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8	UNITED STATES DISTRICT COURT		
9	NORTHERN DISTRICT OF CALIFORNIA		
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11	UNITED STATES OF AMERICA,)		
12	Plaintiff(s),) No. C 08-02968 BZ		
13	v.) ORDER SCHEDULING) JURY TRIAL		
14	APPROXIMATELY \$23,729 IN) UNITED STATES CURRENCY,)		
15	Defendant(s).		
16)		
17	Following the Case Management Conference, IT IS HEREBY		
18	ORDERED that:		
19	1. <u>DATES</u>		
20	Trial Date: Monday, 10/19/2009, 5 days		
21	Pretrial Conference: Tuesday, 9/29/2009, 4:00 p.m.		
22	Last Day to Hear Dispositive Motions: Wednesday, 8/26/2009		
23	Last Day for Expert Discovery: Friday, 7/17/2009		
24	Last Day for Rebuttal Expert Disclosure: Friday, 7/11/2009		
25	Last Day for Expert Disclosure: Friday, 7/3/2009		
26	Close of Non-expert Discovery: Friday, 6/26/2009		
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28	///		

2. <u>DISCLOSURE AND DISCOVERY</u>

The parties are reminded that a failure to voluntarily disclose information pursuant to Federal Rule of Civil Procedure 26(a) or to supplement disclosures or discovery responses pursuant to Rule 26(e) may result in exclusionary sanctions. Thirty days prior to the close of non-expert discovery, lead counsel for each party shall serve and file a certification that all supplementation has been completed.

9 In the event a discovery dispute arises, **lead counsel** 10 for each party shall meet in person or, if counsel are outside the Bay Area, by telephone and make a good faith 11 12 effort to resolve their dispute. Exchanging letters or 13 telephone messages about the dispute is insufficient. The 14 Court does not read subsequent positioning letters; parties 15 shall instead make a contemporaneous record of their meeting 16 using a tape recorder or a court reporter.

17 In the event they cannot resolve their dispute, the 18 parties must participate in a telephone conference with the 19 Court **before** filing any discovery motions or other papers. 20 The party seeking discovery shall request a conference in a 21 letter filed electronically not exceeding two pages (with no 22 attachments) which briefly explains the nature of the action 23 and the issues in dispute. Other parties shall reply in 24 similar fashion within two days of receiving the letter 25 requesting the conference. The Court will contact the parties to schedule the conference. 26

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3. <u>MOTIONS</u>

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2 Consult Civil Local Rules 7-1 through 7-5 and this 3 Court's standing orders regarding motion practice. Motions for **summary judgment** shall be accompanied by a statement of 4 5 the material facts not in dispute supported by citations to 6 admissible evidence. The parties shall file a joint 7 statement of undisputed facts where possible. If the parties are unable to reach complete agreement after meeting 8 and conferring, they shall file a joint statement of the 9 10 undisputed facts about which they do agree. Any party may then file a separate statement of the additional facts that 11 12 the party contends are undisputed. A party who without 13 substantial justification contends that a fact is in dispute 14 is subject to sanctions.

A Chambers copy of all briefs shall be e-mailed in
WordPerfect or Word format to the following address:
bzpo@cand.uscourts.gov.

4. <u>SETTLEMENT</u>

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19 This case is referred for assignment to a Magistrate 20 Judge to conduct a settlement conference in January or 21 February 2009. Counsel will be contacted by that judge's 22 chambers with a date and time for the conference.

5. <u>PRETRIAL CONFERENCE</u>

Not less than thirty days prior to the date of the pretrial conference, the parties shall meet and take all steps necessary to fulfill the requirements of this Order.

Not less than twenty-one days prior to the pretrial 1 2 conference, the parties shall: (1) serve and file a joint pretrial statement, containing the information listed in 3 Attachment 1, and a proposed pretrial order; (2) serve and 4 5 file trial briefs, Daubert motions, motions in limine, and 6 statements designating excerpts from discovery that will be 7 offered at trial (specifying the witness and page and line references); (3) exchange exhibits, agree on and number a 8 9 joint set of exhibits and number separately those exhibits 10 to which the parties cannot agree; (4) deliver all marked trial exhibits directly to the courtroom clerk, Ms. Voltz; 11 12 (5) deliver one extra set of all marked exhibits directly to 13 Chambers; and (6) submit all exhibits in three-ring binders. 14 Each exhibit shall be marked with an exhibit label as 15 contained in **Attachment 2**. The exhibits shall also be separated with correctly marked side tabs so that they are 16 17 easy to find.

No party shall be permitted to call any witness or offer any exhibit in its case in chief that is not disclosed at pretrial, without leave of Court and for good cause.

Lead trial counsel for each party shall meet and confer in an effort to resolve all disputes regarding anticipated testimony, witnesses and exhibits. All <u>Daubert</u> motions, motions *in limine*, and objections will be heard at the pretrial conference. Not less than eleven days prior to the pretrial conference, the parties shall serve and file any objections to witnesses or exhibits or to the qualifications

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of an expert witness. Oppositions shall be filed and served not less than eleven days prior to the conference. There shall be no replies.

