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

CESAR URIBE,

No. C 13-01106 WHA

Plaintiff,

v.

FINAL PRETRIAL ORDER

PHILIP BABIENCO,

Defendant.

FOR GOOD CAUSE and after a final pretrial conference, the following constitutes the final pretrial order and rulings on motions *in limine*:

1. This case shall go to a **JURY TRIAL** on **JULY 25, 2016, AT 7:30 A.M.**, and shall continue until completed on the schedule discussed at the conference. The issues to be tried shall be those set forth in the joint proposed pretrial order except to the extent modified by order *in limine*. This final pretrial order supersedes the complaint, answer and any counterclaims, cross-claims or third-party complaints, *i.e.*, only the issues expressly identified for trial remain in the case.

2. Rulings on the motions *in limine* were made on the record at the pretrial conference and are summarized later in this order.

3. Except for good cause, each party is limited to the witnesses and exhibits disclosed in the joint proposed final pretrial order less any excluded or limited by an order *in limine*. Materials or witnesses used solely for impeachment need not be disclosed and may be used, subject to the rules of evidence.

1 **4. EXCLUDE DEFENDANT FROM TESTIFYING AS AN EXPERT AS TO THE STANDARD OF**
2 **CARE.**

3 Defendant may *not* testify to the standard of care as a present-day opinion (as opposed to
4 a historical fact) unless plaintiff opens the door to such testimony in his cross-examination of
5 defendant.

6 **5. EXCLUDE THE TRANSACTION LIST AND CANTEEN PRICE LIST.**

7 This order concludes that defendant may present the transaction list (with redactions)
8 and canteen list if he lays a foundation for the documents as business records. This order does
9 not reach the issue of whether the documents are admissible as business records.

10 If the documents are ruled admissible, reference to prior lawsuits shall be redacted.

11 **DEFENDANT’S MOTIONS IN LIMINE.**

12 **1. EXCLUDE CERTAIN OPINIONS OF PLAINTIFF’S EXPERT DR. JEFFREY LIGHT.**

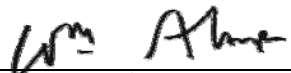
13 This motion is **DENIED IN PART AND GRANTED IN PART.** Dr. Light may testify so long
14 as he makes clear that he did not examine plaintiff; that his testimony rests solely on records
15 and the testimony of other doctors; and that he is not making a diagnosis. However, Dr. Light
16 shall *not* be allowed to testify as to what was in defendant’s mind or as to the ultimate issue of
17 whether or not defendant was deliberately indifferent. Dr. Light also may not testify as to the
18 law and what it requires.

19 **2. EXCLUDE EVIDENCE CONCERNING THE SUBSTANCE OR OUTCOME OF OTHER**
20 **LAWSUITS.**

21 This motion is **GRANTED.**

22 **IT IS SO ORDERED.**

23
24 Dated: July 21, 2016.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE