

ORDER FOR PRETRIAL PREPARATION

PRETRIAL CONFERENCE

1. Not less than 28 days prior to the pretrial conference, counsel shall **exchange** (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7), (8), (9), and (10), and their motions in limine.

2. At least 21 days before the final pretrial conference, lead counsel who will try the case shall meet and confer with respect to:

(a) Preparation and content of the joint pretrial conference statement;

(b) Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and lodged pursuant to this Order for Pretrial Preparation. To the extent such differences are not resolved, the parties will present the issues in the pretrial conference statement so that the judge may rule on the matter during the pretrial conference; and

(c) Settlement of the action.

3. Not less than 14 days prior to the pretrial conference, counsel shall submit the following.

(a) Pretrial Conference Statement. The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed.

1 (2) The Factual Basis of the Action.

2 (A) Undisputed Facts. A plain and concise
3 statement of all relevant facts not reasonably disputed.

4 (B) Disputed Factual Issues. A plain and concise
5 statement of all disputed factual issues which remain to
6 be decided.

7 (C) Agreed Statement. A statement assessing
8 whether all or part of the action may be presented upon
9 an agreed statement of facts.

10 (D) Stipulations. A statement of stipulations
11 requested or proposed for pretrial or trial purposes.

12 (3) Disputed Legal Issues. Without extended legal
13 argument, a concise statement of each disputed point of
14 law concerning liability or relief.

15 (4) Further Discovery or Motions. A statement of
16 all remaining discovery or motions.

17 (5) Trial Alternatives and Options.

18 (A) Settlement Discussions. A statement
19 summarizing the status of settlement negotiations and
20 indicating whether further negotiations are likely to be
21 productive.

22 (B) Consent to Trial Before a Magistrate Judge. A
23 statement whether the parties consent to a court or jury
24 trial before a magistrate judge, with appeal directly to
25 the Ninth Circuit.

26 (C) Bifurcation, Separate Trial of Issues. A
27 statement of whether bifurcation or a separate trial of
28 specific issues is feasible and desired.

29 (6) Miscellaneous. Any other subjects relevant to
30 the trial of the action, or material to its just, speedy
31 and inexpensive determination.

32 (b) Exhibit List and Objections. The exhibit list
33 shall list each proposed exhibit by its number (see Civil L.R.
34 30-2(b)), description, and sponsoring witness, followed by

1 blanks to accommodate the date on which it is marked for
2 identification and the date on which it is admitted into
3 evidence. **No party shall be permitted to offer any exhibit in**
4 **its case-in-chief that is not disclosed in its exhibit list**
5 **without leave of the Court for good cause shown.** Parties
6 shall also deliver a set of premarked exhibits to the
7 Courtroom Deputy. The exhibit markers shall each contain the
8 name and number of the case, the number of the exhibit, and
9 blanks to accommodate the date admitted and the Deputy Clerk's
10 initials. (Appropriate sample forms are available on the
11 Court's website at www.cand.uscourts.gov). Any objections to
12 exhibits which remain after the pretrial meeting shall be
13 indicated in the pretrial statement.

14 (c) Witness List. In addition to the requirements
15 of FRCivP 26(a)(3)(A), a brief statement describing the
16 substance of the testimony to be given by each witness who may
17 be called at trial. **No party shall be permitted to call any**
18 **witness in its case-in-chief who is not disclosed in its**
19 **pretrial statement without leave of Court for good cause**
20 **shown.**

21 (d) Use of Discovery Responses. In addition to the
22 requirements of FRCivP 26(a)(3)(B), a designation of any
23 excerpts from interrogatory answers or from responses for
24 admissions intended to be offered at trial. Counsel shall
25 indicate any objections to use of these materials and that
26 counsel have conferred respecting such objections.

27 (e) Trial briefs. Briefs on all significant

1 disputed issues of law, including foreseeable procedural and
2 evidentiary issues, which remain after the pretrial meeting.

3 (f) Motions in Limine. Any motions in limine that
4 could not be settled at the pretrial meeting shall be filed
5 with the pretrial statement. All motions in limine shall be
6 contained within one document, limited to 25 pages pursuant to
7 Civil L.R. 7-2(b), with each motion listed as a subheading.
8 Opposition to the motions in limine shall be contained within
9 one document, limited to 25 pages, with corresponding
10 subheadings, and filed seven (7) days thereafter.

11 (g) Joint Proposed Voir Dire. The attached voir
12 dire questionnaire will be given to the venire members, and
13 copies of the responses will be made available to counsel at
14 the beginning of voir dire. Counsel may submit a set of
15 additional requested voir dire, to be posed by the Court, to
16 which they have agreed at the pretrial meeting. Any voir dire
17 questions on which counsel cannot agree shall be submitted
18 separately. Counsel may be allowed brief follow-up voir dire
19 after the Court's questioning.

