

TRIAL REQUIREMENTS

For Matters Before the Honorable Marilyn Hall Patel

Pretrial Submissions:

The following should be prepared:

- (a) Pretrial Statement in accordance with Local Rule 16-9(b)
- (b) Any trial briefs
- (c) Motions in Limine (which should be contained in one document)
- (d) Jury Instructions
 - One set contains agreed to instructions
 - One set contains disputed instructions
- (e) Proposed Jury Voir Dire
- (f) Proposed Verdict Form
- (g) Proposed Findings of Facts and Conclusions of Law, if applicable

Trial Exhibits:

A special form is used in preparing the Exhibit List, which has been attached to these instructions. Counsel are to supply all the requested information with the exception of the two date boxes.

Exhibits are to be properly marked with exhibit tags stapled to the lower right-hand corner. If a photo or chart is used as an exhibit, the exhibit tag should be placed on the back side of the exhibit.

A binder containing a copy of each side's exhibits is to be provided for Judge Patel on the day of trial. Each exhibit is to be designated with a label divider and not an exhibit tag. The only exhibits to be tagged are those exhibits to be admitted into evidence.

There should be no duplication of exhibits between the plaintiffs' and defendants' exhibits.

Marking of Trial Exhibits:

Counsel should fill in the appropriate markers (note notation of "Plaintiff's" or "Defendant's"). Please leave the "Date Marked/Date Admitted" space blank. Plaintiffs' exhibits should be denoted as 1, 2, 3 etc. Defendants' exhibits should be denoted as A, B, C etc.

Additional Items to Bring to Trial:

Please be sure to bring six (6) copies of your exhibit list.

A glossary would be helpful setting forth the names of the witnesses and any unusual terms that may come up during trial.

Be sure to bring the original and a clean copy of any deposition(s) your office has taken of any witnesses who will be called to testify at trial. The original deposition will be handed to the court during testimony, and the clean copy of the deposition will be given to the witness during examination.

Please Note:

Should a daily transcript be desired, arrangements will need to be made with Robert Stuart, Supervisor of the Court Reporting Services, at (415) 522-2079, at least ten (10) days prior to the trial date.

If any video or tape-recording equipment or demonstrative devices will be used, a signed order will need to be obtained in advance of the trial date for items to clear building security.

If you have any questions regarding these instructions, please contact Anthony Bowser, Courtroom Deputy to the Honorable Marilyn Hall Patel, at (415) 522-3140.

Addendum I

Motion Preparation:

These rules also apply to motions for summary judgment, preliminary injunction, or other motions requiring evidentiary submissions. The parties shall meet and confer to resolve all evidentiary issues. Those that cannot be resolved shall be handled in the following manner.

In connection with motions, the exhibits shall be submitted with a cover sheet listing all exhibits. Opposing counsel shall indicate on the list their objections, if any, by use of a keyed system. The keyed system referred to in these instructions may designate the objection by number or name, and shall include an index to the keys or codes, unless the number or name is self-evident. For example, a Rule 403, FRCP objection may be noted by R.403; an objection that a deposition question assumed facts not in evidence might be referred to as "AF" with the index identifying each such code.

Depositions used in connection with a motion shall be filed at the time the oppositions are filed and shall be marked as follows: The entire deposition shall be submitted (if deposition is in one volume; otherwise, only the volume containing designated portions shall be provided), one copy only, tabbed as necessary or otherwise marked. Objections shall be noted in the margin by use of a keyed system. This will provide the court with one deposition together with the objections of all parties appearing on the face of the designated extract.

Separate motions to strike shall not be filed.

Filing of Undisputed Statements of Fact:

The parties are hereby advised that in all proceedings where a statement of undisputed facts is to be filed, only one joint statement, signed by all parties, shall be filed. **Separate statements of undisputed facts are unacceptable, and failure to file one joint statement will result in the striking of pleadings or other appropriate sanctions.** If the parties are unable to agree that a fact is undisputed, then the fact is in dispute.

Addendum II

Trial Preparation:

All exhibits and all depositions to be used at trial in lieu of live testimony shall be designated prior to trial. The parties shall meet and confer on all objections to designations and counter-designations and all objections to exhibits in order to resolve evidentiary matters in advance of pretrial.

Parties shall make a good faith effort to stipulate exhibits into evidence and be prepared to place their admission on the record at pretrial. If admission or stipulation is not possible, the parties shall make every effort to stipulate to authenticity and foundation absent a legitimate (not tactical) objection.

The exhibit lists filed with the court in advance of pretrial shall reflect these stipulations and objections by use of a keyed system. The keyed system referred to in these instructions may designate the objections by number or name and shall include an index to the keys or codes unless the number or name is self-evident. For example: a Rule 403, FRCP objection may be noted by R.403; an objection that a deposition question assumed facts not in evidence might be referred to as "AF," with the index identifying each such code.

One Copy of each deposition to be used in lieu of live testimony shall be highlighted or otherwise marked to indicated designations and counter-designations. Objections shall be noted in the margin of the copy by a keyed system as noted above. Objections will be ruled on at the time of pretrial. Therefore, these materials must be filed no later than the date on which the pretrial statement is due.

Addendum III

Preparation of Jury Instructions:

Jury instructions will be settled at the time of pretrial. Therefore, all jury instructions shall be submitted with the pretrial filings. In advance of these filings, the parties shall do the following:

1. Meet and confer and resolve all jury instructions to the extent possible. Parties are expected to resolve technical or semantic differences.
2. The parties shall submit separately only those instructions which there is substantive disagreement. Prior to the required filing date, copies of these instructions shall be exchanged and the party or parties objecting to the instruction shall note the basis for the objection on the face of the instruction. Instructions with the objections noted thereon shall be filed with the court by the date of the pretrial filings.
3. Prepare one joint set of instructions upon which the parties agree.
4. An original and two copies of the agree-upon joint instructions and the separate instructions with objections shall be filed on or before the date for filing the joint pretrial statement and other pretrial materials.
5. The parties shall be prepared to submit three clean copies of instructions without citations, titles, or attribution on or before the date trial commences.

Civil Jury Instructions
(from Ninth Circuit Manual of Model Jury Instructions, 1993 Ed.)

The following preliminary instructions will be given before opening statements:

- 1.01
- 1.02
- 1.03
- 1.04
- 1.05
- 1.06
- 1.07
- 1.08
- 1.09
- 1.10
- 1.11
- 1.12
- 1.13

Instructions in Chapter 1 (2.01 et seq.) will be given during trial as applicable.

The following instructions will be given at the close of the evidence and before arguments:

- 3.01
- 3.02
- 3.03
- 3.04
- 3.05
- 3.06
- 3.07
- 3.08 (as applicable)
- 3.10 (as applicable)
- 3.11 (as applicable)
- 3.12 (as applicable)

The following instructions will be given at the close of arguments and immediately before deliberations:

- 3.13
- 3.14
- 3.15

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

PLAINTIFF'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

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