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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PLAINTIFF,)	Case No. CASE NUMBER
)	
Plaintiff(s),)	CIVIL TRIAL SCHEDULING ORDER
)	
v.)	Initial Designation:
)	
DEFENDANT,)	Rebuttal Designation:
)	
Defendant(s).)	Discovery Cut-Off:
)	
)	Non-discovery Motion
)	Hearing Cut-Off:
)	
)	Pre-Trial Conference:
)	
)	Jury Trial:
)	
)	
)	Trial Estimate:

The above matter is set for trial before the Honorable
Virginia A. Phillips, Courtroom 2, United States District Court,
3470 Twelfth Street, 2nd Floor, Riverside, California.

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2 **Pre-Trial and Trial Dates**

3 1. The Court orders the dates as indicated above, and
4 described as follows:

5 **a. Discovery Cut-Off.** This is the last day to complete
6 discovery, including expert discovery. It is also the last day for
7 hearing for any discovery motion.

8 **b. Motion Hearing Cut-Off.** Motions are heard on
9 Mondays at 10:00 a.m. The cut-off date for hearing motions is the
10 last day to hear motions. The cut-off date applies to all non-
11 discovery motions except motions in limine. If a cut-off date for
12 hearing motions has not been set by the Court, the cut-off date
13 shall be at least twenty-one (21) days before the Pre-Trial
14 Conference.

15 **c. Motions in limine.** Motions in limine, i.e., motions
16 relating to evidentiary matters only, shall be filed in accordance
17 with the notice and filing requirements of Local Rule 6 and this
18 Court's standing and civil trial orders. Each side is limited to
19 three(3) motions in limine; each motion shall address only one (1)
20 issue. Motions in limine shall be noticed for hearing for the same
21 date and time as the pretrial conference date, usually the Monday
22 eight days before the Tuesday trial date.

23 **d. Timing of Expert Witness Disclosures.** The required
24 expert disclosures shall be made seventy (70) days before the
25 Discovery Cut-Off Date.

26 **e. Telephonic Status Conference.** Telephonic status
27 conferences are sometimes set by the Court to discuss settlement
28 status and other pending issues. If a telephonic status conference

1 has been set, all counsel are ordered to discuss the matter with
2 their clients and opposing counsel before the telephonic status
3 conference. Plaintiff's counsel must make the arrangements and
4 place the conference call. Plaintiff's counsel shall include all
5 counsel of record and the Court on the date and time scheduled.
6 The conference operator is to place the final call to the Court at
7 (951) 328-4420. To assist the Court and staff, participants shall
8 identify themselves each time they speak. No cellular telephones
9 or speaker telephones will be allowed.

10 **f. Status Conference with Appearance.** Status
11 conferences with appearance may be set by the Court to discuss
12 settlement status and other pending issues. All counsel are
13 ordered to discuss the matter with their clients and opposing
14 counsel before the status conference.

15 **g. Pre-Trial Conference.** This case has been placed on
16 calendar for a Pre-Trial Conference pursuant to Federal Rules of
17 Civil Procedure 16 and Local Rule 16-1. Each party appearing in
18 this action shall be represented at the Pre-Trial Conference and at
19 all pre-trial meetings by the lead trial counsel. Counsel should
20 be prepared to discuss streamlining the trial, including
21 presentation of testimony by deposition excerpts, time limits,
22 stipulations as to undisputed facts, and qualification of experts
23 by admitted resumes. In rare cases where the Pre-Trial Conference
24 is waived by the Court, counsel must follow Local Rule 16-11.2.

25 **h. Trial.** The Court sets firm trial dates. Trials are
26 conducted from Tuesday through Friday, 9:00 a.m. to 4:00 p.m.
27 Counsel must be present no later than 8:30 a.m. Jury selection
28

1 will take about two hours. Counsel must be ready to proceed with
2 opening statements and witnesses immediately thereafter.

3 **Discovery**

4 2. Counsel shall initiate all discovery other than
5 depositions at least forty-five (45) days prior to the cut-off
6 date. The Court will not approve stipulations between counsel
7 which permit responses to be served after the cut-off date except
8 in unusual circumstances and for good cause shown.

