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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

PAUL A. JACQUES and JEAN L. JACQUES,

Plaintiffs,

v.

HYATT CORPORATION, a Delaware Corporation, dba MAUI HYATT RESORT, dba HYATT REGENCY MAUI RESORT & SPA; MEDICAL TECHNOLOGY, INC., a Texas Corporation, dba BLEDSOE BRACE SYSTEMS; and DOES 1 to 125, Inclusive,

Defendants.

Case No. 11-cv-05364 NC

ORDER SETTING PRETRIAL DEADLINES AND TRIAL PROCEDURES

The parties attended a pretrial conference on October 2, 2013. This order memorializes the Court’s rulings at the conference:

- 1. JURY TRIAL. Hyatt’s request for a jury trial is granted.
- 2. JURY SELECTION.
 - (A) Jury selection will begin on Monday, October 21, 2013 at 9:00 a.m.
 - (B) There will be 8 jurors selected; no alternates.
 - (C) The parties do not intend to use a jury questionnaire. If the parties intend to ask

the Court to conduct any part of the voir dire, the proposed questions must be jointly

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AND TRIAL PROCEDURES

1 submitted to the Court in writing by October 14, 2013.

2 (D) Each side (plaintiffs and defendant) will be entitled to three peremptory
3 challenges.

4 3. JURY INSTRUCTIONS.

5 (A) The parties currently do not have any disputes about jury instructions. The
6 Court will revisit the proposed jury instructions after ruling on the legal issues to be briefed
7 by the parties as set forth in this order.

8 (B) The Court will give Ninth Circuit Model Instruction 1.15 (“Questions to
9 Witnesses by Jurors”).

10 4. SUMMARY OF CASE STATEMENT. By October 9, 2013, the parties must
11 submit an agreed-upon summary of the case, not to exceed one page.

12 5. VERDICT FORM. By October 9, 2013, the parties must meet and confer
13 regarding a verdict form and submit a proposed verdict form to the Court.

14 6. MOTIONS IN LIMINE/TRIAL BRIEFS.

15 (A) Plaintiffs’ unopposed motion in limine to exclude evidence of past alcohol use
16 of plaintiff Paul Jacques unrelated to either fall is granted.

17 (B) By October 9, 2013, Hyatt must file a trial brief, not to exceed seven pages,
18 addressing the issue of what law applies to plaintiffs’ claims in this case in general, and
19 specifically what law applies to the claims arising out of Paul Jacques’s second fall at his
20 home in California. Plaintiffs must file an opposition, not to exceed seven pages, or a
21 statement of non-opposition by October 16, 2013.

22 (C) By October 9, 2013, plaintiffs must file a trial brief, not to exceed seven pages,
23 addressing the issues of (1) what is the applicable building code; and (2) whether a
24 violation of that building code constitutes negligence per se. Plaintiffs must file as an
25 attachment to their brief the relevant excerpts of the applicable building code. Hyatt must
26 file an opposition, not to exceed seven pages, or a statement of non-opposition by October
27 16, 2013.

28 (D) No reply briefs may be filed without leave of Court.

1 (E) The Court will hear argument on the trial briefs on October 21, 2013 at 8:00 a.m.

2 7. TRIAL WITNESSES.

3 (A) Plaintiffs' request to remove Iling Chen, MD from their list of witnesses is
4 granted. No party will be permitted without leave of court to call in their case-in-chief any
5 witness who is not disclosed in the joint pretrial statement.

6 (B) The parties do not intend to bring any Daubert challenges.

7 (C) By October 9, 2013, the parties must disclose to each other the order in which
8 they intend to call witnesses, as well as any specific timing requests, and must meet and
9 confer in an effort to agree on the schedule of presentation of witnesses.

10 (D) The parties agree that certain witnesses' testimony will be presented by
11 deposition testimony under Fed. R. Civ. P. 32(a)(4)(B). By October 9, 2013, the parties
12 must meet and confer about the specific excerpts of deposition testimony that will be used
13 at trial as listed in the Joint Exhibit List, and must jointly submit a list of any additional
14 designations to the Court.

15 8. TRIAL EXHIBITS.

16 (A) By October 9, 2013, the parties must meet and confer regarding any objections
17 to the admissibility of the documents included in their Joint Exhibit List and must either
18 resubmit the Joint Exhibit List with two additional columns indicating any objections and
19 the responses to the objections, or resubmit the Joint Exhibit List indicating that the parties
20 stipulate to the admissibility of all of the exhibits on that list.

21 (B) Parties must submit three copies of any documents to be offered as exhibits at
22 trial to Court chambers by October 14, 2013.

23 9. TRIAL SCHEDULE.

24 (A) Trial days will be 9:00 a.m. to 4:00 p.m. with two 15-minute breaks at
25 approximately 10:30 a.m. and 2:30 p.m., and a 45-minute lunch break at 12:15 p.m. The
26 trial should last no longer than one week.

27 (B) Opening statements and presentation of the evidence will begin on October 22,
28 2013.

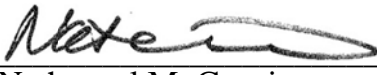
1 (C) Each side (plaintiffs and defendant) will be allotted a total of nine hours for their
2 case, including opening and closing statements, presentation of evidence, and cross-
3 examination. The clerk will maintain a record of time used by each side.

4 (D) By October 9, 2013, the parties must meet and confer about whether they wish
5 to use up to fifteen minutes of argument time (per side) to be used during the evidence time
6 and must inform the Court of their decision in writing.

7 (E) No continuance of trial will be granted except by Court order in response to a
8 motion supported by good cause. Jury costs may be assessed against a party or counsel for
9 failure to proceed with trial or failure to provide timely notice of settlement.

10 IT IS SO ORDERED.

11 Date: October 3, 2013

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14 Nathanael M. Cousins
15 United States Magistrate Judge
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