendants.  
17  
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No. 2:12-CV-01883-KJM-KJN

ORDER

19 On March 20, 2014, the court conducted a final pretrial conference. Robert  
20 Masuda appeared for Cardte Hicks ("plaintiff"), and Charles May appeared for Lowe's Home  
21 Centers, LLC ("defendant"). After hearing, and good cause appearing, the court makes the  
22 following findings and orders:

23 JURISDICTION/VENUE

24 Jurisdiction is predicated on 28 U.S.C. §§ 1332 and 1441(b). Venue is proper as  
25 the underlying events occurred in the Eastern District. Jurisdiction and venue are not contested.

26 JURY/NON-JURY

27 Both parties request a jury.

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1 UNDISPUTED FACTS

2 The parties have agreed to the following undisputed facts:

- 3 1. On November 8, 2011, plaintiff was shopping at defendant's retail store located in West  
4 Sacramento, California.
- 5 2. While plaintiff was in the checkout line waiting to purchase two pieces of lumber, a  
6 Lowe's cashier attempted to lift the boards to find the item's price tag, causing one of  
7 the boards to strike plaintiff's right shoulder.

8 DISPUTED FACTUAL ISSUES

9 The parties dispute the following factual issues:

- 10 1. Plaintiff alleges she suffered serious injuries resulting from the subject incident, which  
11 she attributes to defendant's negligence.
- 12 2. Defendant disputes causation, the nature and extent of plaintiff's injuries and damages,  
13 including the amount of adjusted medical expenses.

14 SPECIAL FACTUAL INFORMATION

15 A. Plaintiff

16 Plaintiff is fifty-five years old. As a result of the subject incident, plaintiff  
17 sustained injury to her right shoulder. Following the incident, she visited her primary care  
18 physician, Dr. Charles McCrory, M.D., who monitored her condition and administered physical  
19 therapy treatment within his office. Plaintiff's right shoulder pain did not subside.

20 Dr. McCrory referred plaintiff to an orthopedic specialist, Dr. Amir Jamali,  
21 M.D. A magnetic resonance imaging scan of plaintiff's right shoulder was taken on November  
22 29, 2011, revealing a tear and acromial fracture. On April 4, 2012, Dr. Jamali performed a  
23 right shoulder arthroscopy, open rotator cuff repair, repair of nonunion of acromion and bicep  
24 tenodesis. Plaintiff underwent physical therapy as part of her post-surgery rehabilitative  
25 treatment, but her pain did not subside. On December 21, 2012, Dr. Jamali performed another  
26 arthroscopic surgery of her right shoulder and removed hardware in place from her initial  
27 surgery. At this time, a small saw was also used to flatten evident scar tissue. Plaintiff  
28 continued to experience pain after the second surgery.

1 She relocated to Southern California and began treatment with Kaiser. Her  
2 primary care doctor at Kaiser referred her to physical therapy, which offered little relief, and an  
3 orthopedic specialist, Dr. Bryan Wiley, M.D. Dr. Wiley planned to perform a third surgery on  
4 March 31, 2014 to plaintiff's right shoulder because she continues to experience pain.

5 Following is a list of Plaintiff's medical providers and corresponding costs for  
6 treatment:

7 **Charles McCrory, D.C., M.D.;** 300 Harding Boulevard, Suite 213, Roseville, CA  
8 95678, (916) 780-2800;

9 Type of Treatment: Primary care and follow-up treatment

10 Dates of Service: 11/15/11-3/7/12

11 Charges to date: \$2,105.00

12 **Radiological Associates of Sacramento,** 1880 Sierra Gardens Drive, Suite 200,  
13 Roseville, CA 95661

14 Type of Treatment: X-rays and MRI of right shoulder

15 Dates of Service: 11/19/11; 11/29/11, 2/22/12, 5/29/12, 11/16/12

16 Charges to date: \$3,898.33

17 **Amir Jamali, M.D.,** 2825 J Street, Suite 440, Sacramento, CA 95816,

18 Type of Treatment: Right shoulder arthroscopy, open rotator cuff repair, repair of  
19 nonunion of acromion, biceps tenodesis, follow-up treatment, removal of hardware  
20 in right shoulder; injections

21 Dates of Service: 1/10/12, 2/7/12; 3/15/12; 4/4/12; 4/10/12; 4/26/12; 5/10/12;  
22 5/31/12; 12/21/12 (right shoulder arthroscopy, removal of hardware); 12/5/13

