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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Plaintiff,

v.

Defendant[s].

Case No. CR BRO

CRIMINAL MOTION AND TRIAL ORDER

Trial Date: _____ at 8:30 am
Status Conference: at 9:00 am

This matter is set for trial before the Honorable Beverly Reid O’Connell, United States District Judge, Courtroom 14, Spring Street Building, 312 N. Spring St., Los Angeles, California 90012.

A. PRETRIAL AND TRIAL DATES AND MOTIONS

1. Pretrial motions shall be filed on or before the Monday four weeks before the final status conference/motion hearing. Motions expected to take more than one hour of court time must include a time estimate beneath the hearing date on the face page of the motion.

Oppositions (or notices of non-opposition) shall be filed on or before the Monday three weeks before the final status conference/motion hearing.

Replies (optional) shall be filed on or before the Monday two weeks before the final status conference/motion hearing.

Local Rule 7-12 (Civil) will apply to papers not timely filed by a party.

1 Adherence to these timing requirements is essential to chambers' preparation
2 of motion matters.

3 2. Memoranda of Points and Authorities in support of or in opposition to
4 motions shall not exceed 25 pages. Replies shall not exceed 10 pages. Only in rare
5 instances and for good cause shown will the Court grant an application to extend
6 these page limitations. No supplemental brief shall be filed without prior leave of
7 court. **Typeface shall comply with Local Rule 11-3.1.1 (Civil). NOTE: If Times**
8 **New Roman font is used, the size must be no less than 14; if Courier is used, the**
9 **size must be no less than 12.** Footnotes shall be in typeface no less than two points
10 (size 12 for Times New Roman font or size 10 for Courier font) smaller than text
11 size and shall be used sparingly.

12 3. Filings that do not conform to the Local Rules and this Order may not be
13 considered.

14 4. Before filing any motion for discovery, a party shall consult with opposing
15 counsel to ascertain whether the requested discovery will be provided. All discovery
16 motions shall state with particularity what is requested, the basis for the request,
17 whether the discovery has been requested from opposing counsel, and whether the
18 discovery has been declined, in whole or in part. Motions made without prior
19 consultation with opposing counsel or that fail to include the above information may
20 not be heard.

21 5. Trial is set for Tuesday, November 10, 2015 at 8:30 am. A Status
22 Conference is set for October 26, 2015 at 9:00 a.m.

23 6. A Final Status Conference/Motions Hearing is set for 9:00 a.m. on Monday
24 October 26, 2015 .

25 7. All documents shall be e-filed and served on opposing counsel at
26 approximately the same time.

27 8. Mandatory chambers copies of all filed motions, oppositions or notices of
28 non-opposition, and replies must be delivered to Judge Beverly Reid O'Connell's
chambers on Spring Street not later than 12:00 p.m. the following business day. For

1 security reasons, mandatory chambers copies should be removed from envelopes or
2 folders before placing them in the box. The Court requires ONE mandatory
3 chambers copy of **only** the following filed documents: all motions and related
4 documents and exhibits, plea agreements, sentencing position papers, and all trial
5 documents. Courtesy copies **SHOULD NOT** need to be blue-backed.

6 9. All counsel are to list e-mail addresses, facsimile transmission numbers,
7 street addresses (no Post Office box numbers), and telephone numbers on all papers
8 submitted to the Court.

9 **B. DISCOVERY & NOTICE**

10 Counsel shall comply promptly with discovery and notice requirements
11 pursuant to Rules 12, 12.1, 12.2, 12.3, 12.4, 15, and 16 of the Federal Rules of
12 Criminal Procedure. On government counsel's discovery of any evidence within the
13 scope of *Brady v. Maryland*, 373 U.S. 83 (1963), such evidence shall be produced
14 forthwith to counsel for the defendant consistent with this Court's standing discovery
15 order. Counsel for the government shall also disclose to counsel for defendant the
16 existence or non-existence of: (1) evidence obtained by electronic surveillance; and
17 (2) testimony by a government informer.

18 **C. TRIAL REQUIREMENTS**

19 1. No later than one week before trial, counsel for the government shall file
20 with the Court:

21 a. *In camera* (under seal) a summary of *all* statements of *all* witnesses
22 to be called by the government in its case-in-chief; and

23 b. A Trial Memorandum setting forth a factual summary of the
24 government's case, a statement of the charges and the elements of each charge, an
25 estimate of the length of the government's case-in-chief, including anticipated cross-
26 examination, the names of witnesses the government intends to call, and a
27 discussion of relevant legal and evidentiary issues as applied to the facts of the
28 particular case. Counsel for the government shall attempt to obtain defense
counsel's agreement to the factual summary, statement of the charges, time estimate

1 for cross-examination of the government’s witnesses, and legal and evidentiary
2 issues.

