

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 **STANDING ORDER FOR CIVIL TRIALS BEFORE JUDGE VINCE CHHABRIA**
4 **FINAL PRETRIAL CONFERENCE**

5 The final pretrial conference will be held roughly two weeks before the start of trial. Lead
6 trial counsel for each party shall attend. The parties should meet and confer at least 28 days before
7 the final pretrial conference about the matters discussed below.

8 **PRETRIAL FILINGS**

9 No later than 10 days before the final pretrial conference, the parties shall file the
10 documents listed in subsections A-G below (i.e. the proposed joint trial order, proposed jury
11 instructions, proposed voir dire questions, trial briefs, verdict forms, statement of the case, and any
12 motions in limine).

13 Two three-hole punched courtesy copies of these documents shall be delivered to the
14 Clerk's office by noon the day after filing. For motions in limine, the moving party is responsible
15 for delivering courtesy copies of all motion papers (both those in support and those in opposition).

16 In addition, no later than 10 days before the final pretrial conference, the Joint Proposed
17 Final Pretrial Order, jury instructions, voir dire, and verdict form(s) shall be submitted in Word
18 format via e-mail to ycpo@cand.uscourts.gov.

19 **A. Proposed Joint Pretrial Order**

20 Instead of a Joint Pretrial Conference Statement, the parties shall file a Joint Proposed
21 Final Pretrial Order that contains the following:

- 22 1. a brief description of all claims and defenses that remain to be decided (including
23 whether any issues are for the Court to decide rather than the jury);
24 2. a statement of all relief sought;
25 3. a statement of all relevant stipulated or undisputed facts;
26 4. a description of the efforts the parties have made to settle the case and a statement
27 about whether the parties believe a settlement conference with a magistrate judge could
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- be fruitful;
5. a list of all witnesses (other than for impeachment or rebuttal) likely to be called at trial by each side, a brief statement describing the substance of the testimony to be given by each witness, and the estimated number of minutes or hours the testimony will take (direct and cross);
 6. an estimate of the total length of the trial; and
 7. as an appendix to the proposed order, a joint exhibit list in tabular form with the following columns: (1) exhibit number; (2) name or brief description of the exhibit; (3) the exhibit's purpose and sponsoring witness; (4) a brief description of any objections to the admissibility of the exhibit or, alternatively, a statement that the parties have stipulated to the exhibit's admissibility; (5) a brief response to any objections; and (6) a blank column for the Court's use.

The Proposed Final Pretrial Order must be signed by the parties and must include the following recitation directly above the signature line:

The foregoing admissions having been made by the parties, and the parties having specified the foregoing issues of fact and law remaining to be litigated, this order shall supplement the pleadings and govern the course of trial of this cause, unless modified to prevent manifest injustice.

B. Proposed Jury Instructions

The parties shall file a joint set of proposed jury instructions, arranged in the order the parties propose the Court give the instructions.

The parties should use the Ninth Circuit Model Jury Instructions where possible. Any modifications to a form instruction must be plainly identified.

The parties should include proposed text for all instructions, even for any form preliminary instructions, general instructions, or concluding instructions on which they agree.

Instructions upon which the parties agree shall be identified as “Stipulated Instruction No. _____ Re _____,” with the blanks filled in as appropriate.

If the parties disagree on an instruction, each party's proposed version of the disputed

1 instruction shall be provided and identified as “Disputed Instruction No. ____ Re _____
2 Offered by _____,” with the blanks filled in as appropriate. All proposed versions
3 of the same instruction shall bear the same number. Following each set of proposed versions of a
4 disputed instruction, each party shall explain, in no more than one page, why the Court should
5 give that party's proposed instruction.

6 If the parties dispute whether a particular instruction should be given at all, the proponent
7 of the instruction shall provide proposed language, identified as “Disputed Instruction No. ____
8 Re _____ Offered by _____,” with the blanks filled in as appropriate.
9 Following the disputed instruction, each party shall explain, in no more than one page, why the
10 instruction should or should not be given.

