

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

IRENE NESWOOD,

Plaintiff,

v.

Civ. No. 16-1153 GJF/KK

SAM'S EAST, INC., et al.

Defendants.

**ORDER SETTING JURY TRIAL**

The Court held a telephonic conference on January 27, 2017 to determine the dates of the jury trial in this case. The Court sets the following dates and deadlines:

**A Pretrial Conference** will be held on **November 16, 2017, at 9:00 a.m. at the Pete V. Domenici United States Courthouse, in a courtroom to be determined, 333 Lomas Blvd. NW, Albuquerque, New Mexico.** All attorneys participating in the trial must be present for the pretrial conference. The parties may, but need not, be present.

**Jury Selection and Jury Trial** will begin on **December 4, 2017, at 9:00 a.m. at the Pete V. Domenici United States Courthouse, in a courtroom to be determined, 333 Lomas Blvd. NW, Albuquerque, New Mexico.**

Counsel are directed to submit a proposed consolidated final pretrial order as follows: Plaintiff to Defendant on or before **October 23, 2017**; Defendant to Court on or before **November 6, 2017**. Counsel are directed that the pretrial order will provide that no witnesses except rebuttal witnesses, whose testimony cannot be anticipated, will be permitted to testify unless the name of the witness is furnished to the Court and opposing counsel no later than thirty (30) days prior to the time set for trial. Any exceptions thereto must be upon order of the Court for good cause shown.

**Motions in Limine:** All motions in limine<sup>1</sup> are due by **November 17, 2017**. Any responses or objections are due by **November 27, 2017**.

**Witness Lists:** The parties shall file their witness lists, which must disclose both witnesses that the parties “will call” and witnesses that they “may call” at trial. Witness lists are due by **November 17, 2017**. Any objections to a witness named by the opposing party must be filed by **November 27, 2017**.

**Designations and Counter-Designations of Deposition Testimony:** The parties shall file designations, and counter-designations, of deposition testimony that they intend to use at trial. The designations and counter-designations must state the pages and lines of the deposition to be used. Plaintiff will use a yellow marker and Defendant a blue marker. These requirements do not apply to cross-examination or rebuttal of a witness presented in person at trial. Designations must be filed by **November 17, 2017**. Counsel must **jointly submit one physical copy** of each deposition to my chambers by this due date and must highlight the parts of the depositions that are to be used. Any objections to testimony designated by the opposing party, and any counter-designations, must be filed by **November 27, 2017**. If the parties wish to make further designations in light of the designations and counter-designations, leave for additional designations must be requested from the Court **at the pretrial conference**.

**Exhibits:** The parties shall **jointly** file one list of stipulated exhibits and shall separately file lists of contested exhibits no later than **November 27, 2017**. They shall also submit **two physical copies of marked exhibits to my chambers by the next business day**. The first copy shall include exhibits that the parties stipulate to be admissible, and shall be labeled consecutively. The second copy shall include exhibits, the admissibility of which are contested,

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<sup>1</sup> Motions challenging the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) are not motions in limine. *Daubert* motions shall be filed no later than the dispositive motions deadline.

and shall be labeled consecutively beginning with the next sequential number after the final stipulated exhibit designation. For instance, if there are 50 stipulated exhibits, 20 contested plaintiff's exhibits, and 20 contested defendant's exhibits, the first notebook shall contain stipulated exhibits numbered 1 to 50. The second notebook shall contain plaintiff's contested exhibits numbered 51 through 70 and defendant's contested exhibits numbered 71 through 90.

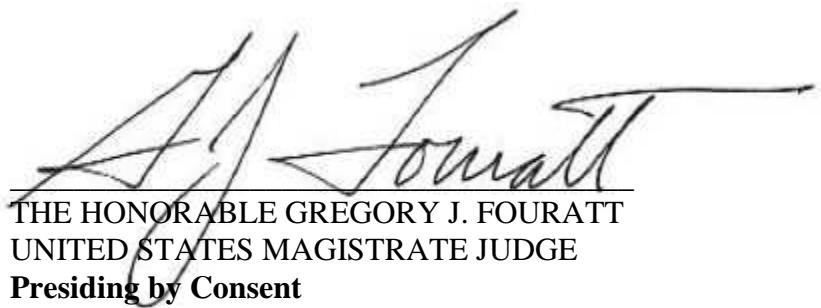
In order to allow sufficient time for a party to decide whether to contest the admission of exhibits, each party must send a list of their proposed exhibits to the opposing party no later than **November 17, 2017**.

**Statement of the Case:** No later than **November 27, 2017**, the parties shall file a consolidated, clear, concise statement of the case, to be read by the Court to the jury at the beginning of trial. If counsel are unable to agree to a consolidated statement of the case, they shall file separate statements of the case. The parties shall meet and confer about the statement of the case no later than **November 17, 2017**.

**Jury Instructions:** The parties shall meet and confer about proposed jury instructions no later than **November 17, 2017**. Plaintiff is responsible for filing a set of requested jury instructions to which all of the parties agree. Requested instructions upon which the parties cannot agree must be filed separately by the requesting party. There shall be only one instruction per page and each instruction shall include a citation to supporting authority at the bottom of the page. All such filings are due **November 27, 2017**. On that same day, the parties must also email a copy of the instructions in Word format, without citations, to [gffproposedtext@nmcourt.fed.us](mailto:gffproposedtext@nmcourt.fed.us).

A party must file written objections to an opposing party's requested instructions no later than **December 4, 2017**.

**IT IS SO ORDERED.**



THE HONORABLE GREGORY J. FOURATT  
UNITED STATES MAGISTRATE JUDGE  
Presiding by Consent