3 2. On the Thursday prior to Trial, the government shall email to the CRD a
4 Word version of the Witness and Exhibit list.

5 3. Counsel shall arrive at the Courtroom no later than 8:30 a.m. on the first
6 day of trial. Counsel for the government shall present the courtroom deputy clerk
7 (CRD) with the following documents on the first day of trial:

8 a. Three copies of the government’s witness list;

9 b. Three copies of the government’s exhibit list in the form specified in
10 Local Rule 16-5 (Civil);

11 c. One (1) bench book containing a copy of the indictment/information,
12 a copy of all exhibits that can be reproduced, and a copy of the witness list. Each
13 exhibit shall be tabbed with the exhibit number for easy referral;

14 d. All of the government’s exhibits, with official exhibit tags attached
15 and bearing the same number shown on the exhibit list. Exhibit tags may be
16 obtained from the receptionist in the Public Intake Section, located on the Main
17 Street level of the courthouse at 312 North Spring Street, Room G-19. Exhibits shall
18 be numbered 1, 2, 3, etc., NOT 1.1, 1.2, etc. If a “blow-up” is an enlargement of an
19 existing exhibit, it shall be designated with the number of the original exhibit
20 followed by an “A”; and

21 e. A USB/Thumb drive containing an electronic copy of the witness
22 list, all exhibits, jury instructions, and verdict form.

23 4. The Court orders that exhibits such as firearms, narcotics, etc., remain in
24 the custody of a law enforcement agent during the pendency of the trial. It shall be
25 the responsibility of the agent to produce any such items for court, secure them at
26 night, and guard them at all times while in the Courtroom.

27 5. Defense counsel need not deliver defense exhibits to the CRD on the first
28 day of trial, but defense counsel is responsible for affixing completed exhibit tags
with the case name and case number to all exhibits to be used in Defendant’s case.

1 6. Defense counsel shall provide a three-ring binder, if possible, tabbed with
2 numbers to correspond to the exhibits counsel expects to introduce. Defense counsel
3 shall provide the Court and government with a copy of defense exhibits as they are
4 introduced during trial.

5 7. Defense counsel shall provide the CRD and the court reporter with the
6 defense witness list and defense exhibit list.

7 8. A copy of the exhibit list with all admitted exhibits will be given to the jury
8 during deliberations. Government counsel and defense counsel shall review and
9 approve the exhibits and exhibit list with the CRD before the list is given to the jury.

10 9. If any counsel wishes to arrange for the use of additional equipment, such
11 as video monitors, overhead projectors, etc., counsel shall notify the CRD, no later
12 than 4:00 p.m. at least one week before trial, so that the necessary arrangements may
13 be made.

14 10. Counsel shall not attempt to display or use any charts, exhibits, or
15 enlargements of exhibits unless all counsel have agreed to their use or objections
16 have been heard and a ruling has been made by the Court.

17 11. On the day of jury selection, counsel shall appear at 8:30 a.m., and trial
18 will begin at 9:00 a.m. Thereafter, trial days are typically Tuesday through Friday,
19 9:00 a.m. to 4:30 p.m., with two fifteen-minute breaks during the morning and
20 afternoon sessions. The luncheon recess will begin at 12:00 p.m. and last until 1:00
21 p.m. If counsel contemplate that this schedule will be problematic due to the
22 unavailability of witnesses, counsel should provide details to the Court at the Status
23 Conference. The schedule may change depending upon the Court's availability.

24 12. Before trial begins, the Court will give counsel an opportunity to discuss
25 administrative matters and anticipated procedural or legal issues. Before trial begins,
26 and as soon as the information becomes available to counsel, counsel should advise
27 the Court of any concerns or accommodations that are requested for parties or
28 witnesses. During trial, if there are any matters to be discussed outside the presence

1 of the jury, counsel shall advise the CRD of the request. The Court discourages
2 sidebars during trial.

3 13. On the day of jury selection, the Court reserves the time from 8:30 a.m. to
4 9:00 a.m. to discuss legal and administrative matters. Jury selection will commence
5 promptly at 9:00 a.m. or as soon as jurors are available. Thereafter, legal and
6 administrative matters shall be addressed between 8:30 a.m. and 9:00 a.m. or
7 between 4:30 p.m. and 5:00 p.m. All counsel are urged to anticipate matters that
8 may need to be addressed outside of the presence of the jury and to raise them during
9 this period, during breaks, or at the end of the day. The Court does not make jurors
10 wait while counsel discuss matters that should have been addressed previously.
11 Counsel are urged to consider any unusual substantive or evidentiary issues that may
12 arise and to advise the Court of such issues. Short briefs addressing such disputed
13 issues are welcome.

