

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

PATRICK FERRY, et al.,  
Plaintiffs,  
v.  
DE'LONGHI AMERICA, INC., et al.,  
Defendants.

Case No. [4:16-cv-00659-SBA](#)

**ORDER FOR PRETRIAL  
PREPARATION**

Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure ("FRCP"), IT IS  
HEREBY ORDERED AS FOLLOWS:

**A. DEADLINE FOR JOINDER OF PARTIES/AMENDING THE  
PLEADINGS**

The deadline for the joinder of other parties and to amend the pleadings is  
August 31, 2017.

**B. DISCOVERY CUT-OFF**

All discovery, except for expert discovery, shall be completed and all  
depositions taken on or before March 17, 2017. The parties are responsible for scheduling  
discovery so that motions to resolve discovery disputes can be heard before the above  
discovery cut-off.

**C. EXPERT DESIGNATION AND DISCOVERY**

Plaintiff shall designate any experts by February 17, 2017; defendant by  
February 17, 2017; rebuttal disclosure by March 17, 2017. Any expert not so named may  
be disallowed as a witness. No expert will be permitted to testify to any opinion, or basis or  
support for an opinion, that has not been disclosed in response to an appropriate question or  
interrogatory from the opposing party. Expert discovery shall be completed by April 14,  
2017.



1 All Counsel who will try the case shall appear for a pretrial conference  
2 on September 3, 2017 at 1:00 p.m. All Counsel shall be fully prepared to discuss all aspects  
3 of the trial. Failure to file the requisite pretrial documents in advance of the pretrial  
4 conference may result in vacation of the pretrial conference and/or the imposition of  
sanctions. ***ALL PARTIES WITH SETTLEMENT AUTHORITY ARE REQUIRED TO  
ATTEND THE PRETRIAL CONFERENCE.***

5 **G. PRETRIAL PREPARATION DUE:** August 9, 2017

6 Prior to the date pretrial preparation is due, Counsel shall meet and  
7 confer in good faith in advance of complying with the following pretrial requirements in  
8 order to clarify and narrow the issues for trial, arrive at stipulations of facts, simplify and  
9 shorten the presentation of proof at trial, and explore possible settlement. In addition,  
Counsel shall meet and confer regarding anticipated motions in limine, objections to  
10 evidence, jury instructions, and any other matter which may require resolution by the Court.  
The following items 1 through 8 below shall be filed and served by the above-referenced  
11 date.

12 **1. Joint Pretrial Statement**

13 Counsel are required to file a pretrial conference statement  
14 containing the following information:

15 **(a) The Action**

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

18 **(ii) Relief Prayed.** A detailed statement of all the relief  
19 claimed, particularly itemizing all elements of damages claimed as well as witnesses,  
documents or other evidentiary material to be presented concerning the amount of those  
20 damages.

21 **(b) The Factual Basis of the Action**

22 **(i) Undisputed Facts.** A plain and concise statement of  
23 all relevant facts not reasonably disputable, as well as which facts parties will stipulate for  
24 incorporation into the trial record without the necessity of supporting testimony or exhibits.

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

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

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

3 (c) **Disputed Legal Issues**

4 (i) **Points of Law.** Without extended legal argument, a  
5 concise statement of each disputed point of law concerning liability or relief, citing  
6 supporting statutes and decisions. Unless otherwise ordered, parties should cite to briefs  
7 served and lodged setting forth briefly the nature of each party's contentions concerning each  
8 disputed point of law, including procedural and evidentiary issues.

9 (ii) **Proposed Conclusions of law.** If the case is to be  
10 tried without jury, unless otherwise ordered, parties should briefly indicate objections to  
11 proposed conclusions of law lodged with this Court.

12 **2. Trial Briefs**

13 Each party shall serve and file a trial brief which shall briefly  
14 state their contentions, the relevant facts to be proven at trial, and the law on the issues  
15 material to the decision.

16 **3. Findings of Fact**

17 In non-jury cases, each party shall serve and lodge with the  
18 Court proposed findings of fact and conclusions of law on all material issues. Findings shall  
19 be brief, clear, written in plain English and free of pejorative language, and argument.

20 **4. Witnesses**

21 Each party shall serve and file with the Court a list of all persons  
22 who may be called as witnesses. The list shall include a summary of the substance of each  
23 witness' proposed testimony.

24 **5. Designation of Discovery Excerpts**

25 Each party expecting to use discovery excerpts as part of its case  
26 in chief shall serve and lodge with the Court a statement identifying (1) by witness and page  
27 and line, all deposition testimony and (2) by lodged excerpt, all interrogatory answers and  
28 request for admissions to be used as part of its direct case. Each interrogatory answer  
intended to be offered as an exhibit shall be copied separately and marked as an exhibit. The  
original of any deposition to be used at trial must be produced at the time of trial, as well as  
a copy for the Court. Counsel shall indicate any objections to the use of these materials and  
advise the Court that counsel has conferred respecting such objections.

