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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CARLOS GORDOA, et al.,  
Plaintiffs,  
v.  
APPLE, INC., et al.,  
Defendants.

Case No. [22-cv-02900-JSC](#)

**PRETRIAL ORDER NO. 1: CASE  
SCHEDULE**

Following the Initial Case Management Conference held on November 17, 2022, IT IS  
ORDERED THAT:

**I. CASE MANAGEMENT SCHEDULE**

Deadline to Submit Stipulated ESI Order and Stipulated Protective Order:	December 3, 2022
Deadline to Move to Amend Pleadings:	March 2, 2023
Fact Discovery Cut-Off:	June 30, 2023
Plaintiff Expert Witness Disclosures:	July 21, 2023
Defendant Expert Witness Disclosures:	August 18, 2023
Rebuttal Expert Witness Disclosures:	September 15, 2023
Expert Discovery Cutoff:	October 13, 2023
Deadline to File Dispositive Motions:	November 9, 2023
Deadline for Dispositive Motion Replies:	December 21, 2023
Dispositive Motion Hearing Date:	January 18, 2024

A further Case Management Conference is scheduled for March 3, 2023 at 1:30 p.m. via Zoom video. An updated Joint Case Management Conference Statement is due one week in advance. The Court will be particularly interested in discussing ADR.

1 **II. DISCOVERY DEADLINES**

2 All depositions must be noticed at least 30 days before the close of fact discovery. Any  
3 discovery-related letter briefs or motions are due one week after the close of fact discovery. The  
4 same rules apply to expert discovery. *See* N.D. Cal. Civ. L.R. 37-3.

5 **III. TRIAL DATE**

6 A. Jury trial will begin on April 8, 2024, at 8:30 a.m., in Courtroom 8, 19th Floor, U.S.  
7 District Court, 450 Golden Gate, San Francisco, California.

8 B. The Court is expecting the length of the trial to not exceed 10 court days.

9 **IV. PRETRIAL CONFERENCE**

10 A Final Pretrial Conference shall be held on March 14, 2024, at 2:00 p.m., in Courtroom 8,  
11 19th Floor. Lead trial counsel for each party shall attend.

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

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

27 2. File a joint set of proposed instructions on substantive issues of law  
28 arranged in a logical sequence. If undisputed, an instruction shall be identified as "Stipulated

1 Instruction No. \_\_\_\_ Re \_\_\_\_\_,” with the blanks filled in as appropriate. If disputed, each  
2 version of the instruction shall be inserted together, back to back, in their logical place in the  
3 overall sequence. Each such disputed instruction shall be identified as, for example, “Disputed  
4 Instruction No. \_\_\_\_ Re \_\_\_\_\_ Offered by \_\_\_\_\_,” with the blanks filled  
5 in as appropriate. All disputed versions of the same basic instruction shall bear the same number.  
6 Any modifications to a form instruction must be plainly identified. If a party does not have a  
7 counter version and simply contends that no such instruction in any version should be given, then  
8 that party should so state (and explain why) on a separate page inserted in lieu of an alternate  
9 version. With respect to form preliminary instructions, general instructions, or concluding  
10 instructions, please simply cite to the numbers of the requested instructions in the current edition  
11 of the Ninth Circuit Model Jury Instructions. Other than citing the numbers, the parties shall not  
12 include preliminary, general, or concluding instructions in the packet.

13           3.       File a separate memorandum of law in support of each party’s disputed  
14 instructions, if any, organized by instruction number.

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

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

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

19           7.       File and serve any objections to exhibits.

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

23           B.       Any motions in limine shall be submitted as follows: at least twenty (20) calendar  
24 days before the conference, the moving party shall serve, but not file, the opening brief. At least  
25 ten (10) calendar days before the conference, the responding party shall serve the opposition.  
26 There will be no reply. When the oppositions are received, the moving party should collate the  
27 motion and the opposition together, back-to-back, and then file the paired sets at least seven (7)  
28 calendar days before the conference. Each motion should be presented in a separate memorandum

1 and properly identified, for example, “Plaintiff’s Motion in Limine No. 1 to Exclude . . . .” Each  
2 party is limited to bringing five motions in limine. The parties are encouraged to stipulate where  
3 possible, for example, as to the exclusion of witnesses from the courtroom. Each motion should  
4 address a single, separate topic, and contain no more than seven pages of briefing per side.

5 C. Hard-copy courtesy copies of the above documents shall be delivered by NOON  
6 the day after filing. The Joint Proposed Final Pretrial Order, jury instructions, and verdict form  
7 shall be submitted via e-mail as attachments to JSCpo@cand.uscourts.gov. The Court requests that  
8 all hard-copy submissions be three-hole-punched.

## 9 **V. PRETRIAL ARRANGEMENTS**

10 A. Should a daily transcript and/or real-time reporting be desired, the parties shall  
11 make arrangements with Rick Duvall, Supervisor of the Court Reporting Services, at  
12 (415) 522-2079, at least ten (10) calendar days prior to the trial date.

