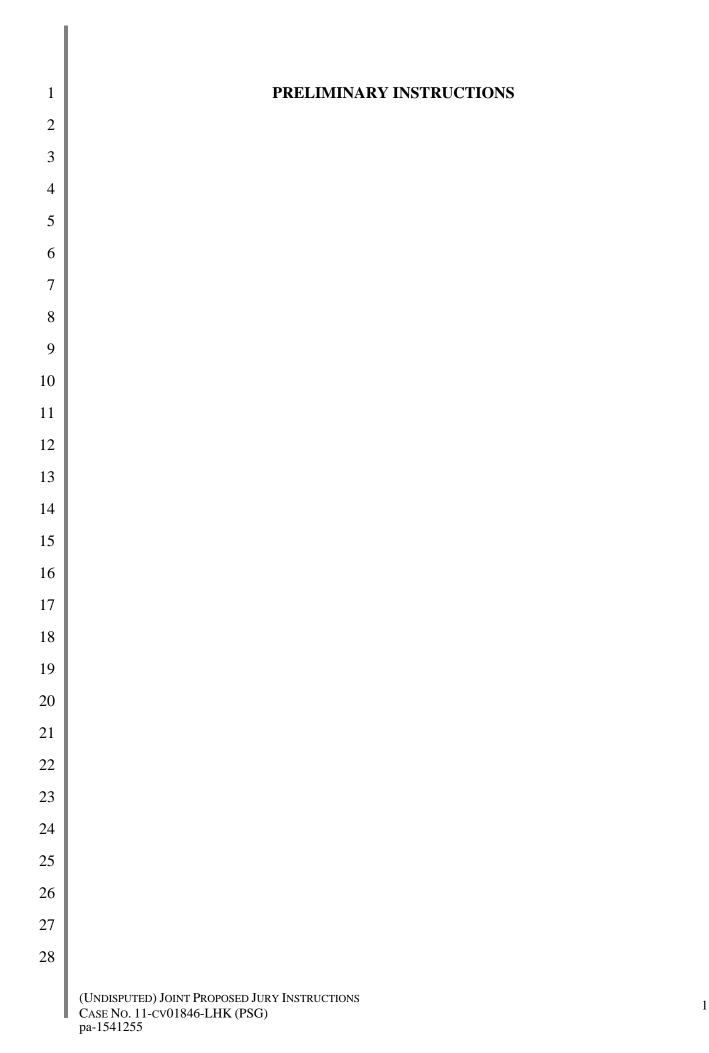
1	[COUNSEL LISTED ON SIGNATURE PAGE	S]
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8	UNITED STATES	DISTRICT COURT
9	NORTHERN DISTR	ICT OF CALIFORNIA
10	SAN JOSE DIVISION	
11	APPLE INC., a California corporation,	Case No. 11-cv-01846-LHK
12	Plaintiff,	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS
13	v.	
14	SAMSUNG ELECTRONICS CO., LTD., a	Date: July 24, 2012 Time: 1:30 pm Place: Courtroom 1, 5th Floor
15	Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and SAMSUNG	Judge: Hon. Lucy H. Koh
16	TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company,	
17	Defendants.	
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255	



1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 1 DUTY OF JURY
2	Ladies and gentlemen: You are now the jury in this case. It is my duty to instruct you on the law.
3 4 5	These instructions are preliminary instructions to help you understand the principles that apply to civil trials and to help you understand the evidence as you listen to it. You will be allowed to keep this set throughout the trial to which to refer. This set of instructions is not to be taken home and must remain in the jury room when you leave in the evenings. At the end of the trial, I will
6	give you a final set of instructions. It is the final set of instructions which will govern your deliberations.
7	You must not infer from these instructions or from anything I may say or do as indicating that I have an opinion regarding the evidence or what your verdict should be.
8 9 10	It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath to do so.
11 12	In following my instructions, you must follow all of them and not single out some and ignore others; they are all important.
13	<u>Source</u>
14	Ninth Circuit Model Civil Jury Instructions - 1.1A (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 2 WHAT IS EVIDENCE
2	
3	The evidence you are to consider in deciding what the facts are consists of:
4	1. the sworn testimony of any witness;
5	2. the exhibits which are received into evidence; and
6	3. any facts to which the lawyers have agreed.
7	Source
8	Ninth Circuit Model Civil Jury Instructions - 1.6 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 3 WHAT IS NOT EVIDENCE		
2 3	evidence. Ce	your verdict, you may consider only the testimony and exhibits received into ertain things are not evidence, and you may not consider them in deciding what the vill list them for you:	•
4 5 6	(1)	Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they will say in their opening statements, and what they will sa in their closing arguments or at other times are all intended to help you interpret the evidence. But these arguments and statements are not evidence. If the facts	
7		you remember them differ from the way the lawyers have stated them, your memory of them controls.	
8 9	(2)	Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules o evidence. You should not be influenced by the objection or by the court's ruling on it.	f
10 11 12	(3)	Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered. In addition, sometimes testimony and exhibits are received only for a limited purpose; when I give a limiting instruction, you must follow it.	0
13	(4)	Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.	
14 15	Source	t Madel Civil Lum Instructions 17 (2007 Edition)	
16	Ninth Circuit	t Model Civil Jury Instructions - 1.7 (2007 Edition).	
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1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 4 EVIDENCE FOR LIMITED PURPOSE
2	
3	Some evidence may be admitted for a limited purpose only.
4	When I instruct you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose and for no other.
5	<u>Source</u>
6	Ninth Circuit Model Civil Jury Instructions - 1.8 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 5

