

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERTO ORTIZ,
Plaintiff,
v.
GATE GOURMET, INC., CHRIS NOVAK,
and DOES 1-20, inclusive,
Defendant.

Case No.: C 12-06455-KAW

AMENDED CASE MANAGEMENT AND
PRETRIAL ORDER FOR BENCH TRIAL

1. TRIAL DATE

a. Bench trial will begin on **June 23, 2014 at 1:00 p.m.** at the U.S. District Court, 1301 Clay Street, Oakland, California. For courtroom number and floor information, please check the Court's on-line calendar at www.cand.uscourts.gov/judgeswkcal one week prior to trial, or call Susan Imbriani (Judge Westmore's Courtroom Deputy) at (510) 637-3525.

b. The trial will be no longer than **seven** days. The Court may shorten the allotted time as it deems appropriate, and may also allocate a fixed number of hours for each side. Court hours for trial normally are 8:30 a.m. to 1:30 p.m., subject to the Court's availability.

2. DISCOVERY AND EXPERT DISCLOSURES

a. All non-expert discovery by Plaintiff and Defendant Gate Gourmet shall be completed by **October 21, 2013**. All non-expert discovery by Defendant Chris Novak shall be completed by **December 23, 2013**.

b. Experts shall be disclosed and reports provided by **October 21, 2013**.

c. Rebuttal experts shall be disclosed and reports provided by **November 4, 2013**.

d. All discovery from experts shall be completed by **November 18, 2013**.

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3. PRETRIAL MOTIONS

- a. The last day for hearing dispositive motions shall be **April 3, 2014**.
- b. Only **one** summary judgment motion may be filed by each side, absent leave of court. Leave of court may be sought if multiple parties comprise one or both sides. Leave of court may be obtained by filing a motion for administrative relief pursuant to Civ. L. R. 7-11, or by requesting a case management conference or informal telephone conference.
- c. Separate statements of undisputed facts in support of or in opposition to motions for summary judgment shall NOT be filed. See Civil L. R. 56-2. The parties may file a truly joint statement of undisputed facts only if all parties agree that the facts are undisputed.
- d. Objections to evidence may no longer be filed separately but must be contained within the opposition or reply brief or memorandum. Civil L. R. 7-3.
- e. Each party filing or opposing a motion shall also serve and file a proposed order which sets forth the relief or action sought and a short statement of the rationale of decision, including citation of authority that the party requests the court to adopt.
- f. Chambers copies of each electronically filed dispositive motion must include on each page the running header created by the ECF system and must be delivered to the Clerk's Office by noon the day following its filing. All documents must be stapled or bound by a two-pronged fastener, and all exhibits to declarations or requests for judicial notice must be tabbed.
- g. In addition, counsel shall email copies of all motions for summary judgment in standard Word format (.doc or .docx, and not .pdf format) to kawpo@cand.uscourts.gov.

4. ALTERNATIVE DISPUTE RESOLUTION

The parties are not ordered to participate in further ADR at this time.

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5. PRETRIAL CONFERENCE

a. A pretrial conference shall be held on **June 10, 2014 at 3:00 p.m. Lead counsel who will try the case must attend.** The timing of disclosures required by Federal Rule of Civil Procedure 26(a)(3) and other pretrial disclosures shall be governed by this order.

b. By **May 9, 2014, thirty (30) days** prior to the date of the pretrial conference, lead counsel shall meet and confer regarding:

- (1) Preparation and content of the joint pretrial conference statement;
- (2) Preparation and exchange of pretrial materials to be served and lodged pursuant to paragraph 5(c) below; and
- (3) Settlement of the action.

c. By **May 20, 2014, twenty (20) days** prior to the pretrial conference, counsel and/or parties shall:

- (1) Serve and file a joint pretrial statement that includes the pretrial disclosures required by Federal Rule of Civil Procedure 26(a)(3) as well as the following supplemental information:
 - (a) The Action.
 - (i) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.
 - (ii) Relief. A detailed statement of all the relief claims, particularly itemizing all elements of damages claimed as well as witnesses, documents or other evidentiary material to be presented concerning the amount of those damages.
 - (b) The Factual Basis of the Action.
 - (i) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.