9 3. All depositions must be completed by the discovery cut-
10 off deadline. Counsel shall lodge all original depositions that
11 will be used in trial with the Courtroom Deputy Clerk on the day of
12 trial.

13 4. Discovery should be kept to a minimum and should focus
14 only on issues genuinely in dispute. Counsel are expected to
15 resolve discovery problems without the assistance of the Court.
16 Discovery disputes have been referred to the United States
17 Magistrate Judge assigned to this case. The motion hearing cut-off
18 date for discovery motions before the Magistrate Judge shall be on
19 or before the discovery cut-off date set in the caption of this
20 Order. The Court requires strict compliance with the requirements
21 of Local Rule 37-1 in the preparation and filing of discovery
22 motions.

23 **Law and Motion**

24 5. Counsel are to provide the Court with conformed courtesy
25 copies of all motion papers.

26 6. If oral argument is not required, counsel will be advised
27 before the hearing date.

1 Settlement Procedures

2 7. Local Rule 16-2.9 requires a settlement procedure in
3 every case. The Court will be guided by counsel's agreement as to
4 which procedure is appropriate for this case; if counsel disagree
5 as to procedures, the Court will impose a settlement procedure.
6 Counsel are responsible for conducting a settlement procedure
7 before the Pre-Trial Conference and shall submit with the proposed
8 Pre-Trial Conference Order a status report detailing what procedure
9 has been followed. The following procedures are available:

10 **Settlement Procedure No. 1** - Unless an alternative
11 settlement procedure has been selected by the parties, and
12 with the concurrence of the Court, the parties shall appear
13 before the Court or before the Magistrate Judge assigned to
14 the case for such settlement proceedings as the Court may
15 conduct or direct.

16 **Settlement Procedure No. 2** - The parties shall appear
17 before an attorney selected from the Attorney Settlement
18 Officer Panel, or before an attorney appointed by the Court
19 for settlement proceedings.

20 **Settlement Procedure No. 3** - The parties shall appear
21 before a retired judicial officer or other private dispute
22 resolution body for settlement proceedings.

23 8. Unless otherwise ordered by the Judge or the Magistrate
24 Judge conducting a settlement conference (whose procedures will
25 apply if different from those set forth here), the parties shall
26 follow the "Requirements for Settlement Procedures" set forth in
27 Local Rule 16-15.5.

1 9. If a settlement is reached, it shall be reported
2 immediately to this Court as required by Local Rule 16-15.7.

3
4 **Preparation for the Pre-Trial Conference**

5 10. Compliance with the requirements of Local Rule 16 is
6 mandatory. Counsel shall submit carefully prepared Memoranda of
7 Contentions of Fact and Law (which may also serve as the trial
8 briefs) and proposed Pre-Trial Conference Orders in accordance with
9 the provisions of Local Rules 16-4 through 16-7. The form of the
10 proposed Pre-Trial Conference Order shall be in conformity with the
11 form set forth in Appendix A to the Local Rules.

12 11. The Memoranda of Contentions of Fact and Law shall be
13 served not later than twenty-one (21) calendar days before the Pre-
14 Trial Conference. The proposed Pre-Trial Conference Order shall be
15 lodged seven (7) calendar days before the Pre-Trial Conference.

16 12. In drafting the proposed Pre-Trial Conference Order,
17 counsel shall make a good faith effort to agree on and set forth as
18 many uncontested facts as possible. The Court may read the
19 uncontested facts to the jury at the start of the trial. Carefully
20 drafted and comprehensively stated stipulations of facts will
21 reduce the length of trial and increase the jury's understanding of
22 the case.

23 13. In drafting the factual issues in dispute for the
24 proposed Pre-Trial Conference Order, the issues of fact should
25 track the elements of a claim or defense upon which the jury would
26 be required to make findings. Counsel should attempt to state
27 issues in ultimate fact form, not in the form of evidentiary fact
28 issues (i.e., was the defendant negligent, was such negligence the

1 proximate cause of injury to the plaintiff, was the plaintiff
2 negligent, not was the plaintiff standing on the corner of 5th and
3 Spring at 10:00 a.m. on May 3). Counsel may list sub-issues under
4 the headings of ultimate fact issues, but should not use this as a
5 device to list disputes over evidentiary matters. In general, the
6 issues of fact should set forth the disputed elements of the claims
7 or affirmative defenses.