23 Charges to Date: \$21,655.00

24 **Central Anesthesia Service Exchange;** P.O. Box 660910, Sacramento, CA 95866

25 Type of Treatment: Anesthesiology for Surgery

26 Dates of Service: 4/4/12, 12/21/12

27 Charges to Date: \$4,140.00

28 **Sutter Alhambra Surgery Center;** 1201 Alhambra Boulevard, Suite 110,  
Sacramento, CA 95816

Type of Treatment: Surgery Facility

Date of Treatment: 4/4/12

Charges to Date: \$43,875.00

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1 **Pacific Medical, Inc.;** P.O. Box 149, Tracy, CA 95378;

2 Type of Treatment: shoulder sling

3 Date of Service: 4/4/12;

4 Charges to date: \$195.00

5 **Janice Daniels, PT;** 5207 J Street, Sacramento, CA 95819;

6 Type of Treatment: Physical Therapy

7 Dates of Treatment: 5/2/12-7/12/12;

8 Charges to Date: \$2,505.00

9 **MD Stat**

10 Type of Treatment: Pre-surgery labwork

11 Date of Service: 11/16/12

12 Charges to Date: \$469.50

13 **Quest Diagnostics**

14 Type of Treatment: Pre-surgery labwork

15 Date of Service: 12/7/12

16 Charges to date: \$246.34

17 **Sutter General Hospital,** 2801 L Street, Sacramento, CA 95816;

18 Type of Treatment: facility for right shoulder arthroscopy, possible rotator cuff  
19 repair, and removal of hardware;

20 Date of Service: 12/21/12

21 Charges to Date: \$31,594.32

22 **Diagnostic Pathology Medical Group,** 3301 C Street, Suite 200-E, Sacramento,  
23 CA 95816

24 Type of Treatment: Anatomic Pathology Report of Hardware from Right Shoulder

25 Date of Service: 12/21/12

26 Charges to Date: \$171.00

27 **Kaiser,** 10850 Arrow Route, Rancho Cucamonga, CA 91730-4833;

28 Type of Treatment: follow-up care and physical therapy; orthopedic consultation  
and future surgery of right shoulder

Dates of service and charges to date are currently being verified.

B. Defendant

Defendant contends that plaintiff suffered from a preexisting medical condition,  
the claimed injuries were not caused by the subject incident, the claimed medical bills were  
excessive and/or not caused by the incident and adjusted downward by plaintiff's healthcare

1 providers and insurance carrier, plaintiff failed to mitigate damages and there are no facts to  
2 support any of plaintiff's claims for future medical expenses.

3 DISPUTED EVIDENTIARY ISSUES

4           Neither party reasonably anticipates a dispute concerning admissibility of live  
5 and deposition testimony, physical and demonstrative evidence and the use of special  
6 technology at trial, including computer animation, video discs and/or other high technology.

7           Both parties anticipate filing several motions in limine.

8 AGREED STATEMENTS

9           None.

10 RELIEF SOUGHT

11           Plaintiff claims current total medical expenses exceeding \$110,000. At the time  
12 of the final pretrial conference, she was awaiting the scheduling of an additional surgery to her  
13 right shoulder, to take place following recovery from a knee surgery unrelated to the instant  
14 litigation. This amount may be updated prior to trial as plaintiff is currently still being treated  
15 for injuries resulting from this accident. Based on the cost of her two prior shoulder surgeries,  
16 it is anticipated that the cost of plaintiff's upcoming surgery will be approximately \$35,000 to  
17 \$45,000, plus the cost of rehabilitative therapy.

18           Defendant contends that plaintiff's shoulder surgeries are not causally connected  
19 to injuries, if any, allegedly sustained as a result of the subject incident. In addition, defendant  
20 disputes the net amount of plaintiff's claimed medical charges.

21 POINTS OF LAW

22       A. Plaintiff

23           Plaintiff's legal theories for recovery are based upon negligence. Plaintiff  
24 contends that defendant's employee was negligent in causing plaintiff's injury while acting  
25 within the course and scope of his employment with defendant and that defendant is thereby  
26 liable.

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1 B. Defendant

2 Defendant contends that plaintiff suffered from a pre-existing medical condition,  
3 plaintiff's claimed injuries were not caused by the subject incident, the claimed medical bills  
4 were excessive and/or were not caused by the accident (and, in any event, were adjusted down  
5 by plaintiff's healthcare providers and her health insurance carrier), plaintiff failed to mitigate  
6 her damages and that there are no facts to support any of plaintiff's claims for future medical  
7 expenses.