11 **C. Voir Dire Questions**

12 The parties should file a joint set of proposed voir dire questions. If the parties disagree on
13 any proposed question, such disagreement should be noted, and each party should provide its
14 proposed version of the question (or state that in its view, the question should not be asked at all).
15 Note that during voir dire the Court will ask the jurors to respond to a set of questions similar to
16 those contained in the attached questionnaire, so those questions need not be included in the
17 parties' set of proposed questions.

18 **D. Trial Briefs**

19 The parties shall file trial briefs of no longer than seven pages.

20 **E. Verdict Forms**

21 The parties shall file either a joint proposed verdict form, or, if they disagree, separate
22 proposed verdict forms.

23 **F. Statement of the Case**

24 The parties shall jointly file a proposed simplified Statement of the Case to be read to the
25 jury during voir dire. Unless the case is extremely complex, this statement should not exceed one
26 page (double-spaced).

27 **G. Motions in Limine.**

28 The parties are encouraged to resolve as many trial issues by stipulation as possible.

1 Each party is limited to bringing five motions in limine. Each motion should address a
2 single, separate topic. Each motion should be clearly identified as " _____'s Motion in
3 Limine No. __ Re: _____."

4 The memoranda in support of and in opposition to each motion in limine shall be no longer
5 than five pages. The moving party shall not file a reply brief.

6 Motions in limine shall be submitted as follows: At least 21 calendar days before the final
7 pretrial conference, the moving party shall serve, but not file, the opening brief. At least 14
8 calendar days before the conference, the responding party shall serve, but not file, the opposition.
9 Once the moving party has received the opposition, that party should collate each motion with its
10 opposition, back-to-back, and then file the paired sets at least 10 calendar days before the final
11 pretrial conference.

12 **EXHIBITS**

13 **A. Original Trial Exhibits**

14 The parties must jointly prepare a single set of all trial exhibits that will be the official
15 record set to be used with the witnesses at trial and, if applicable, on appeal.

16 No later than 5 days before trial, the parties shall deposit this set of trial exhibits with the
17 Clerk's office. The exhibits shall be provided in three-ring binders, with each exhibit tagged,
18 three-hole-punched, and separated with a label divider identifying the exhibit number. A spine
19 label on each binder should be marked "Original" and indicate the numbers of the exhibits
20 contained therein.

21 Exhibits shall be sequentially numbered (not lettered). If possible, parties shall use the
22 same number to mark an exhibit for trial as that used in depositions. Blocks of numbers should be
23 assigned to fit the need of the case (e.g., Plaintiff has 1 to 100, Defendant A has 101 to 200,
24 Defendant B has 201 to 300, etc.). On the first day of trial, the parties shall inform the Courtroom
25 Deputy which exhibits are offered by which party.

26 A single exhibit should be marked only once. If the plaintiff has marked an exhibit, the
27 defendant should not re-mark the same document with another number. Different versions of the
28 same document (e.g. versions of a document with and without additional handwriting), however,

1 must be treated as different exhibits and marked with different numbers.

2 To avoid any party claiming “ownership” of an exhibit, all exhibits shall be marked and
3 referred to as “Trial Exhibit No. _____,” not as “Plaintiff’s Exhibit” or “Defendant’s Exhibit.”

4 Each exhibit shall be tagged as follows:

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 100

Case No. _____

Date Entered _____

By _____
Deputy Clerk

The Court prefers but does not require that the exhibit tags be in a color that will stand out (yet still allow for photocopying).

Counsel should fill in the exhibit and case numbers, but leave the other spaces ("Date Entered" and "By") blank.

Exhibit tags shall be placed on or near the lower right-hand corner of each exhibit, unless the exhibit is a photograph, in which case the tag shall be placed on the back.

B. Copy Sets of Exhibits

In addition to the official record exhibits, two sets of binders containing copies of the exhibits must be provided to the Clerk's office five days before trial. One should be marked as “Chambers Copies” and the other as “Clerk’s Copies.” Each exhibit must be separated with a label divider identifying the exhibit number. Exhibit tags are unnecessary (but permitted) for the copy sets. Each binder should bear a spine label indicating the numbers of the exhibits contained therein.