8 14. Issues of law should state legal issues upon which the
9 Court will be required to rule after the Pre-Trial Conference,
10 including during the trial, and should not list ultimate fact
11 issues to be submitted to the trier of fact.

12 15. If expert witnesses are to be called at trial, each party
13 shall list and identify its respective expert witnesses. Failure
14 of a party to list and identify an expert witness in the proposed
15 Pre-Trial Conference Order shall preclude a party from calling that
16 expert witness at trial.

17

18 **Exhibits**

19 16. Counsel are to prepare their exhibits by placing them in
20 3-hole notebooks which are tabbed down the right side with exhibit
21 numbers. The notebooks are to be prepared with an original for the
22 Clerk, which shall be tagged with the appropriate exhibit tags in
23 the upper right hand corner of the first page of each exhibit, and
24 one copy for the Court. Each notebook shall contain a list of the
25 included exhibits. The exhibits are to be numbered in accordance
26 with Local Rule 26-3. Counsel can obtain exhibit tags at the
27 Clerk's Office, Room 134, 1st Floor, 3470 Twelfth Street,
28 Riverside.

1 17. The Court requires the following to be submitted to the
2 Courtroom Deputy Clerk on the first day of trial:

3 a. The original exhibits with the Court's exhibit tags.
4 The parties shall use yellow tags for plaintiff and blue tags
5 for defendant, which shall be stapled to the front of the
6 exhibit on the upper right corner with the case number, case
7 name, and exhibit number placed on each tag.

8 b. One bench book with a copy of each exhibit for use
9 by the Court, tabbed with numbers as described above.
10 (Court's exhibit tags not necessary.)

11 c. Three (3) copies of exhibit lists.

12 d. Three (3) copies of witness lists in the order in
13 which the witnesses may be called to testify.

14 The exhibit lists shall be in the form indicated by the
15 following example:

16 Case Title: _____ Case No. _____

<u>No. of Exhibit</u>	<u>Description</u>	<u>Date Identified</u>	<u>Date Admitted</u>
19 3	1/30/80 letter from Doe to Roe	_____	_____

21 The witness lists shall be in the form indicated by the
22 following example:

24 Case Title: _____ Case No. _____

<u>Name of Witness</u>	<u>Date called to testify</u>
27 1. John Doe	_____
28 2. Jane Roe	_____

1 18. All counsel are to meet no later than ten (10) calendar
2 days before trial and to stipulate to the extent possible to
3 foundation, waiver of the best evidence rule, and which exhibits
4 may be received into evidence at the start of trial. The exhibits
5 to be received will be noted on the extra copies of the exhibit
6 lists.

7
8 **Trial Preparation for Court Trials**

9 19. Fourteen (14) calendar days before the trial date, each
10 party shall prepare and serve on opposing counsel copies of the
11 proposed Findings of Fact and Conclusions of Law. Each party shall
12 review the other party's proposed Findings and Conclusions and make
13 such changes in the party's own proposed Findings and Conclusions
14 as necessary following such review. Seven (7) calendar days before
15 the trial date, each party shall lodge two copies of its proposed
16 Findings of Fact and Conclusions of Law with the Court, also
17 serving other parties if changes have been made. The parties shall
18 be prepared to submit to the Court, and to exchange among
19 themselves, supplemental Findings of Fact and Conclusions of Law
20 during the course of the trial.

21
22 **Trial Preparation for Jury Trials**

23 20. Fourteen (14) calendar days prior to the Rule 16-2
24 Meeting of Counsel, counsel shall exchange proposed jury
25 instructions and special verdict forms (if applicable). Seven (7)
26 calendar days prior to the Rule 16-2 meeting, counsel shall
27 exchange any objections to the instructions and special verdict
28 forms. Prior to, or at the time of the Rule 16-2 meeting, counsel

1 shall meet and confer with the goal of reaching agreement to one
2 set of joint, undisputed jury instructions and one special verdict
3 form.