Not less than twenty-one days prior to the pretrial 4 5 conference the parties shall serve and file requested voir 6 dire questions, jury instructions, and forms of verdict. 7 The following jury instructions from the Manual of Model Civil Jury Instructions for the Ninth Circuit (2007 ed.) 8 will be given absent objection: 1.1C, 1.2, 1.6-1.14, 1.18, 9 10 1.19, 2.11, 3.1-3.3. Do not submit a copy of these instructions. Counsel shall submit a joint set of case 11 12 specific instructions. Any instructions on which the 13 parties cannot agree may be submitted separately. The Ninth 14 Circuit Manual should be used where possible. Each 15 requested instruction shall be typed in full on a separate page with citations to the authority upon which it is based. 16 17 Proposed jury instructions taken from the Ninth Circuit Manual need only contain a citation to that source. Any 18 19 modifications made to proposed instructions taken from a 20 manual of model instructions must be clearly indicated. Τn 21 addition, all proposed jury instructions should conform to 22 the format of the Example Jury Instruction attached to this 23 Order. Not less than eleven days prior to the pretrial 24 conference, the parties shall serve and file any objections 25 to separately proposed jury instructions.

Jury instructions that the Court has given in prior cases may be downloaded from the Northern District website

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at http://www.cand.uscourts.gov. (Instructions are located on the "Judge Information" page for Magistrate Judge Zimmerman). The Court will generally give the same instructions in cases involving similar claims unless a party establishes, with supporting authorities, that the instruction is no longer correct or that a different instruction should be given. CACI instructions generally will be given instead of BAJI instructions.

A copy of all pretrial submissions, except for exhibits, shall be e-mailed in WordPerfect or Word format to the following address: bzpo@cand.uscourts.gov.

At the time of filing the original with the Clerk's Office, two copies of all documents (but only one copy of the exhibits) shall be delivered directly to Chambers (Room 15-6688). Chambers' copies of all pretrial documents shall be three-hole punched at the side, suitable for insertion into standard, three-ring binders.

Dated: November 4, 2008

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Bernard Zimmerman United States Magistrate Judge

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1		ATTACHMENT 1
2		es shall file a joint pretrial conference
3		aining the following information:
4	(1) The A d	
5	(A)	Substance of the Action. A brief description of the substance of claims and
6		defenses which remain to be decided.
7	(B)	
8		statement of each party's position on the relief
9		claimed, particularly itemizing all elements of
10		damages claimed as well as witnesses, documents or other
11		evidentiary material to be presented concerning the
12		amount of those damages.
13	(2) The F a	actual Basis of the Action.
14	(A)	Undisputed Facts. A plain and
15		concise statement of all relevant facts not reasonably
16		disputable, as well as which facts parties will stipulate
17		for incorporation into the trial record without the
18		necessity of supporting testimony or exhibits.
19	(B)	Disputed Factual Issues. A
20		plain and concise statement of all disputed factual issues
21		which remain to be decided.
22	(C)	Agreed Statement. A statement assessing whether all or part
23		of the action may be presented upon an agreed statement of
24		facts.
25	(D)	Stipulations. A statement of stipulations requested or
26		proposed for pretrial or trial purposes.
27	(3) Trial	Preparation.
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1		escription of the efforts the parties have
2	exhibits and wi	e disputes over anticipated testimony, itnesses.
3	(A)	Witnesses to be Called. In lieu of FRCP 26(a)(3)(A), a
4		list of all witnesses likely to be called at trial, other
5		than solely for impeachment or rebuttal, together with a
6		brief statement following each name describing the substance
7		of the testimony to be given.
8	(B)	Estimate of Trial Time. An estimate of the number of
9		court days needed for the presentation of each party's
10		case, indicating possible reductions in time through
11		proposed stipulations, agreed statements of facts, or
12		expedited means of presenting testimony and exhibits.
13	(C)	Use of Discovery Responses. In
14		lieu of FRCP 26(a)(3)(B), cite possible presentation at trial
15		of evidence, other than solely for impeachment or rebuttal,
16		through use of excerpts from depositions, from
17		interrogatory answers, or from responses to requests for
18		admission. Counsel shall state any objections to use of
19		these materials and that counsel has conferred
20		respecting such objections.
21	(D)	Further Discovery or Motions. A statement of all remaining
22		motions, including <u>Daubert</u> motions.
23	(4) Trial	Alternatives and Options.
24	(A)	Settlement Discussion. A
25		statement summarizing the status of settlement
26		negotiations and indicating whether further negotiations
27		are likely to be productive.
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1	(В)	Amendments, Dismissals. A
2		statement of requested or proposed amendments to
3		pleadings or dismissals of parties, claims or defenses.
4	(C)	Bifurcation, Separate Trial of
5		Issues. A statement of whether bifurcation or a separate
6		trial of specific issues is feasible and desired.
7	(5) Miscel	llaneous.
8		subjects relevant to the trial of the action,
9	or material to determination.	its just, speedy and inexpensive
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ATTACHMENT 2		
USDC Case No. CV08-02968 BZ JOINT Exhibit No	USDC Case No. CV08-02968 BZ JOINT Exhibit No	
Date Entered	_ Date Entered	
Signature	Signature	
USDC Case No. CV08-02968 BZ JOINT Exhibit No	USDC Case No. CV08-02968 BZ JOINT Exhibit No	
Date Entered	Date Entered	
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USDC Case No. CV08-02968 BZ PLNTF Exhibit No	USDC Case No. CV08-02968 BZ PLNTF Exhibit No.	
Date Entered	Date Entered	
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USDC Case No. CV08-02968 BZ PLNTF Exhibit No	USDC Case No. CV08-02968 BZ PLNTF Exhibit No	
Date Entered	_ Date Entered	
Signature	Signature	
USDC Case No. CV08-02968 BZ DEFT Exhibit No	USDC Case No. CV08-02968 BZ DEFT Exhibit No.	
Date Entered	Date Entered	
Signature	Signature	
USDC Case No. CV08-02968 BZ DEFT Exhibit No	USDC Case No. CV08-02968 BZ DEFT Exhibit No	
Date Entered		
Signature	Signature	