14 14. Should counsel for the government wish to order transcripts, they shall
15 provide agency authorization to the court reporter at the time the request is made.

16 15. The Court uses an electronic jury evidence recording system (JERS) to
17 permit evidence admitted at the trial to be viewed electronically in the jury
18 deliberation room at the conclusion of trial. *See* JERS Information [JERS](#)

19 ATTORNEY INFORMATION

20 **D. JURY INSTRUCTIONS, VERDICT FORMS & QUESTIONNAIRES**

21 1. **No later than one week before trial**, counsel shall submit both general
22 and substantive jury instructions in the form described below. If possible, all
23 instructions should be taken from the Manual of Model Criminal Jury Instructions
24 for the Ninth Circuit (West Publishing, current edition). Counsel shall submit a
25 proposed verdict form with the jury instructions. Counsel shall submit a
26 USB/Thumb drive, compatible with Microsoft Word 2013, containing the proposed
27 instructions and a “clean” set of such instructions, as set forth below.

28 2. The parties must submit JOINT jury instructions and a JOINT proposed
verdict form. In order to produce these joint instructions, the parties shall meet and

1 confer sufficiently in advance of the required submission date, with the goal of
2 agreeing on instructions and verdict forms. Where the parties cannot agree, disputed
3 instructions shall be submitted one week before trial as follows: a) JOINT jury
4 instructions (those instructions agreed to by all parties), and b) DISPUTED jury
5 instructions (those instructions propounded by a party to which another party
6 objects). On a separate page following each disputed jury instruction, the party
7 opposing the instruction shall briefly state the basis for the objection, any authority
8 in support thereof. On the following page, the party proposing the disputed
9 instruction shall briefly state its response to the objection and any authority in
10 support of the instruction. Each requested jury instruction shall be numbered and set
11 forth in full on a separate page, citing the authority or source of the requested
12 instruction. If the parties dispute jury instruction regarding the same issue, and
13 propose an alternate instruction, the parties should place the instructions side by side
14 with the same number denoted “A” and “B” and include these instructions in the
15 government’s proposed disputed set of instructions. **Please follow the format**
16 **shown in the attached links:**

17 [Joint Proposed Jury Instructions](#)

18 [Disputed Proposed Jury Instructions \(Government Template\)](#)

19 [Disputed Proposed Jury Instructions \(Defendant’s Template\)](#)

20 3. Jury instructions should be modified as necessary to fit the facts of the case
21 (e.g., inserting names of defendant(s) to whom the instruction applies). Where
22 language appears in brackets in the model instruction, counsel shall select the
23 appropriate text and eliminate the inapplicable bracketed text. Where no applicable
24 Ninth Circuit model instruction is available, counsel are directed to use the
25 instructions from O’Malley, Grenig & Lee (formerly Devitt et al.), Federal Jury
26 Practice and Instructions (West Publishing Co., current edition).

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

a. The number of the instruction;

- b. A brief title of the instruction;
- c. The source of the instruction; and
- d. The page number of the instruction.

Please follow the format shown in the attached link for an example: [Jury Instructions Index Template](#)

5. One or more copies of the instructions will be given to the jury during deliberations in either hard copy or electronic format. Accordingly, on the diskette or USB device submitted with jury instructions, counsel shall include a “clean” set of all instructions, containing only the text of each instruction, set forth in full on each page, with the caption “Court’s Instruction No. ____” (eliminating titles, supporting authority, indication of party proposing, etc.). **Please follow the format shown in the attached links:**

[Joint Proposed Jury Instructions](#)

[Disputed Proposed Jury Instructions \(Government Template\)](#)

[Disputed Proposed Jury Instructions \(Defendant’s Template\)](#)

6. If counsel wish to submit a written questionnaire to prospective jurors, a motion shall be made in writing, with the proposed questionnaire attached, no later than eight weeks before the trial date. The Court does not routinely use questionnaires. Counsel should attempt to discuss this issue and reach a proposed agreement before submitting the motion to the Court.

7. At least one week before trial, each counsel must file with the CRD and serve on opposing counsel any proposed voir dire questions to be asked of prospective jurors. Counsel shall also file a Joint Statement of the Case, which the Court will read to prospective jurors prior to the commencement of voir dire. The statement shall not exceed one page. These documents should also be lodged in the electronic format as a Microsoft Word Document (.doc or .docx).

1 **E. INSTRUCTIONS GOVERNING PROCEDURE DURING TRIAL**

2 1. Counsel shall not refer to any witness—including a client—over 14 years
3 of age by his/her first name during trial.