4 21. The parties must file proposed jury instructions seven
5 (7) calendar days before the Pre-Trial Conference. As always, the
6 parties must submit courtesy copies directly to the Court. In
7 addition, the parties must submit electronic versions (either Word
8 or WordPerfect format) to the Court at the following electronic
9 mail address: VAP_Chambers@cacd.uscourts.gov.

10 22. As noted above, the parties must act jointly to submit
11 proposed jury instructions. The parties must submit one set of
12 agreed upon jury instructions. The parties must submit another set
13 of jury instructions containing the instructions upon which the
14 parties disagree and the objections to those instructions.

15 23. Where the parties disagree on an instruction, the party
16 opposing the instruction must attach a short (i.e., one to two
17 paragraphs) statement supporting the objection and the party
18 submitting the instruction must attach a short statement supporting
19 the instruction. Each statement should be on a separate page and
20 should follow directly after the disputed instruction.

21 24. Accordingly, the parties ultimately will submit one
22 document or, if the parties disagree over any proposed jury
23 instructions, two documents. If the parties submit two documents,
24 those documents should consist of: (1) a set of agreed upon jury
25 instructions and (2) a set of disputed jury instructions along with
26 reasons supporting and opposing each disputed instruction.

27 25. The Court orders the parties to make every attempt to
28 agree upon the jury instructions before submitting them to the

1 Court. In addition, where the Manual of Model Civil Jury
2 Instructions for the Ninth Circuit (2001 edition) provides a
3 version of a requested instruction, the parties should submit the
4 Model instruction. Where California law applies, the Court prefers
5 counsel to use *Judicial Council of California, Civil Instructions -*
6 (*"CACI"*). If neither of the above sources is applicable, counsel
7 are directed to use the instructions from Edward J. Devitt, *et al.*,
8 *Federal Jury Practice and Instructions* (4th ed. 1987 & Supp. 1995).
9 Each requested jury instruction shall cover only one subject or
10 principle of law and shall be numbered and set forth in full on a
11 separate page, citing the authority or source of the requested
12 instruction (except for the jury copy discussed infra at ¶ 26).

13 26. The Court will send a copy of the jury instructions into
14 the jury room for use by the jury during deliberations.
15 Accordingly, in addition to the file copies described above, the
16 parties shall file with the Courtroom Deputy Clerk on the first day
17 of the trial a "clean set" of joint and/or proposed jury
18 instructions which contain only the text of each instruction set
19 forth in full on each page, with the caption "Court's Instruction
20 Number ____" (eliminating titles, supporting authority, indication
21 of party proposing, etc.). This will be referred to as the "Jury
22 Copy" of the jury instructions.

23 27. If counsel prepared the jury instructions using
24 WordPerfect, counsel shall provide the Court with a CD-ROM
25 containing the proposed jury instructions along with the hard copy.

26 28. An index page shall accompany all jury instructions
27 submitted to the Court. The index page shall indicate the
28 following:

- 1 a. The number of the instruction;
- 2 b. A brief title of the instruction;
- 3 c. The source of the instruction and any relevant case
- 4 citations; and
- 5 d. The page number of the instruction.

6 EXAMPLE:

7	<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page</u>
8	1	Burden of Proof	9th Cir. 12.02	7

9

10 29. Counsel shall prepare a joint statement of the case which

11 will be read by the Court to the prospective panel of jurors prior

12 to the commencement of voir dire. The statement should not be

13 longer than two or three paragraphs. The statement shall be filed

14 with the Court seven (7) calendar days before the Pre-Trial

15 Conference.

16 **Internet Site**

17 Counsel are encouraged to review the Central District's

18 website for additional information. The address is

19 "http://www.cacd.uscourts.gov".

20

21 The Courtroom Deputy Clerk is ordered to serve a copy of this

22 Order personally or by mail on counsel for all parties to this

23 action.

24 IT IS SO ORDERED.

25

26 Dated: _____

27 _____

28 VIRGINIA A. PHILLIPS
United States District Judge