**6. Jury Instructions**

1                   The parties shall file a joint set of proposed jury instructions as  
2 to those instructions on which the parties have reached agreement. As to any disputed  
3 instructions, each party shall separately submit its "proposed" instruction(s) supported by a  
4 memorandum setting forth the authority for its use. Responses or objections to any  
5 "proposed" jury instruction shall be filed no later than the date of the pretrial conference.  
6 All instructions shall be written in plain English which is comprehensible to jurors, concise  
7 and free of argument, and shall be organized in a logical fashion so as to aid jury  
8 comprehension, and are also to be provided on a CD in a word format. The Court's practice  
9 is to utilize, whenever possible, instructions found in the Ninth Circuit Manual of Model  
10 Jury Instructions.

11                   **7.     Jury Voir Dire and Verdict Forms**

12                   Each party shall submit proposed questions for jury voir dire and  
13 a proposed form of verdict.

14                   **8.     Exhibits**

15                   Each party shall provide every other party one set of all exhibits,  
16 charts, schedules, summaries and diagrams and other similar documentary materials to be  
17 used at the trial together with a complete list of all such exhibits. The Court requires one  
18 original version of exhibits (as described above) for the Clerk and two copies (one for the  
19 Bench and one for the witness stand). All such versions of the exhibits, including the  
20 originals, should be indexed into a binder for easy and quick reference by all parties. The  
21 first page of each binder should have a copy of the exhibit list (see attached) appropriately  
22 completed with each exhibit description and its designated number. Plaintiffs shall refer to  
23 their exhibits numerically and Defendants shall label theirs alphabetically. Exhibit labels are  
24 also attached for your convenience. Exhibits should be brought to Court on the first day of  
25 trial.

26                   **9.     Motions in Limine and Objections to Evidence**

27                   Each party anticipating making motion(s) in limine and/or  
28 objection(s) to any testimony or exhibits expected to be offered shall file and serve a  
statement briefly identifying each item objected to and the grounds for the objection. The  
parties must meet and confer prior to filing any motion in limine and objection to evidence.  
The movant shall certify to the Court in its moving papers that it has complied with this  
requirement.

**NOTE:** All motions in limine submitted by each party shall be  
set forth *in a single memorandum*, not to exceed **ten (10) pages** in length. Responses to the  
motions in limine shall be set forth in a single memorandum, not to exceed **ten (10) pages**  
in length. Reply briefs shall not exceed **six (6) pages**. No motions in limine will be considered  
unless the parties certify that they met and conferred prior to the filing of such motion. Any

1 request to exceed the page limit must be submitted prior to the deadline for these briefs and  
2 must be supported by a showing of good cause, along with a certification that the applicant  
has met and conferred with the opposing party.

3 (a) **Motions/Objections due: August 16, 2017**

4 (b) **Opposition due: August 23, 2017**

5 (c) **Reply due: August 30, 2017**

6  
7 **H. TRIAL DATE**

8 Trial before the jury will begin on September 25, 2017, at 8:30 a.m., for  
9 an estimated 7 - 9 trial days, or as soon thereafter as the Court may designate. The parties  
10 are advised that they must be prepared to go to trial on a trailing basis. The trial will take  
11 place at 1300 Clay Street, 2nd Floor, Courtroom 210, Oakland, California, 94612 (located  
12 inside the U.S. Bankruptcy Courthouse). The Court's trial hours are from 8:30 a.m. to 2:00  
13 p.m., with two fifteen-minute breaks, on Monday, Wednesday, Thursday and Friday. *On the  
14 first day of trial all parties are required to have someone in Court with full Settlement  
15 Authority.*

14 **I. TRANSCRIPTS**

15 If transcripts will be requested during or immediately after the trial,  
16 arrangements must be made with the Court Reporter Coordinator (Telephone No. 510-637-  
17 3534) at least one week prior to the commencement of trial commences.

18 **J. STATUS AND DISCOVERY CONFERENCES**

19 Any party desiring to confer with the Court may, upon notice to all  
20 other parties, arrange a conference through the courtroom deputy (Telephone No. 510-637-  
21 3542). Conferences may be conducted telephonically, upon request (preferably in writing).

22 **K. SANCTIONS**

23 Failure to comply with this order may result in the imposition of  
24 sanctions pursuant to FRCP 16(f).

25 **IT IS SO ORDERED.**

26 Dated:

27   
28 SAUNDRA BROWN ARMSTRONG  
d States District Judge