8 ABANDONED ISSUES

9 Plaintiff abandons no issues.

10 Defendant abandons the following affirmative defenses raised in its answer:

11 (1) fourth affirmative defense: failure to state a cause of action; (2) fifth affirmative defense:  
12 running of the applicable statute of limitations; and (3) sixth affirmative defense: assumption of  
13 the risk.

14 WITNESSES

15 Plaintiff anticipates calling the following witnesses:

16 A. Lay Witnesses

- 17 1. Cardte Hicks: Plaintiff will testify about how the incident occurred and her  
18 injuries.
- 19 2. Joel Valenzuela: He is the former employee of defendant who dropped the  
20 lumber on plaintiff and will testify about how the incident occurred.
- 21 3. Baldur Roikjer: She was with the plaintiff at the time of the incident and will  
22 testify to what she witnessed.
- 23 4. Chantel Phillips: She is an employee of defendant who investigated the incident  
24 and will testify about the incident.
- 25 5. Victoria Shikaloff: She is a former employee of defendant who investigated the  
26 incident and will testify about the incident.
- 27 6. Robert Gonsalves: He is an employee of defendant who investigated the incident  
28 and will testify about the incident.

1 7. Charles McCrory, M.D.: He will testify about the treatment he provided  
2 plaintiff.

3 8. Janice Daniels, P.T.: She will testify about the treatment she provided plaintiff.

4 9. Bryan Vincent Wiley, M.D.: He will testify about the treatment he provided  
5 plaintiff.

6 10. Susan Yoomie Lee, M.D.: She will testify about the treatments she provided  
7 plaintiff.

8 11. Mohammed Namazian, D.O.: He will testify about the treatment he provided  
9 plaintiff.

10 12. Michael Seung Oh, M.D.: He will testify about the treatment he provided  
11 plaintiff.

12 13. Ronald Welch, P.T.: He will testify about the treatment he provided plaintiff.

13 B. Expert Witnesses

14 1. Amir Jamali, M.D.: He will testify about his treatment of plaintiff, her injuries  
15 and the relationship between the incident and her injuries.

16 Defendant anticipates calling the following witnesses:

17 A. Lay Witnesses:

18 1. Chantel Phillips: She will testify about facts giving rise to the subject incident.

19 2. Robert Gonsalves: He will testify about facts giving rise to the subject incident.

20 3. Joel Valenzuela: He will testify about facts giving rise to the subject incident.

21 4. Victoria Shikaloff: She will testify about facts giving rise to the subject incident.

22 B. Expert Witnesses:

23 1. Geoffrey M. Miller, M.D.: He will testify about issues of causation, damages,  
24 prognosis, diagnosis, and reasonableness and necessity of all prior, current, and  
25 future medical care and expenses.

26 Each party may call any witness designated by the other.

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1 A. The court will not permit any other witness to testify unless:

- 2 1. The party offering the witness demonstrates that the witness is for the  
3 purpose of rebutting evidence that could not be reasonably  
4 anticipated at the pretrial conference; or  
5 2. The witness was discovered after the pretrial conference, and the  
6 proffering party makes the showing required in subsection B.

7 B. Upon the post-pretrial discovery of any witness that a party wishes to present  
8 at trial, the party shall promptly inform the court and opposing parties of the  
9 existence of the unlisted witnesses so that the court may consider whether  
10 the witnesses shall be permitted to testify at trial. The witnesses will not be  
11 permitted unless:

- 12 1. The witness could not reasonably have been discovered prior to the  
13 discovery cutoff;  
14 2. The court and opposing witnesses were promptly notified upon  
15 discovery of the witness; and  
16 3. If time permitted, the party proffered the witness for deposition; or  
17 4. If time did not permit, a reasonable summary of the witness's  
18 testimony was provided the opposing parties.