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

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

(iv) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(c) Disputed Legal Issues.
Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and decisions.

(d) Trial Preparation.
(i) Witnesses to Be Called. With regard to witnesses disclosed pursuant to Federal Civil Rule of Civil Procedure 26(a)(3)(A), a brief statement describing the substance of the testimony to be given.

(ii) Estimate of Trial Time. An estimate of the number of hours needed for the presentation of each party's case, indicating possible reductions in time through proposed stipulations, agreed statements of facts, or expedited means of presenting testimony and exhibits.

(iii) Use of Discovery Responses. Designate excerpts from discovery that the parties intend to present at trial, other than solely for impeachment or rebuttal, from depositions specifying the witness page and line references, from interrogatory answers, or from responses to requests for admission.

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(e) Trial Alternatives and Options.

(i) Settlement Discussion. A statement summarizing the status of settlement negotiations and indicating whether further negotiations are likely to be productive.

(ii) Amendments, Dismissals. A statement of requested or proposed amendments to pleadings or dismissals of parties, claims or defenses.

(f) Miscellaneous.

Any other subjects relevant to the trial of the action or material to its just, speedy and inexpensive determination.

(2) Serve and file trial briefs (not to exceed 25 pages), which shall specify each cause of action and defense remaining to be tried along with a statement of the applicable legal standard (no opposition shall be filed);

(3) Serve and file no more than ten motions in limine, which shall be filed in one document not to exceed 25 pages;

(4) Serve and file an exhibit setting forth the qualifications and experience for each expert witness;

(5) Serve and file a list of each party's exhibits by number (plaintiff) or letter (defendant), including a brief statement describing the substance and purpose of each exhibit and the name of the sponsoring witness;

(6) Exchange exhibits which shall be premarked with an exhibit sticker tabbed and in binders. Plaintiff shall use numbers (1, 2, 3, etc.) and defendant shall use numbers preceded by a letter (A-1, A-2, A-3, etc.). Additional parties shall also use a letter preceding numbers (B-1, B-2, B-3, or C-1, C-2, C-3, etc.); and

(7) Deliver two sets of all premarked exhibits to chambers, tabbed and in binders (exhibits are not to be filed).

1 No party shall be permitted to call any witness or offer any exhibit in its case in chief that
2 is not disclosed in its pretrial statement, exchanged with opposing counsel, and delivered to the
3 Court, twenty (20) days prior to the pretrial conference, without leave of the Court and for good
4 cause.

5 d. By **May 30, 2014, ten (10) days** prior to the pretrial conference, after meeting and
6 conferring in a good faith attempt to resolve any objections, counsel and/or parties shall serve and
7 file: (1) any objections to exhibits or to use of deposition excerpts or other discovery; (2) any
8 objections to witnesses, including the qualifications of an expert witness; (3) any opposition to a
9 motion in limine. No replies shall be filed. The parties shall not file separate objections, apart
10 from those contained in the motions in limine, to the opposing party's witness list, exhibit list or
11 discovery designations.

12 e. All motions shall be heard at the pretrial conference unless otherwise ordered.

13 6. In addition to electronic filing, Counsel shall email copies of all motions in limine and
14 trial briefs in standard Word format (.doc or .docx, not .pdf format) to kawpo@cand.uscourts.gov.

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7. SUMMARY OF DATES

Trial	June 23, 2014
Pretrial Conference	June 10, 2014
Objections	May 30, 2014
Joint Pretrial Statement	May 20, 2014
Meet and Confer	May 9, 2014
Last day to Hear Dispositive Motions	April 3, 2014
Close of Expert Discovery	November 18, 2013
Rebuttal Expert Disclosure and Reports Provided	November 4, 2013
Expert Disclosure and Reports Provided	October 21, 2013
Non-Expert Discovery Cut-off for Plaintiff and Gate Gourmet	October 21, 2013
Non-Expert Discovery Cut-off for Defendant Novak	December 23, 2013

A further Case Management Conference is scheduled for January 28, 2014 at 1:30 p.m.

Dated: November 4, 2013


KANDIS A. WESTMORE
United States Magistrate Judge