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

## 20 **SCHEDULING**

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

## 24 **THE JURY**

25 The Jury Office asks prospective jurors to complete an online jury questionnaire in  
26 advance of their summons date. The standard questionnaire available on the Northern District’s  
27 website at [http://www.cand.uscourts.gov/wp-content/uploads/attorneys/Internet-version\\_Standard-](http://www.cand.uscourts.gov/wp-content/uploads/attorneys/Internet-version_Standard-CAND-Trial_SurveyMonkey_3-2022.pdf)  
28 [CAND-Trial\\_SurveyMonkey\\_3-2022.pdf](http://www.cand.uscourts.gov/wp-content/uploads/attorneys/Internet-version_Standard-CAND-Trial_SurveyMonkey_3-2022.pdf). The parties are allowed to add 10 case specific

1 questions to the questionnaire. The parties shall meet and confer, and to the extent possible, file a  
2 joint list of proposed questions to add to the questionnaire. To the extent that the parties cannot  
3 agree, they may submit separate proposed questions from which the Court will choose 10. The  
4 parties joint or separate submissions are due 21 days before trial. The Court will provide the  
5 parties with the survey responses the Friday before trial.

6 In civil cases, there are no alternate jurors and the jury is selected as follows: Eighteen to  
7 twenty jurors are called to fill the jury box and the row in front of the bar, and are given numbers  
8 (1 through 20). The remaining potential jurors will be seated in the public benches. Hardship  
9 excuses will usually be considered at this point. Counsel may conduct a limited voir dire.  
10 Challenges for cause will then be addressed out of the presence of the potential jurors. The Court  
11 will consider whether to fill in the seats of the stricken jurors. If so, questions will be asked of the  
12 additional jurors and cause motions as to them will be considered. After a short recess, each side  
13 may exercise its allotment of peremptory challenges out of the presence of the potential jurors.  
14 The eight (or such other size as will constitute the jury) surviving the challenge process with the  
15 lowest numbers become the final jury. If more (or fewer) than eight jurors are to be seated, then  
16 the starting number will be adjusted. So too if more than a total of six peremptories are allowed.  
17 Once the jury selection is completed, the jurors' names will be read again and they will be seated  
18 in the jury box and sworn. The Court may alter this procedure in its discretion and after  
19 consultation with the parties.

#### 20 **WITNESSES**

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

#### 27 **EXHIBITS**

28 A. Prior to the Final Pretrial Conference, counsel must meet and confer in person to

1 consider all exhibit numbers and objections and to eliminate duplicate exhibits and confusion over  
2 the precise exhibit.

3 B. Use numbers only, not letters, for exhibits, preferably the same numbers as were  
4 used in depositions. Blocks of numbers should be assigned to fit the need of the case (e.g.,  
5 Plaintiff has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.). A single  
6 exhibit should be marked only once. If the plaintiff has marked an exhibit, then the defendant  
7 should not re-mark the exact document with another number. Different versions of the same  
8 document, e.g., a copy with additional handwriting, must be treated as different exhibits with  
9 different numbers. To avoid any party claiming “ownership” of an exhibit, all exhibits shall be  
10 marked and referred to as “Trial Exhibit No. \_\_\_\_\_,” not as “Plaintiff’s Exhibit” or “Defendant’s  
11 Exhibit.”

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

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
<b>TRIAL EXHIBIT 100</b>
Case No. _____
Date Entered _____
By _____ Deputy Clerk

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21 Counsel preferably will make the tag up in a color that will stand out (yet still allow for  
22 photocopying), but that is not essential. Place the tag on or near the lower right-hand corner or, if a  
23 photograph, on the back. Counsel should fill in the tag but leave the last two spaces blank. The  
24 parties must jointly prepare a single set of all trial exhibits that will be the official record set to be  
25 used with the witnesses and on appeal. Each exhibit must be tagged, three-hole-punched, separated  
26 with a label divider identifying the exhibit number, and placed in 3-ring binders. Spine labels  
27 should indicate the numbers of the exhibits that are in the binders. Each set of exhibit binders  
28 should be marked as “Original.” Deposit the exhibits with the deputy clerk seven (7) days before

1 the Pretrial Conference.

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

5 E. The parties shall provide the Court with one official set of the record exhibits seven  
6 (7) days before the Pretrial Conference. Each exhibit must be separated with a label divider  
7 identifying the exhibit number. Spine labels should indicate the numbers of the exhibits that are in  
8 the binders. At trial, the parties shall provide individual witness exhibit binders which contain all  
9 the exhibits the parties expect to use with the witness. The parties shall provide two copies of each  
10 witness binder: one for the witness and one for the Court.

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

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

17 **CHARGING CONFERENCE**

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

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United States District Court  
Northern District of California

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**IT IS SO ORDERED.**

Dated: November 17, 2022

  
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JACQUELINE SCOTT CORLEY  
United States District Judge