1	<b>PROPOSED PRELIMINARY JURY INSTRUCTION NO. 5</b>
2	DIRECT AND CIRCUMSTANTIAL EVIDENCE
2	Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial
4	evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to
5	either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.
6	<u>Source</u>
7	Ninth Circuit Model Civil Jury Instructions - 1.9 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 6

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 6 CREDIBILITY OF WITNESSES
2 3	In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it. Proof of a fact does not necessarily depend on the number of witnesses who testify about it.
4	In considering the testimony of any witness, you may take into account:
5	(1) the opportunity and ability of the witness to see or hear or know the things testified to;
6	(2) the witness's memory;
7	(3) the witness's manner while testifying;
8	(4) the witness's interest in the outcome of the case and any bias or prejudice;
9	(5) whether other evidence contradicted the witness's testimony;
10	(6) the reasonableness of the witness's testimony in light of all the evidence; and
11	(7) any other factors that bear on believability.
12 13	The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify about it.
14	<u>Source</u>
15	Ninth Circuit Model Civil Jury Instructions - 1.11 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 7

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 7 IMPEACHMENT EVIDENCE—WITNESS
2	
3	The evidence that a witness lied under oath or gave different testimony on a prior occasion may be considered, along with all other evidence, in deciding whether or not to believe the witness and how much weight to give to the testimony of the witness and for no other purpose.
4	<u>Source</u>
5	Ninth Circuit Model Civil Jury Instructions – 2.8 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 8 CONDUCT OF THE JURY
2	I will now say a few words about your conduct as jurors.
3 4	First, keep an open mind throughout the trial, and do not decide what the verdict should be until you and your fellow jurors have completed your deliberations at the end of the case.
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 9

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 9 NO TRANSCRIPT AVAILABLE/NOTES	
2	During deliberations, you will have to make your decision based on what you recall of the	
3 4	evidence. You will not have a transcript of the trial. I urge you to pay close attention to the testimony as it is given.	
4 5	If at any time you cannot hear or see the testimony, evidence, questions or arguments, let me know so that I can correct the problem.	
6	If you wish, you may take notes to help you remember the evidence. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do	
7	not let note-taking distract you. When you leave, your notes should be left in the jury room. No one will read your notes. They will be destroyed at the conclusion of the case.	
8	Whether or not you take notes, you should rely on your own memory of the evidence. Notes are	
9	only to assist your memory. You should not be overly influenced by your notes or those of your fellow jurors.	
10	Source	
11	Ninth Circuit Model Civil Jury Instructions - 1.13, 1.14 (2007 Edition).	
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 10	

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 10
2	STIPULATIONS OF FACT
3	[THE PARTIES AGREE THAT THIS INSTRUCTION SHOULD BE GIVEN WHEN THE FIRST STIPULATION OF FACT IS TO BE READ.]
4	The parties have agreed to certain facts that will be read to you. You should therefore treat these facts as having been proved.
5	<u>Source</u>
6	Ninth Circuit Model Civil Jury Instructions - 2.2 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 11		
2	DEPOSITION IN LIEU OF LIVE TESTIMONY		
3	A deposition is the sworn testimony of a witness taken before trial. The witness is placed under oath to tell the truth and lawyers for each party may ask questions. The questions and answers are recorded.		
4	You should consider deposition testimony, presented to you in court in lieu of live testimony,		
5	insofar as possible, in the same way as if the witness had been present to testify.		
6	Source		
7	Ninth Circuit Model Civil Jury Instructions - 2.4 (2007 Edition).		
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-Cv01846-LHK (PSG) pa-1541255 12		