4 2. Counsel shall not discuss the law or argue the case in opening statements.

5 3. Counsel shall not use objections for the purpose of making a speech,
6 recapitulating testimony, or attempting to guide the witness. When objecting,
7 counsel shall stand and state only the legal ground of the objection—e.g., hearsay,
8 irrelevant, or other permissible legal grounds. Counsel shall not argue an objection
9 before the jury. Requests to approach sidebar to argue an objection further should be
10 made sparingly and may not be granted.

11 4. Counsel shall not make facial expressions, nod, or shake their heads, or
12 comment or otherwise exhibit in any way any agreement, disagreement, or other
13 opinion or belief concerning the testimony of a witness. Counsel shall admonish
14 their clients and witnesses not to engage in such conduct.

15 5. Counsel should not talk to jurors at all, and should not talk to co-counsel,
16 opposing counsel, witnesses, or clients where the conversation may be overheard by
17 jurors. Each counsel should admonish counsel’s own clients and witnesses to avoid
18 such conduct. Counsel should not speak with courthouse personnel regarding the
19 trial, jury deliberations, or where the jury stands. Each counsel should admonish
20 counsel’s clients, witnesses, and agents not to engage in such conduct. If any team
21 should inadvertently become aware of jury information, including where the jury
22 stands during deliberations, such information shall not be repeated to anyone without
23 permission of the Court. The parties should immediately notify the Court of such
24 disclosure.

25 6. Counsel shall question witnesses from the lectern. Counsel shall not
26 approach the witness stand or enter the well without the Court’s permission, and
27 counsel shall return to the lectern when counsel’s purpose has been accomplished.

28 7. Counsel should speak clearly when questioning witnesses, making
objections, or arguing.

1 8. No document shall be placed before a witness unless a copy has been
2 provided to the Court. Counsel may consider such devices as overhead projectors,
3 jury notebooks for admitted exhibits, or enlargements of important exhibits. The
4 Court has a Doar presenter and other equipment available for use during trial.
5 Telephone the CRD if you wish to visit when the Court is not in session to practice
6 using the equipment. The Court does not permit exhibits to be “published” by
7 passing them up and down the jury box. Exhibits may be displayed using the screen
8 in the Courtroom, but only if they have been admitted.

9 9. Water will be provided at counsel table. Water cups are not to be brought
10 to the lectern. No other beverages are permitted in the Courtroom. Food is not
11 permitted in the Courtroom.

12 10. Counsel shall rise when addressing the Court. In jury trials, counsel and
13 the defendant shall rise when the jury enters or leaves the Courtroom. Special
14 procedures or exceptions may apply when the defendant is in custody or restrained.

15 11. In trial, all remarks shall be addressed to the Court. Counsel shall not
16 directly address the CRD, the court reporter, or opposing counsel. All requests for
17 re-reading of questions or answers, or to have an exhibit placed in front of a witness,
18 shall be addressed to the Court.

19 12. Counsel should not offer a stipulation without having conferred with
20 opposing counsel and having reached an agreement. Any stipulation of fact will
21 require defendant’s personal concurrence and shall be submitted to the Court in
22 writing for approval. A proposed stipulation should be explained to defendant in
23 advance.

24 13. While the Court is in session, counsel, including anyone sitting at counsel
25 table, shall not leave counsel table to confer with investigators, secretaries, or
26 witnesses unless permission is granted in advance.

27 14. When a party has more than one lawyer, only one lawyer may conduct the
28 examination of a given witness, and only that same lawyer may assert or oppose
objections during the testimony of that witness.

1 15. If a witness was on the witness stand at a recess or adjournment, counsel
2 who called the witness shall ensure the witness is back on the witness stand and
3 ready to proceed when court resumes.

4 16. Counsel are directed to have witnesses available throughout the court day.
5 If no witnesses are available and there is more than a brief delay, the Court may
6 deem counsel to have rested.

7 17. Counsel should not walk out of the courtroom while the Court is in
8 session without permission.

9 18. The Court attempts to cooperate with expert witnesses and other
10 professionals and will, except in extraordinary circumstances, accommodate them by
11 permitting them to be called out of sequence. Counsel are urged to anticipate any
12 such possibility and to discuss it with opposing counsel. If there is an objection,
13 counsel shall confer with the Court in advance.

14 18. Counsel must notify the CRD in advance if any witness should be
15 accommodated based on the Americans with Disabilities Act or for other reasons.

16 19. Counsel are advised to be on time, as the Court makes every effort to start
17 promptly.

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19 **IT IS SO ORDERED.**

20 Dated:



HONORABLE BEVERLY REID O'CONNELL
UNITED STATES DISTRICT COURT JUDGE

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