19 EXHIBITS, SCHEDULES AND SUMMARIES

20 Plaintiff will present the following exhibits:

- 21 1. Charles McCrory, D.C., M.D. – Medical Records  
22 2. Charles McCrory, D.C., M.D. – Billing Records  
23 3. Radiological Associates of Sacramento – Medical Records  
24 4. Radiological Associates of Sacramento – Billing Records  
25 5. Central Anesthesia Service Exchange – Billing Records  
26 6. Sutter Alhambra Surgery Center – Medical Records  
27 7. Sutter Alhambra Surgery Center – Billing Records  
28 8. Pacific Medical, Inc. – Billing Records



- 1 9. Janice Daniels, PT – Medical Records
- 2 10. Janice Daniels, PT – Billing Records
- 3 11. MD Stat – Medical Records
- 4 12. MD Stat – Billing Records
- 5 13. Quest Diagnostics – Medical Records
- 6 14. Quest Diagnostics – Billing Records
- 7 15. Sutter General Hospital – Medical Records
- 8 16. Sutter General Hospital – Billing Records
- 9 17. Diagnostic Pathology Medical Group – Medical Records
- 10 18. Diagnostic Pathology Medical Group – Billing Records
- 11 19. Kaiser - Medical Records
- 12 20. Kaiser - Billing Records
- 13 21. Chart depicting Plaintiff's Medical Billing Amounts
- 14 22. Lowe's Surveillance Video
- 15 23. 2x4 piece of lumber
- 16 25. Deposition of Cardte Hicks
- 17 26. Deposition of Joel Valenzuela
- 18 27. Deposition of Chantel Phillips
- 19 28. Deposition of Victoria Shikaloff
- 20 29. Deposition of Robert Gonsalves
- 21 30. Deposition of Amir Jamali, M.D.

22 Defendant will present the following exhibits:

- 23 A. Plaintiff's subpoenaed medical and billing records from Amir Jamali, M.D.
- 24 B. Plaintiff's subpoenaed medical and billing records from Janice Daniels, PT.
- 25 C. Plaintiff's subpoenaed medical and billing records from Charles McCrory, D.C.
- 26 D. Plaintiff's subpoenaed medical and billing records from Kaiser Permanente Hospital.
- 27 E. Plaintiff's subpoenaed medical and billing records from Pacific Medical, Inc.

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- 1 F. Plaintiff's subpoenaed medical and billing records from Radiological Associates of  
2 Sacramento.
- 3 G. Plaintiff's subpoenaed medical and billing records from Sutter Hospital.
- 4 H. Plaintiff's subpoenaed medical and billing records from Sutter Alhambra Surgery  
5 Center.
- 6 I. Plaintiff's subpoenaed medical and billing records from Sutter Physician Services.
- 7 J. Plaintiff's subpoenaed medical and billing records from Central Anesthesia Service  
8 Exchange.
- 9 K. Plaintiff's subpoenaed medical and billing records from MD Stat Urgent Care.
- 10 L. Lowe's Interrogatories (Set One) to Plaintiff Cardte Hicks.
- 11 M. Plaintiff's responses to defendant's Interrogatories (Set One)
- 12 N. Lowe's Request For Production of Documents (Set One) to plaintiff.
- 13 O. Plaintiff's responses to defendant's Request For Production of Documents (Set One).
- 14 P. Dr. Geoffrey Miller's Initial Orthopedic Evaluation Report of plaintiff, dated  
15 September 21, 2013.
- 16 Q. Dr. Geoffrey Miller's Report of Review of plaintiff's medical records, dated  
17 September 21, 2013.
- 18 R. Dr. Geoffrey Miller's Report of Supplemental Review of plaintiff's medical records,  
19 dated September 25, 2013.
- 20 S. Dr. Geoffrey Miller's Report of Supplemental Review of plaintiff's medical records,  
21 dated January 27, 2014.
- 22 T. Curriculum Vitae of Dr. Geoffrey Miller.
- 23 U. Lowe's Incident Report dated November 8, 2011.
- 24 V. Written Statement by Former Lowe's Employee Joel Valenzuela dated November 11,  
25 2011.
- 26 W. Defendant's Surveillance Video depicting the subject incident

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1           The court encourages the parties to generate a joint exhibit list to the extent  
2 possible. Joint exhibits shall be identified as JX and listed numerically (e.g., JX-1, JX-2).

3           All exhibits must be premarked.

4           The parties must prepare exhibit binders for use by the court at trial, with a side  
5 tab identifying each exhibit in accordance with the specifications above. Each binder shall  
6 have an identification label on the front and spine.

7           The parties must exchange exhibits no later than twenty-eight days before trial.  
8 Any objections to exhibits are due no later than fourteen days before trial.

9       A. The court will not admit exhibits other than those identified on the exhibit lists  
10       referenced above unless:

- 11           1. The party proffering the exhibit demonstrates the exhibit is for the purpose of  
12           rebutting evidence that could not have been reasonably anticipated; or
- 13           2. The exhibit was discovered after the issuance of this order and the proffering  
14           party makes the showing required in section B, below.