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C. Treatment of Exhibits During Trial.

Counsel must consult with each other and with the Courtroom Deputy at the end of each trial day about which exhibits are in evidence and any limitations thereon. If there are any disagreements, counsel should bring them promptly to the Court’s attention.

The parties must provide agreed-upon written transcripts of the content of any audio or video exhibit to be used at trial. Failure to provide an agreed-upon transcript by the day an exhibit is offered will preclude the exhibit's admission.

At the close of evidence, before closing arguments, counsel must confer with the Courtroom Deputy to make sure the exhibits in evidence are in good order.

Exhibit notebooks for the jury will not be permitted without prior permission from the Court.

Publication must be by poster blow-up, overhead projection, or such other method as is allowed in the circumstances. It is permissible to highlight, circle, or underscore in the enlargements as long as it is clear that it was not on the original.

Upon the conclusion of the trial, each party shall retain a full set of exhibits through the appellate process. It is each party's responsibility to make arrangements with the Clerk of the Court to file the record on appeal.

DEPOSITION AND DISCOVERY DESIGNATIONS

Unless otherwise ordered, no later than 5 days before trial begins, the parties shall jointly file all excerpts of deposition testimony or other discovery to be offered by any party at trial for any reason other than impeachment or rebuttal. Each party shall designate the excerpts of any deposition testimony or other discovery it wishes to offer, as well as any counter-designations or objections to the deposition testimony or discovery offered by any other party.

PRETRIAL ARRANGEMENTS

Should a daily transcript and/or real-time reporting be desired, the parties shall make arrangements with Debra Campbell, Supervisor of the Court Reporting Services, at (415) 522-2079, at least 14 days before the trial date.

Prior to the start of trial, the parties must provide the Court Reporter a jointly-created list

1 of names and places as well as any uncommon terms or acronyms that are likely to come up
2 during the trial.

3 The parties should contact the Courtroom Deputy, Kristen Melen, at (415) 522-4173, to
4 discuss any questions or issues about the layout of the courtroom. Parties must contact Ms. Melen
5 at least seven days prior to trial.

6 The Court provides no equipment other than an easel. During trial, however, counsel may
7 wish to use overhead projectors, laser-disk/computer graphics, poster blow-ups or models. Such
8 equipment must be provided by the parties. Equipment should be shared by all counsel to the
9 maximum extent possible. The United States Marshal requires a court order to allow equipment
10 into the courthouse. To request such an order, the parties should contact the Courtroom Deputy no
11 later than 1 week before trial. For electronic equipment, parties should be prepared to maintain the
12 equipment or have a technician handy at all times. The parties shall tape extension cords to the
13 carpet for safety.

14 **SCHEDULING**

15 Trial will be conducted from 8:30 a.m. to roughly 2:00 p.m. Counsel must arrive by 8:00
16 a.m. each day, or earlier if directed by the Court, to discuss any matters that need to be heard
17 outside of the presence of the jury. The jury will be called at 8:30 a.m.

18 Unless the Court directs otherwise, trials will begin on Mondays and will not take place on
19 Thursdays, which will be dark days.

20 **THE JURY**

21 In civil cases, there are no alternate jurors, and the jury is selected as follows: Eighteen to
22 twenty jurors are called to fill the jury box and the row in front of the bar, and are given numbers.
23 The remaining potential jurors will be seated in the public benches. Hardship excuses will usually
24 be considered at this point. The Court will then ask questions of those in the box and in front of
25 the bar. Counsel may then conduct a limited voir dire. Challenges for cause will then be
26 addressed outside of the presence of the potential jurors. The Court will consider whether to fill in
27 the seats of the stricken jurors. If so, questions will be asked of the additional jurors and cause
28 motions for the new jurors will be considered. After a short recess, each side may exercise its

1 allotment of peremptory challenges outside of the presence of the potential jurors. The eight
2 potential jurors (or such other number as will constitute the jury) surviving the challenge process
3 with the lowest numbers become the final jury. For example, if the plaintiff strikes 1, 5, and 7 and
4 the defendant strikes 2, 4, and 9, then 3, 6, 8, 10, 11, 12, 13, and 14 become the final jury. If more
5 (or fewer) than eight jurors are to be seated, then the starting number will be adjusted. Once jury
6 selection is completed, the jurors' names will be read again, and they will be seated in the jury box
7 and sworn. The Court may alter this procedure in its discretion and after consultation with the
8 parties.

