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United States District Court
Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JACK REYNOLDS,	Case No.: 09-cv-2806 JSC
Plaintiff,	PRETRIAL ORDER
v.	
NORTHROP GRUMMAN SHIPBUILDING, INC.	
Defendant.	

Following the Case Management Conference held on November 7, 2013, IT IS
HEREBY ORDERED THAT:

I. CASE MANAGEMENT SCHEDULE

Deadline for Hearing Dispositive Motions: March 27, 2014

II. TRIAL DATE

A. Jury trial will begin on June 23, 2014, at 8:30 a.m., in Courtroom F, 15th Floor,
U.S. District Court, 450 Golden Gate, San Francisco, California.

B. The Court is expecting the length of the trial to not exceed 15 court days.

III. PRETRIAL CONFERENCE

1 A Final Pretrial Conference shall be held on May 22, 2014, at 2:00 p.m., in Courtroom
2 F, 15th Floor. Lead trial counsel for each party shall attend.

3 A. At least seven days prior to date of the Final Pretrial Conference the parties
4 shall do the following:

5 1. In lieu of preparing a Joint Pretrial Conference Statement, the parties
6 shall meet and confer in person, and then prepare and file a jointly signed Proposed Final
7 Pretrial Order that contains: (a) a brief description of the substance of claims and defenses
8 which remain to be decided; (b) a statement of all relief sought; (c) all stipulated facts; (d) a
9 joint exhibit list in numerical order, including a brief description of the exhibit and Bates
10 numbers, a blank column for when it will be offered into evidence, a blank column for when
11 it may be received into evidence, and a blank column for any limitations on its use; and (e)
12 each party's separate witness list for its case-in-chief witnesses (including those appearing by
13 deposition), including, for all such witnesses (other than party plaintiffs or defendants), a
14 short statement of the substance of his/her testimony and, separately, what, if any, non-
15 cumulative testimony the witness will offer. For each witness, state an hour/minute time
16 estimate for the direct examination (only). Items (d) and (e) should be submitted as
17 appendices to the proposed order. The proposed order should also state which issues, if any,
18 are for the Court to decide, rather than the jury.

19 2. File a joint set of proposed instructions on substantive issues of law
20 arranged in a logical sequence. If undisputed, an instruction shall be identified as "Stipulated
21 Instruction No. ____ Re _____," with the blanks filled in as appropriate. If disputed,
22 each version of the instruction shall be inserted together, back to back, in their logical place in
23 the overall sequence. Each such disputed instruction shall be identified as, for example,
24 "Disputed Instruction No. ____ Re _____ Offered by _____," with
25 the blanks filled in as appropriate. All disputed versions of the same basic instruction shall
26 bear the same number. Any modifications to a form instruction must be plainly identified. If a
27 party does not have a counter version and simply contends that no such instruction in any
28 version should be given, then that party should so state (and explain why) on a separate page

1 inserted in lieu of an alternate version. With respect to form preliminary instructions, general
2 instructions, or concluding instructions, please simply cite to the numbers of the requested
3 instructions in the current edition of the Ninth Circuit Model Jury Instructions. Other than
4 citing the numbers, the parties shall not include preliminary, general, or concluding
5 instructions in the packet.

6 3. File a separate memorandum of law in support of each party's disputed
7 instructions, if any, organized by instruction number.

8 4. File a joint set of proposed voir dire questions supplemented as necessary
9 by separate requests.

10 5. File trial briefs on any controlling issues of law.

11 6. File proposed verdict forms, joint or separate.

12 7. File and serve any objections to exhibits.

13 8. File a joint simplified Statement of the Case to be read to the jury during
14 voir dire as part of the proposed jury instructions. Unless the case is extremely complex, this
15 statement should not exceed one page.