15       B. Upon the discovery of exhibits after the discovery cutoff, a party shall promptly inform  
16       the court and opposing parties of the existence of such exhibits so that the court may  
17       consider their admissibility at trial. The exhibits will not be received unless the  
18       proffering party demonstrates:

- 19           1. The exhibits could not reasonably have been discovered earlier;
- 20           2. The court and the opposing parties were promptly informed of their existence;  
21           and
- 22           3. The proffering party forwarded a copy of the exhibits (if physically possible) to  
23           the opposing party. If the exhibits may not be copied the proffering party must  
24           show that it has made the exhibits reasonably available for inspection by the  
25           opposing parties.

#### 26 DEPOSITION TRANSCRIPTS

27           Counsel must lodge the sealed original copy of any deposition transcript to be  
28 used at trial with the Clerk of the Court no later than fourteen days before trial.

1 FURTHER DISCOVERY OR MOTIONS

2 Plaintiff has not produced her updated medical records. Plaintiff's retained  
3 expert Dr. Amir Jamali testified on December 19, 2013 that plaintiff had an MRI taken of her  
4 right shoulder on November 19, 2013. Dr. Jamali reviewed the MRI at his examination of  
5 plaintiff on December 5, 2013 and administered a steroid injection. To date, neither the MRI  
6 nor Dr. Jamali's records from December have been produced by plaintiff.

7 In plaintiff's Motion to Continue Trial, filed on January 24, 2014, plaintiff  
8 indicated that she obtained an evaluation and treatment related to her third shoulder surgery on  
9 January 13, 2014 from Dr. Bryan Wiley. No records from this treatment have been produced.

10 Defendant takes the position it requires an opportunity to review and evaluate  
11 the above-referenced records that have not been produced. Plaintiff believes she has met the  
12 requirement of the duty to disclose pursuant to Rule 26(e).

13 Defense counsel has met and conferred with plaintiff's counsel regarding these  
14 unproduced records. If no resolution can be achieved, defendant reserves its right to file  
15 pretrial motions with the court.

16 Plaintiff has moved to depose defendant's expert, Dr. Geoffrey Miller. This  
17 motion is addressed in a separate order.

18 STIPULATIONS

19 The parties have entered into the following stipulations:

20 1. At the time of the subject incident, Joel Valenzuela was defendant's  
21 employee whose actions caused a 2 x 4 piece of lumber to fall upon plaintiff. At the time of the  
22 subject incident, Joel Valenzuela was acting within the scope of his employment.

23 2. The video recording of the subject incident, provided by defendant, will be  
24 considered genuine at time of trial, thereby meeting the authentication requirements of the  
25 Federal Rules of Evidence.

26 AMENDMENTS/DISMISSALS

27 None. The parties request the dismissal of any unserved defendants.  
28 Accordingly, any remaining Doe defendants are dismissed.

1 SETTLEMENT

2 The parties attended a settlement conference on April 2, 2014 with the  
3 Honorable Kendall J. Newman but did not settle.

4 MOTIONS IN LIMINE

5 The parties anticipate filing the following motions in limine:

6 A. Plaintiff<sup>1</sup>

- 7 1. Plaintiff's motion in limine to exclude plaintiff's prior convictions.  
8 2. Plaintiff's motion in limine to exclude plaintiff's financial history.

9 B. Defendant

- 10 1. Defendant's motion in limine to exclude any actual or potential dollar amount of  
11 damages from being mentioned to the jury during voir dire.  
12 2. Defendant's motion in limine to exclude all witnesses from the courtroom unless  
13 testifying.  
14 3. Defendant's motion in limine to preclude reference to the size of the firm or firm  
15 locations of defendant's counsel.  
16 4. Defendant's motion in limine to exclude any and all reference to defendant's  
17 insurance.  
18 5. Defendant's motion in limine to exclude all evidence concerning settlement  
19 discussions at the time of trial.  
20 6. Defendant's motion in limine to bar plaintiff from recovering medical specials  
21 in excess of net medical bills.  
22 7. Defendant's motion in limine to exclude plaintiff's records and films from 2013  
23 and 2014 not produced pursuant to Rule 26(e).  
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27 <sup>1</sup> Plaintiff's motion *in limine* to exclude defendant's expert testimony has previously  
28 been denied.