9 Jury selection will typically occur on the Wednesday prior to trial beginning the following
10 Monday.

11 **OBJECTIONS**

12 In making objections counsel should state only the legal grounds for the objection and
13 should withhold all further comment or argument unless elaboration is requested by the Court.

14 **WITNESSES**

15 At the close of each trial day, counsel shall exchange a list of witnesses for the next two
16 full court days and the exhibits that will be used during direct examination (other than for
17 impeachment of an adverse witness). Within 24 hours of receiving such notice, opposing counsel
18 shall provide any objections to such exhibits and shall provide a list of all exhibits to be used with
19 the same witness on cross-examination (other than for impeachment). The first notice shall be
20 exchanged 48 hours prior to the first day of trial. All such notices shall be provided in writing.

21 At the start of each trial day, counsel shall alert the Court to any objections to the witnesses
22 or evidence planned for the day, which the Court will address before the jury comes in.

23 **CHARGING CONFERENCE**

24 As the trial progresses and the evidence is heard, the Court will fashion a comprehensive
25 set of jury instructions to cover all issues actually being tried. Prior to the close of the evidence,
26 the Court will provide a draft final charge to the parties. After a reasonable period for review, one
27 or more charging conferences will be held at which each party may object to any passage, ask for
28 modifications, or ask for additions. Any previous instruction request must be renewed specifically

1 at the conference or it will be deemed waived.

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3 **FINDINGS OF FACT AND CONCLUSIONS OF LAW (FOR BENCH TRIALS)**

4 In non-jury cases, no later than 5 days after the close of evidence, each party shall file
5 proposed Findings of Fact and Conclusions of Law on all material issues. All factual findings
6 must be supported by citations to all pertinent portions of the record. If the citation is to witness
7 testimony and a rough or final transcript is not yet available, the citation can simply be to the date
8 of the testimony. Proposed Findings shall be brief, written in plain English, and free of pejorative
9 language. In addition to being filed, the proposed Findings must be emailed to the Court in Word
10 format.

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12 **IT IS SO ORDERED.**

13 Dated: May 4, 2015

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Vince Chhabria
United States District Judge

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Appendix A

JUROR QUESTIONNAIRE
(Civil Cases)

This form will assist the judge and the lawyers in selecting a jury and will save time for them and for you. You do not need to fill out this form, but please be ready to answer each question as completely as possible when your turn comes. Thank you for your cooperation.

1. What is your name?
2. How old are you?
3. What city do you live in?
4. If you have lived there for fewer than five years, where did you live before?
5. Where were you born?
6. Do you rent or own your own home?
7. What is your occupation and how long have you worked in it? (If you are retired, please describe your main occupation before you retired).
8. Who is your employer? (Or, if you are retired, who was your employer?)
9. Have you held your current job for fewer than five years? If so, please describe your previous job.
10. Are there any other adults (besides you) who live in your household? If so, what are their occupations?
11. Do you have children? If so, please state their ages. If they are employed, please state their occupations.
12. Please describe your educational background:

Highest grade completed or degree received?

Please describe all vocational schools, colleges, and/or graduate or professional schools you have attended; your major area of study at each school; and, if applicable, the degree you received.
13. Do you have any difficulty understanding or reading the English language?
14. Have you ever served in the military? If so, in what capacity?

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15. Have you ever served on a jury before?

16. If so, how many times have you served on a jury?

For each time you've previously served on a jury please indicate:

- (a) if it was in federal court or state/county court;
- (b) approximately when your service took place;
- (c) if it was a civil or criminal trial; and
- (d) if the jury reached a verdict (but without saying what that verdict was).