20 (h) Joint Proposed Jury Instructions. As
21 applicable, jury instructions §1.1A, §1.1C, §1.2 through
22 §1.17, §1.19, §2.1 through §2.13, §3.1 through §3.3 from the
23 Manual of Model Civil Jury Instructions for the Ninth Circuit
24 (2007 Edition) will be given absent objection. Counsel shall
25 jointly submit one set of additional proposed jury
26 instructions, to which they have agreed at the pretrial
27 meeting. The instructions shall be ordered in a logical

1 sequence, together with a table of contents. Any instruction
2 on which counsel cannot agree shall be marked as "disputed,"
3 and shall be included within the jointly submitted
4 instructions and accompanying table of contents, in the place
5 where the party proposing the instruction believes it should
6 be given. Argument and authority for and against each
7 disputed instruction shall be included as part of the joint
8 submission, on separate pages directly following the disputed
9 instruction.

10 The parties shall email to cwpo@cand.uscourts.gov a copy
11 of their proposed jury instructions in WordPerfect or Word
12 format. The subject of the email should include the name of
13 the parties, the case number and a description of the
14 document.

15 (i) Proposed Verdict Forms, Joint or Separate.
16 (j) Proposed Findings of Fact and Conclusions of
17 Law (Court Trial only). The parties shall email to
18 cwpo@cand.uscourts.gov a copy of their proposed findings of
19 fact and conclusions of law in WordPerfect or Word format.
20 The subject of the email should include the name of the
21 parties, the case number and a description of the document.

22 JURY SELECTION

23 The Jury Commissioner will summon 20 to 25 prospective
24 jurors. The Courtroom Deputy will select their names at
25 random and seat them in the courtroom in the order in which
26 their names are called.

27 Voir dire will be asked of sufficient venire persons so

1 that eight (or more for a lengthy trial) will remain after all
2 peremptory challenges and an anticipated number of hardship
3 dismissals and cause challenges have been made.

4 The Court will then take cause challenges, and discuss
5 hardship claims from the individual jurors, outside the
6 presence of the venire. The Court will inform the attorneys
7 which hardship claims and cause challenges will be granted,
8 but will not announce those dismissals until the process is
9 completed. Each side may then list in writing up to three
10 peremptory challenges. The attorneys will review each other's
11 lists and then submit them to the Courtroom Deputy.

12 Then, from the list of jurors in numerical order, the
13 Court will strike the persons with meritorious hardships,
14 those excused for cause, and those challenged peremptorily,
15 and call the first eight people in numerical sequence
16 remaining. Those people will be the jury.

17 All jurors remaining at the close of the case will
18 deliberate. There are no alternates.

19 SANCTIONS

20 Failure to comply with this Order is cause for sanctions
21 under Federal Rule of Civil Procedure 16(f).

22 IT IS SO ORDERED.

23
24 Dated: _____

Claudia Wilken

25
26 CLAUDIA WILKEN
27 UNITED STATES DISTRICT JUDGE
28

JUROR QUESTIONNAIRE

Please fill out this form as completely as possible and print clearly. Since we want to make copies for the attorneys and the Court, do not write on the back of any page. If you need more room, continue at the bottom of the page. Thank you for your cooperation.

1. Your name:

2. Your age:

3. The city where you live:

How long have you lived

4. Your place of birth:

5. Do you rent or own your own home?

6. Your marital status: (circle one)

single married live with partner m
widowed

single married live with partner separated divorced
widowed

7. What is your occupation, and how long have you worked in it? (If you are retired, please describe your main occupation when you were working).

8. Who is (or was) your employer?

9. How long have you worked for this employer?

10. Please list the occupations of any adults with whom you live.

1 11. If you have children, please list their ages and sex and,
2 if they are employed, please give their occupations.
3
4
5
6

7
8 12. Please describe your educational background:
9
10 Highest grade completed: _____
11
12 College and/or vocational schools you have attended:
13
14
15 Major areas of study: _____
16
17 13. Have you ever served on a jury before? _____ How many
18 times? _____
19
20 If yes: State/County Court _____ Federal Court _____
21
22 When? _____
23
24 Was it a civil or criminal case? _____
25
26 Did the jury(ies) reach a verdict? _____
27
28 14. Attached is a list of the parties in this case, the law
firms representing the parties, attorneys in this case,
and persons who are potential witnesses in this case. Do
you know, or think you know, any of the persons listed?
29
30 Yes: _____ No: _____
31
32 If so, make a check next to their name.
33
34
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37
38 Rev. 04/15/09
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