1 Unless it notifies the parties otherwise, the court will hear these motions on the  
2 first day of trial. **Motions are due three weeks before the date of trial; oppositions are due**  
3 **two weeks before trial; replies are due one week before trial.** Failure to comply with Local  
4 Rule 230(c) may be deemed consent to the motion, and the court may dispose of the motion  
5 summarily. *Brydges v. Lewis*, 18 F.3d 651, 652–53 (9th Cir. 1994).

6 Each pretrial evidentiary ruling is made without prejudice and is subject to  
7 proper renewal, in whole or in part, during trial. If a party wishes to contest a pretrial ruling, it  
8 must do so through a proper motion or objection, or otherwise forfeit appeal on such grounds.  
9 See FED. R. EVID. 103(a); *Tennison v. Circus Circus Enters., Inc.*, 244 F.3d 684, 689 (9th Cir.  
10 2001) (“Where a district court makes a tentative in limine ruling excluding evidence, the  
11 exclusion of that evidence may only be challenged on appeal if the aggrieved party attempts to  
12 offer such evidence at trial.”) (internal alteration, citation and quotation marks omitted). In  
13 addition, challenges to expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*,  
14 509 U.S. 579 (1993), are denied without prejudice. Should a party wish to renew a *Daubert*  
15 challenge at trial, it should alert the court, at which point the court may grant limited voir dire  
16 before such expert may be called to testify.

17 **JOINT STATEMENT OF THE CASE**

18 The court approves the parties’ proposed statement of the case to be read to the  
19 jury at the beginning of trial:

20 This case involves an incident that occurred at defendant Lowe’s Home Centers,  
21 LLC’s retail store located in West Sacramento, California on November 8, 2011. On that date,  
22 plaintiff was shopping at Defendant’s store. Plaintiff stood in the check-out line waiting to  
23 purchase two pieces of lumber. As the attending Lowe’s cashier attempted to lift the boards to  
24 find the item’s price tag, one of the boards fell and struck Plaintiff on the right shoulder.  
25 Plaintiff claims that she suffered serious injuries, which she attributes to Defendant’s  
26 negligence. Defendant Lowe’s Home Centers, LLC denies negligence and disputes the nature  
27 and extent of the injuries and damages claimed by Plaintiff.

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1 SEPARATE TRIAL OF ISSUES

2 None.

3 IMPARTIAL EXPERTS/LIMITATION OF EXPERTS

4 The parties do not request an appointment by the court of impartial expert  
5 witnesses or any court orders limiting the number of expert witnesses.

6 ATTORNEYS' FEES

7 Attorneys' fees are not being requested by the parties.

8 ESTIMATED TIME OF TRIAL/TRIAL DATE

9 Jury trial, estimated at five days, is confirmed for June 9, 2014 at 9:00 a.m. in  
10 Courtroom Three before the Honorable Kimberly J. Mueller. The court will review with the  
11 parties the actual time needed for trial on the morning of June 9th.

12 PROPOSED JURY VOIR DIRE AND PROPOSED JURY INSTRUCTIONS

13 The parties shall file any proposed jury voir dire seven days before trial. Each  
14 party will be limited to ten minutes of jury voir dire, following the court's own voir dire.

15 The court directs counsel to meet and confer in an attempt to generate a joint set  
16 of jury instructions and verdicts. The parties shall file any such joint set of instructions  
17 fourteen days before trial, identified as "Jury Instructions and Verdicts Without Objection." To  
18 the extent the parties are unable to agree on all or some instructions and verdicts, their  
19 respective proposed instructions are due fourteen days before trial.

20 Counsel shall email a copy of all proposed jury instructions and verdicts,  
21 whether agreed or disputed, as a word processable document to [kjmorders@caed.uscourts.gov](mailto:kjmorders@caed.uscourts.gov)  
22 no later than fourteen days before trial; all blanks in form instructions should be completed and  
23 all brackets removed.

24 Objections to proposed jury instructions must be filed seven days before trial;  
25 each objection shall identify the challenged instruction and shall provide a concise explanation  
26 of the basis for the objection along with citation of authority. When applicable, the objecting  
27 party shall submit an alternative proposed instruction on the issue or identify which of his or  
28 her own proposed instructions covers the subject.

1 MISCELLANEOUS

2 Trial briefs are due seven days before trial.

3 OBJECTIONS TO PRETRIAL ORDER

4 Each party is granted fourteen days from the date of this order to file objections  
5 to the same. If no objections are filed, the order will become final without further order of this  
6 court.

7 IT IS SO ORDERED.

8 DATED: April 14, 2014.

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12 UNITED STATES DISTRICT JUDGE  
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