

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CITCON USA LLC,  
Plaintiff,  
v.  
RIVERPAY INC., and others,  
Defendants.

Case No. 18-cv-02585 NC  
**ORDER AFTER PRETRIAL  
CONFERENCE**

This order summarizes topics addressed and decided today at the pretrial conference.

Ordered by the Court:

1. Defendants’ motion to bifurcate punitive damages at trial: denied for the reasons stated. Trial will proceed with the phases set forth in ECF 400.
2. Jury trial will commence December 9 at 9:00 a.m. as previously scheduled. 8 jurors, with no alternates, to be selected. 3 peremptory strikes per side. Parties should plan for opening statements on afternoon of Dec. 9. Plaintiffs declined opportunity to advance start of trial to December 5 or 6. As previously ordered (ECF 169) each side will have 15 hours of total trial time, excluding jury selection. Time spent on jury questions and answers by witnesses will be

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allocated to the party that called the witness.

3. Defendants’ objection to showing PTO video on trade secrets during voir dire sustained. Court will show potential jurors implicit bias video.
4. Citcon’s motion to pre-admit source code exhibits denied without prejudice, with parties encouraged to confer further as to admissibility of these and other trial exhibits.
5. Court declined proposed voir dire by Citcon as overly argumentative and indicated it would ask some to all of questions proposed by defendants. Both sides will have opportunity for voir dire.
6. Parties will make copies of the completed jury surveys. They are asked to return original plus 2 copy sets to Court. Parties ordered to return to Court or destroy and certify as destroyed all copies of jury surveys within 30 days after judgment, or a later time if ordered by the Court.

Further orders to be issued by the Court before trial:

1. Revision to jury survey, with addition of questions on bias for/against ethnicity, national origin, immigrants, and Chinese.
2. Revised statement of case based on shared edits from pretrial conference.
3. Opening and closing jury instructions.
4. Order addressing sealing procedures for trial in response to ECF 406.
5. Order identifying trial courtroom (5 or 7).
6. Order for refreshments for jurors during trial.
7. Order hardware and software for jury deliberations phase after feedback from trial counsel (see below).

Trial counsel to confer further with each other on these issues/to do before trial:

1. Determine hardware and software for the jury to use during deliberations phase. If parties wish to use Court equipment, they must alert the courtroom deputy by December 9. Parties encouraged to test the technology before trial.
2. Preference for courtroom 5 or 7. Communicate to courtroom deputy by

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- November 27.
3. Order trial transcripts.
  4. Reduce excessive trial exhibits and separate exhibits into admissible components.
  5. Group witnesses for efficient presentation.
  6. Assess and discuss proposed redactions of trial exhibits.
  7. Deposition excerpts.
  8. Alternative videos/materials to educate potential jurors on trade secrets. Propose to Court by November 27.
  9. Meet and confer and file proposed jury verdict form(s) by December 4.

**IT IS SO ORDERED.**

Dated: November 20, 2019

  
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NATHANAEL M. COUSINS  
United States Magistrate Judge