

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3

4 MONICA HOLMES,

5 Plaintiff(s),

No. C 08-5619 PJH

6 v.

**FINAL PRETRIAL ORDER**

7 UNITED STATES OF AMERICA,

8 Defendant(s).  
9 \_\_\_\_\_/

10 Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure, this final pretrial  
11 order is hereby entered and shall control the course of the trial unless modified by a  
12 subsequent order. The joint pretrial statement of the parties is incorporated herein except  
13 as modified by the court's ruling on the pretrial motions and objections.

14 I. MOTIONS

15 a. Plaintiff's motion in limine to exclude the testimony of Witnesses Michael  
16 Shapiro and Robert Thompson is DENIED, except that they may not offer opinions that  
17 amount to legal conclusions as to fault.

18 b. Plaintiff's motion in limine to exclude cumulative expert testimony is DENIED.

19 c. Plaintiff's motion in limine to exclude the expert testimony of Dr. Mendelson is  
20 DENIED.

21 d. Plaintiff's motion in limine to exclude the expert testimony of Dr. Critchfield is  
22 DENIED.

23 e. Defendant's *Daubert* motion to exclude the expert testimony of Dr. Sher is  
24 DENIED.

25 f. Defendant's Rule 37 motion to exclude the testimony of plaintiff's witness  
26 Maurice Jones is DENIED, except that Mr. Jones will not be permitted to testify unless he is  
27 produced for deposition before trial and if an expedited transcript is necessary, plaintiff shall  
28 pay the additional cost for defendant to obtain it.

1 II. STIPULATIONS

2 The stipulations contained in the joint pretrial order are adopted by the court as are  
3 the additional procedures requested by defendant in section V, pages 4-5 of the joint  
4 pretrial statement.

5 III. TRIAL SCHEDULE AND TIME LIMITS

6 The July 26, 2010 trial date is VACATED in view of the court's calendar conflict with  
7 an ongoing trial. Court trial will be conducted on August 9 and 10, 2010. Two days are  
8 available on September 20 and 21, 2010, but it is not clear that plaintiff's counsel is  
9 available those days. It is possible that other days may become available in August and  
10 September and the court will discuss future scheduling with counsel after trial commences  
11 as well as defendant's request for an additional day. The trial day runs from 8:30 a.m. to  
12 1:30 p.m. with two fifteen-minute breaks.

13 **IT IS SO ORDERED.**

14 Dated: July 2, 2010



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15 PHYLLIS J. HAMILTON  
16 United States District Judge

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