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1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 12 USE OF INTERROGATORIES OF A PARTY
2	[THE PARTIES AGREE THAT THIS INSTRUCTION SHOULD BE GIVEN WHEN THE
3	FIRST INTERROGATORY IS TO BE READ.]
4 5	Evidence was presented to you in the form of answers of one of the parties to written interrogatories submitted by the other side. These answers were given in writing and under oath, before the actual trial, in response to questions that were submitted in writing under established
6	court procedures. You should consider the answers, insofar as possible, in the same way as if they were made from the witness stand.
7	<u>Source</u>
8	Ninth Circuit Model Civil Jury Instructions - 2.10 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 13

1	PROPOSED PRELIMINARY JURY INSTRUCTION NO. 13 EXPERT OPINION
2	Some witnesses, because of education or experience, are permitted to state opinions and the
3	reasons for those opinions.
4	Opinion testimony should be judged just like any other testimony. You may accept it or reject and give it as much weight as you think it deserves, considering the witness's education and
5	experience, the reasons given for the opinion, and all the other evidence in the case.
6	Source
7	Ninth Circuit Model Civil Jury Instructions - 2.11 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

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1	PROPOSED FINAL JURY INSTRUCTION NO. 14 WHAT IS EVIDENCE
2	The trial is now over. The evidence you are to consider in deciding what the facts are consists of:
3	1. the sworn testimony of any witness;
4	2. the exhibits which are received into evidence; and
5	3. any facts to which the lawyers have agreed.
6	Source
7	Adapted from Ninth Circuit Model Civil Jury Instructions - 1.6 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

1		PROPOSED FINAL JURY INSTRUCTION NO. 15 WHAT IS NOT EVIDENCE	
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3	into evidence	our verdict, you may consider only the testimony and exhibits that were received . Certain things are not evidence, and you may not consider them in deciding wh I will list them for you:	at
4	(1)	Arguments and statements by lawyers are not evidence. The lawyers are not	
5		witnesses. What they said in their opening statements and throughout the trial, what they will say in their closing arguments or at other times are all intended to help you interpret the evidence. But these arguments and statements are not	
6 7		evidence. If the facts as you remember them differ from the way the lawyers has stated them, your memory of them controls.	ave
8	(2)	Questions and objections by lawyers are not evidence. Attorneys have a duty to	)
9		their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by the court's rulin on it.	of
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11	(3)	Testimony that has been excluded or stricken, or that you have been instructed t disregard, is not evidence and must not be considered. In addition, sometimes testimony and exhibits are received only for a limited purpose; when I give a	to
12		limiting instruction, you must follow it.	
13	(4)	Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial	l.
14	<b>Source</b>		
15	Adapted from	Ninth Circuit Model Civil Jury Instructions - 1.7 (2007 Edition).	
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1	PROPOSED FINAL JURY INSTRUCTION NO. 16 EVIDENCE FOR LIMITED PURPOSE
2	Some evidence may have been admitted for a limited purpose only. You must consider it only for
3	that limited purpose and for no other.
4	Source
5	Adapted from Ninth Circuit Model Civil Jury Instructions - 1.8 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 18

1	PROPOSED FINAL JURY INSTRUCTION NO. 17 DIRECT AND CIRCUMSTANTIAL EVIDENCE
2	
3	evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be give either direct or circumstantial evidence. It is for you to decide how much weight to give to an
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6	<u>Source</u>
7	Ninth Circuit Model Civil Jury Instructions - 1.9 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 19

1	PROPOSED FINAL JURY INSTRUCTION NO. 18 CREDIBILITY OF WITNESSES
2 3	In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness said, or part of it, or none of it. Proof of a fact does not necessarily depend on the number of witnesses who testified about it.
4	In considering the testimony of any witness, you may take into account:
5	(1) the opportunity and ability of the witness to see or hear or know the things testified to;
6	(2) the witness's memory;
7	(3) the witness's manner while testifying;
8	(4) the witness's interest in the outcome of the case and any bias or prejudice;
9	(5) whether other evidence contradicted the witness's testimony;
10	(6) the reasonableness of the witness's testimony in light of all the evidence; and
11	(7) any other factors that bear on believability.
12 13	The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify about it.
14	<u>Source</u>
15	Ninth Circuit Model Civil Jury Instructions - 1.11 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255