16 B. Any motions in limine shall be submitted as follows: at least twenty (20)
17 calendar days before the conference, the moving party shall serve, but not file, the opening
18 brief. At least ten (10) calendar days before the conference, the responding party shall serve
19 the opposition. There will be no reply. When the oppositions are received, the moving party
20 should collate the motion and the opposition together, back-to-back, and then file the paired
21 sets at least seven (7) calendar days before the conference. Each motion should be presented
22 in a separate memorandum and properly identified, for example, "Plaintiff's Motion in
23 Limine No. 1 to Exclude" Each party is limited to bringing five motions in limine. The
24 parties are encouraged to stipulate where possible, for example, as to the exclusion of
25 witnesses from the courtroom. Each motion should address a single, separate topic, and
26 contain no more than seven pages of briefing per side.

27 C. Hard-copy courtesy copies of the above documents shall be delivered by
28 NOON the day after filing. The Joint Proposed Final Pretrial Order, jury instructions, and

1 verdict form shall be submitted via e-mail as attachments to JSCpo@cand.uscourts.gov. The
2 Court requests that all hard-copy submissions be three-hole-punched.

3 **IV. PRETRIAL ARRANGEMENTS**

4 A. Should a daily transcript and/or real-time reporting be desired, the parties shall
5 make arrangements with Debra Campbell, Supervisor of the Court Reporting Services, at
6 (415) 522-2079, at least ten (10) calendar days prior to the trial date.

7 B. During trial, counsel may wish to use overhead projectors, laser-disk/computer
8 graphics, poster blow-ups, models, or specimens of devices. Equipment should be shared by
9 all counsel to the maximum extent possible. The Court provides no equipment other than an
10 easel. The United States Marshal requires a court order to allow equipment into the
11 courthouse. For electronic equipment, parties should be prepared to maintain the equipment
12 or have a technician handy at all times. The parties shall tape extension cords to the carpet for
13 safety. The parties may work with the deputy clerk, Ada Means (415-522-2015), on all
14 courtroom-layout issues.

15 **SCHEDULING**

16 Trial will be conducted from 8:30 a.m. to 2:30 or 3:00 p.m., depending on the
17 availability of witnesses, Monday through Friday. Counsel must arrive by 8:15 a.m., or earlier
18 as needed, for any matters to be heard out of the presence of the jury. The jury will be called
19 at 8:30 a.m.

20 **THE JURY**

21 In civil cases, there are no alternate jurors and the jury is selected as follows:
22 Eighteen to twenty jurors are called to fill the jury box and the row in front of the bar, and are
23 given numbers (1 through 18). The remaining potential jurors will be seated in the public
24 benches. Hardship excuses will usually be considered at this point. The Court will then ask
25 questions of those in the box and in the front of the bar. Counsel may then conduct a limited
26 voir dire. Challenges for cause will then be addressed out of the presence of the potential
27 jurors. The Court will consider whether to fill in the seats of the stricken jurors. If so,
28 questions will be asked of the additional jurors and cause motions as to them will be

1 considered. After a short recess, each side may exercise its allotment of peremptory
2 challenges out of the presence of the potential jurors. The eight (or such other size as will
3 constitute the jury) surviving the challenge process with the lowest numbers become the final
4 jury. For example, if the plaintiff strikes 1, 5, and 7 and the defendant strikes 2, 4, and 9, then
5 3, 6, 8, 10, 11, 12, 13, and 14 become the final jury. If more (or fewer) than eight jurors are to
6 be seated, then the starting number will be adjusted. So too if more than a total of six
7 peremptories are allowed. Once the jury selection is completed, the jurors' names will be read
8 again and they will be seated in the jury box and sworn. The Court may alter this procedure in
9 its discretion and after consultation with the parties.

10 **WITNESSES**

11 At the close of each trial day, all counsel shall exchange a list of witnesses for the
12 next two full court days and the exhibits that will be used during direct examination (other
13 than for impeachment of an adverse witness). Within 24 hours of such notice, all other
14 counsel shall provide any objections to such exhibits and shall provide a list of all exhibits to
15 be used with the same witness on cross-examination (other than for impeachment). The first
16 notice shall be exchanged prior to the first day of trial. All such notices shall be provided in
17 writing.

