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13 Attorneys for Defendant
 BARRY BONDS
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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION
 19

20 UNITED STATES OF AMERICA,) Case No.: CR 07-0732 SI
21 Plaintiffs,) DEFENDANT'S PRETRIAL
22 vs.) SUBMISSION IN RESPONSE TO
23 BARRY LAMAR BONDS,) ORDER FOR PRETRIAL
24 Defendants) PREPARATION
) Trial Date: March 2, 2009
) Hon: Susan Illston

25
 26 Pursuant to the Court's Order for Pretrial Preparation filed June 19, 2008, Defendant
 27 Barry Bonds respectfully submits the following:
 28

1 MOTIONS IN LIMINE:

2 On January 15, 2009, Defendant filed Motions *in Limine* which were heard on February
3 6, 2009. Defendant does not presently anticipate additional Motions *in Limine* prior to the
4 commencement of trial.

5 However, depending on how the Government decides to present its case, Defendant may
6 have contemporaneous objections to at least the following subjects:

7 1. Negative effects of steroids on children and others in context not relevant to this
8 case. At the Grand Jury the Government presented expert testimony concerning the dangers of
9 steroids for children and adolescents. If such evidence is offered at trial, we will ask the Court
10 to exclude it as irrelevant and unduly prejudicial under Rules 402 and 403.

11 2. Character Assassination Evidence. If the Government seeks to introduce
12 evidence of insensitive statements made by Mr. Bonds, or evidence of intimate relationships in
13 his personal life, we will ask the Court to exclude such evidence as irrelevant and unduly
14 prejudicial under Rules 402 and 403.

15 3. Financial Information: Entirely apart from all the information which Mr. Bonds
16 truthfully provided to the Grand Jury, we will ask the Court to exclude as irrelevant and unduly
17 prejudicial under Rules 402 and 403 any evidence that the Government may attempt to offer
18 concerning alleged cash transactions, with implications of tax violations of which Mr. Bonds
19 has never been accused.

20 4. Personal Medical Information: Defendant will ask the Court to exclude under
21 Rules 402 and 403 any evidence of medical conditions or medical treatment received by
22 Mr. Bonds having nothing to do with baseball or alleged use of performance enhancing drugs.

23 5. Other Evidence: It is impossible to know ahead of time – and especially before
24 Defendant has received the Government’s witness list and exhibit list – to predict all of the
25 evidentiary objections that may be required. Defendant respectfully reserves his right to bring
26 evidentiary issues to the attention of the Court, by contemporaneous objection or otherwise, as
27 they arise.

1 **PRETRIAL CONFERENCE:**

2 1. Trial Memorandum: Defense counsel believe that a Trial Memorandum
3 discussing the anticipated evidence in this case would be inconsistent with the Defendant's right
4 to an effective defense. In its Motions *in Limine* filed January 15, 2009, and in the preceding
5 discussion of additional Motions *in Limine* that may arise, defendant has attempted to identify
6 legal and evidentiary issues that are, or may become, important to this case.

7 2. Witness List: Attached as Exhibit "A" is a copy of a partial list of witnesses who
8 may be called. Defense counsel believe that listing additional witnesses, who are potential
9 impeachment witnesses, would be inconsistent with the Defendant's right to an effective
10 defense. It would provide untruthful Government witnesses – if any there be – with advance
11 warning of conversations, relationships and transactions as to which impeaching evidence is –
12 and importantly, is not – available for presentation at trial.¹

13 3. Jury Instructions: Defendant believes that the instructions contained in the
14 Ninth Circuit Manual of Model Jury Instructions adequately address the issues raised by the
15 case in its present posture. He may, however, propose special instructions if, during the
16 course of the trial, issues concerning the evidence, legal theories, and other matters arise
17 which the model instructions do not adequately address.

18 4.a. Form of Verdict: Attached is a copy of Exhibit "B" which is a Proposed Verdict
19 Form, which follows the Verdict Form in the *United States v. Thomas* trial.

20 4.b. Proposed Questions for Jury Voir Dire: In light of the agreed Jury Questionnaire,
21 Defendant does not propose specific *voir dire* questions for the Court. Because of the
22 longstanding, extensive and ongoing media attention to this case, Defendant respectfully
23 requests a reasonable amount of attorney-conducted *voir dire*.

24 5. Exhibit List: Attached as Exhibit "C" is a copy of a partial list of exhibits which
25 may be offered in evidence by the defense. Defense counsel believe that listing additional
26

27 _____
28 ¹ A number of impeaching witnesses unavoidably had to be identified on the attached Witness List because they are Government agents subpoenaed through the prosecution.

1 documents, which are impeachment evidence, would be inconsistent with the Defendant's right
2 to an effective defense. It would provide untruthful Government witnesses – if any there be –
3 with advance notification of impeaching evidence, so that they could tailor their testimony
4 accordingly.

5 MEET AND CONFER:

6 Counsel for the parties have conferred on an ongoing basis on issues of discovery and
7 trial management, in an effort to reach reasonable stipulations for an efficient trial.

8 Respectfully submitted,

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10 DATED: February 13, 2009

LAW OFFICES OF ALLEN RUBY

11
12 /s/
13 Allen Ruby, Attorney for
14 Defendant Bonds,

15 DATED: February 13, 2009

ARGUEDAS, CASSMAN & HEADLEY, LLP

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17 /s/
18 Cristina A. Arguedas, Attorney for
19 Defendant Bonds,
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