1	PROPOSED FINAL JURY INSTRUCTION NO. 19 IMPEACHMENT EVIDENCE—WITNESS
2	
3	The evidence that a witness lied under oath or gave different testimony on a prior occasion may be considered, along with all other evidence, in deciding whether or not to believe the witness and how much weight to give to the testimony of the witness and for no other purpose.
4	Source
5	Ninth Circuit Model Civil Jury Instructions – 2.8 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 21

1	PROPOSED FINAL JURY INSTRUCTION NO. 20 TAKING NOTES
2	
3	You may have taken notes during the trial. Whether or not you took notes, you should rely on your own memory of the evidence. Notes are only to assist your memory. You should not be overly influenced by your notes or those of your fellow jurors.
4	<u>Source</u>
5	Adapted from Ninth Circuit Model Civil Jury Instructions - 1.14 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 22

1	PROPOSED FINAL JURY INSTRUCTION NO. 21 DEPOSITION IN LIEU OF LIVE TESTIMONY	
2		
3	You heard some witnesses testify by deposition. A deposition is the sworn testimony of a witne taken before trial. The witness is placed under oath to tell the truth and lawyers for each party may ask questions. The questions and answers are recorded.	ess
4	You should consider deposition testimony, presented to you in court in lieu of live testimony,	
5	insofar as possible, in the same way as if the witness had been present to testify.	
6	<u>Source</u>	
7	Adapted from Ninth Circuit Model Civil Jury Instructions - 2.4 (2007 Edition).	
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-Cv01846-LHK (PSG) pa-1541255	23

1	PROPOSED FINAL JURY INSTRUCTION NO. 22 USE OF INTERROGATORIES OF A PARTY
2	Evidence was presented to you in the form of answers of one of the parties to written
3 4	interrogatories submitted by the other side. These answers were given in writing and under oath, before the actual trial, in response to questions that were submitted in writing under established court procedures. You should consider the answers, insofar as possible, in the same way as if
	they were made from the witness stand.
5	<u>Source</u>
6	Ninth Circuit Model Civil Jury Instructions - 2.10 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 24

1	PROPOSED FINAL JURY INSTRUCTION NO. 23	
2	EXPERT OPINION	
3	Some witnesses, because of education or experience, were permitted to state opinions and the reasons for those opinions.	
4 5	Opinion testimony should be judged just like any other testimony. You may accept it or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the reasons given for the opinion, and all the other evidence in the case.	
6	Source	
7	Ninth Circuit Model Civil Jury Instructions - 2.11 (2007 Edition).	
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 25	

1	PROPOSED FINAL JURY INSTRUCTION NO. 24 DUTY TO DELIBERATE		
2 3	When you begin your deliberations, you should elect one member of the jury as your presiding juror. That person will preside over the deliberations and speak for you here in court.		
4	You will then discuss the case with your fellow jurors to reach agreement if you can do so. Yo verdict must be unanimous.		
5 6	Each of you must decide the case for yourself, but you should do so only after you have considered all of the evidence, discussed it fully with the other jurors, and listened to the views of		
7	your fellow jurors.		
8	Do not hesitate to change your opinion if the discussion persuades you that you should. Do not come to a decision simply because other jurors think it is right.		
9 10	It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight and effect of the evidence simply to reach a verdict.		
11	Source		
12	Ninth Circuit Model Civil Jury Instructions - 3.1 (2007 Edition).		
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 26		

1	PROPOSED FINAL JURY INSTRUCTION NO. 25 COMMUNICATION WITH COURT
2	
3	If it becomes necessary during your deliberations to communicate with me, you may send a note through the Bailiff, signed by your presiding juror or by one or more members of the jury. No member of the jury should ever attempt to communicate with me except by a signed writing; I
4	will communicate with any member of the jury on anything concerning the case only in writing, or here in open court. If you send out a question, I will consult with the parties before answering
5	it, which may take some time. You may continue your deliberations while waiting for the answer to any question. Remember that you are not to tell anyone—including me—how the jury stands,
6	numerically or otherwise, until after you have reached a unanimous verdict or have been discharged. Do not disclose any vote count in any note to the court.
7	Source
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9	Ninth Circuit Model Civil Jury Instructions - 3.2 (2007 Edition).
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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255 27

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	(UNDISPUTED) JOINT PROPOSED JURY INSTRUCTIONS CASE NO. 11-CV01846-LHK (PSG) pa-1541255	

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1	ATTESTATION OF	E-FILED SIGNATURE	
2	I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file thi		
3	Declaration. In compliance with General Order 45, X.B., I hereby attest that Victoria Maroulis		
4	has concurred in this filing.		
5	Dated: July 13, 2012	/s/ Michael A. Jacobs	
6		Michael A. Jacobs	
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