18 **EXHIBITS**

19 A. Prior to the Final Pretrial Conference, counsel must meet and confer in person
20 to consider all exhibit numbers and objections and to eliminate duplicate exhibits and
21 confusion over the precise exhibit.

22 B. Use numbers only, not letters, for exhibits, preferably the same numbers as
23 were used in depositions. Blocks of numbers should be assigned to fit the need of the case
24 (e.g., Plaintiff has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.). A
25 single exhibit should be marked only once. If the plaintiff has marked an exhibit, then the
26 defendant should not re-mark the exact document with another number. Different versions of
27 the same document, e.g., a copy with additional handwriting, must be treated as different
28 exhibits with different numbers. To avoid any party claiming "ownership" of an exhibit, all

1 exhibits shall be marked and referred to as “Trial Exhibit No. _____,” not as “Plaintiff’s
2 Exhibit” or “Defendant’s Exhibit.”

3 C. The exhibit tag shall be in the following form:

<p>4</p> <p>5 UNITED STATES DISTRICT COURT</p> <p>6 NORTHERN DISTRICT OF CALIFORNIA</p> <p>7</p> <p>8</p> <p>9 Case No. _____</p> <p>10 Date Entered _____</p> <p>11 By _____</p> <p>12 Deputy Clerk</p> <p>13</p>
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14 Counsel preferably will make the tag up in a color that will stand out (yet still allow for
15 photocopying), but that is not essential. Place the tag on or near the lower right-hand corner
16 or, if a photograph, on the back. Counsel should fill in the tag but leave the last two spaces
17 blank. The parties must jointly prepare a single set of all trial exhibits that will be the official
18 record set to be used with the witnesses and on appeal. Each exhibit must be tagged, three-
19 hole-punched, separated with a label divider identifying the exhibit number, and placed in 3-
20 ring binders. Spine labels should indicate the numbers of the exhibits that are in the binders.
21 Each set of exhibit binders should be marked as “Original.” Deposit the exhibits with the
22 deputy clerk seven (7) days before the Pretrial Conference.

23 D. Counsel must consult with each other and with the deputy clerk at the end of
24 each trial day and compare notes as to which exhibits are in evidence and any limitations
25 thereon. If there are any differences, counsel should bring them promptly to the Court’s
26 attention.

27 E. In addition to the official record exhibits, two sets of bench binders containing
28 copies of the exhibits must be provided to the Court seven (7) days before the Pretrial

1 Conference, one should be marked as “Chambers Copies” and the other as “Clerk’s Copies.”
2 Each exhibit must be separated with a label divider identifying the exhibit number. (An
3 exhibit tag is unnecessary for the bench set.) Spine labels should indicate the numbers of the
4 exhibits that are in the binders.

5 F. Before the closing arguments, counsel must confer with the deputy clerk to
6 make sure the exhibits in evidence are in good order.

7 G. Exhibit notebooks for the jury will not be permitted without prior permission
8 from the Court. Publication must be by poster blow-up, overhead projection, or such other
9 method as is allowed in the circumstances. It is permissible to highlight, circle or underscore
10 in the enlargements as long as it is clear that it was not on the original.

11 **CHARGING CONFERENCE**

12 As the trial progresses and the evidence is heard, the Court will fashion a
13 comprehensive set of jury instructions to cover all issues actually being tried. Prior to the
14 close of the evidence, the Court will provide a draft final charge to the parties. After a
15 reasonable period for review, one or more charging conferences will be held at which each
16 party may object to any passage, ask for modifications, or ask for additions. Any instruction
17 request must be renewed specifically at the conference or it will be deemed waived, whether
18 or not it was requested prior to trial. If, however, a party still wishes to request an omitted
19 instruction after reviewing the Court’s draft, then it must affirmatively re-request it at the
20 charging conference in order to give the Court a fair opportunity to correct any error.
21 Otherwise, as stated, the request will be deemed abandoned or waived.

22
23 **IT IS SO ORDERED.**

24
25 Dated: November 18, 2013

26 
27 _____
28 JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE