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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

)	CASE NO. CR
Plaintiff(s),)	
v.)	DISCOVERY AND TRIAL ORDER IN
)	CRIMINAL CASES BEFORE JUDGE
Defendant(s).)	S. JAMES OTERO, UNITED STATES
)	DISTRICT JUDGE

**READ THIS ORDER CAREFULLY.
IT CONTROLS THIS CASE AND
DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

The Clerk is ordered to serve a copy of this Order personally or by mail on all counsel for parties to this action. This case has been assigned to the calendar of The Honorable S. James Otero. To obviate unnecessary motions for discovery in criminal actions, proceedings, matters, or cases assigned to the undersigned Court for trial, the Court notes the following (unless the court orders otherwise):

- Court Hours:** Criminal motions are heard on Mondays at 10:00 a.m. (If Monday is a holiday, the next motion date is Tuesday following the Monday holiday.) It is not necessary to clear a motion date. Motions *in limine* are heard on the **FIRST DAY OF TRIAL.**

- 1 **2. Location:** Judge Otero's courtroom is located in Courtroom 1, United States District Court,
2 312 North Spring Street, 2nd Floor, Los Angeles, California 90012.
- 3 **3. Telephone Inquiries:** Telephone inquiries regarding the status of a motion, stipulation or
4 proposed order will **not** be returned.
- 5 a. Counsel may, however, sign-up for Pacer access to monitor the clerk's database.
6 See www.cacd.uscourts.gov > General Information > Pacer Access.
- 7 b. Counsel are referred to the clerk's website, at www.cacd.uscourts.gov > Judges'
8 Requirements > Judges' Procedures and Schedules > Hon. S. James Otero, for
9 further information regarding the Court's preferences.
- 10 c. **Judge Otero's generic e-mail address is sjo_chambers@cacd.uscourts.gov.**
- 11 **4. Communication with Chambers:** If counsel call to request information that can be
12 obtained from the Court's 24-hour automated calling system or website at
13 www.cacd.uscourts.gov, such calls will not be returned.
- 14 a. For the 24-hour automated calling system, please call the appropriate number
15 below:
- 16 i. Western Division at Los Angeles (213) 894-1565;
17 ii. Eastern Division at Riverside (951) 328-4450; or
18 iii. Southern Division at Santa Ana (714) 338-4750.
- 19 b. Counsel may access the Court's website for local rules, filing procedures, judges'
20 procedures and schedules, calendars, forms, and other information. Counsel are
21 not to initiate telephone calls to Judge Otero's chambers, law clerks or judicial
22 assistant. However, if counsel need to contact the Courtroom Deputy Clerk, Victor
23 Cruz, Mr. Cruz may be reached at (213) 894-1796 or via e-mail at
24 victor_cruz@cacd.uscourts.gov.
- 25 c. Counsel are ordered to list their facsimile transmission number along with their
26 address, telephone number, and e-mail address on all papers submitted to the
27 Court in order to facilitate communication by the Court.
- 28

- 1 **5. Calendar Conflicts:** If there is a calendar conflict, counsel are to inform the Courtroom
2 Deputy Clerk prior to the date of the conflict and are to follow the Local Rules ("L.R.") and
3 Federal Rules of Criminal Procedure ("Fed. R. Crim. P.").
- 4 **6. Transcripts:** To order a transcript, counsel are to call the Court Reporter's Office at
5 (213) 894-3015. The Court uses a court reporter, Carol Zurborg, who may be reached at
6 (213) 894-3539.
- 7 **7. Mandatory Chambers Copies:** Mandatory chambers copies are required for e-filed
8 documents. One mandatory chambers copy must be delivered to the chambers copy box
9 outside of Courtroom 1 on the second floor of the Spring Street Courthouse, United States
10 District Court, 312 North Spring Street, Los Angeles, California 90012 by 12:00 p.m. (PST)
11 the day after the document is e-filed. The mandatory chambers copy must be blue-backed
12 and two-hole punched as if it were a manual filing, and the caption page must indicate the
13 date and time the document was e-filed (place date and time below title on the caption
14 page). **All original filings not subject to the e-filing requirements are to be filed at the**
15 **filing window for Criminal Intake (Edward R. Roybal Federal Building and**
16 **Courthouse, Room 178), NOT in chambers and not in the courtroom.**
- 17 **8. Filing Under Seal:** Judge Otero is participating in the Central District of California's Pilot
18 Project for the Electronic Submission and Filing of Under Seal Documents. The Pilot
19 Project applies to both civil and criminal cases. The parties shall make every effort to limit
20 the number and volume of under seal filings. In most circumstances, parties should seek
21 to file under seal only the specific exhibits or documents for which there is a valid basis for
22 filing under seal. When seeking the Court's approval for an under seal filing, the submitting
23 party shall electronically file an Ex Parte Application to Seal and proposed Order through
24 the Court's CM/ECF System pursuant to Local Criminal Rule 49-1. The Ex Parte
25 Application and proposed Order shall not contain the information the party seeks to file
26 under seal. The party seeking permission to file under seal shall submit to the Court's
27 generic chambers e-mail address (sjo_chambers@cacd.uscourts.gov) PDF versions of the
28 Ex Parte Application, proposed Order, Declaration in Support of Ex Parte Application

1 stating the reason for the under seal filing, and the document(s) and/or exhibit(s) the party
2 seeks to file under seal. The party shall also submit a Word or WordPerfect version of the
3 proposed Order to the generic chambers e-mail address. Unless otherwise ordered by the
4 Court, the submitting party shall deliver a Mandatory Chambers Copy of the Ex Parte
5 Application, proposed Order, Declaration in Support of Ex Parte Application, and the
6 document(s) and/or exhibit(s) the party seeks to file under seal to the Court's courtesy copy
7 box located outside chambers no later than 12:00 p.m. on the following business day. The
8 Pilot Project for the Electronic Submission and filing of Under Seal Documents does not
9 apply to in camera submissions. In camera submissions shall be filed at the filing window
10 for Criminal Intake (Edward R. Roybal Federal Building and Courthouse, Room 178).

11 9. **Discovery and Discovery Cut-Off:**

- 12 a. Counsel for the government and counsel for defendant shall comply promptly with
13 discovery and notice pursuant to Fed. R. Crim. P. 12, 12.1, 12.2, 12.3, 12.4, 15,
14 and 16.
- 15 b. Discovery by Defendant: Within seven (7) days of the trial setting of any criminal
16 action, proceeding, matter or case, the United States Attorney, or an Assistant
17 United States Attorney, and the defendant's attorney shall meet and confer, and
18 upon request of the attorney for the defendant, the government shall provide
19 defendant's attorney with:
- 20 i. **Statement of Defendant:** The government shall disclose to defendant's
21 attorney its intent to use any statements or confessions made by the
22 defendant. If defendant questions the admissibility of such statement or
23 confession, the hearing required by *Jackson v. Denno*, 378 U.S. 368 (1964),
24 shall be held on the day of trial prior to the opening statements of counsel.
25 The government shall permit defendant's attorney to inspect and copy or
26 photograph any relevant written or recorded statements or confessions made
27 by the defendant, or copies thereof, within the possession, custody or control
28 of the government, the existence of which is known, or may become known,

1 to the attorney for the government. The government shall advise defendant's
2 attorney of the substance of an oral statement available to the government
3 in response to any interrogation by an employee or agent of any
4 governmental agency, local, state, or federal, or private source involved in
5 the investigation or reporting of the offense(s) charged in the
6 information/indictment.

7 ii. **Reports or Examinations and Tests:** The government shall permit
8 defendant's attorney to inspect and copy or photograph any relevant results
9 or reports of physical or mental examinations, and of specific tests or
10 experiments made in connection with the case, or copies thereof, within the
11 possession, custody or control of the government, the existence of which is
12 known, or may become known, to the attorney for the government and which
13 are material to the defendant's case.

14 iii. **Testimony Before the Grand Jury:** The government shall permit
15 defendant's attorney to inspect and copy or photograph any relevant
16 recorded testimony of the defendant before a grand jury.

17 iv. **Documents and Tangible Objects:** The government shall permit
18 defendant's attorney to inspect and copy or photograph books, papers,
19 documents, tangible objects, buildings or places which are the property of
20 the defendant and which are within the possession, custody or control of the
21 government.

22 v. **Prior Record:** The government shall make known to defendant's attorney
23 the defendant's prior criminal record in the possession of the attorney for the
24 government.

25 vi. **Evidence Favorable to the Defendant:** The government shall permit
26 defendant's attorney to inspect, copy or photograph any evidence favorable
27 to the defendant.
28

- 1 vii. **Electronic Surveillance:** The government shall advise defendant’s attorney
2 of the existence or non-existence of any evidence in the possession of the
3 government obtained as the result of any electronic surveillance or wiretap.
- 4 viii. **Informers:** The government shall advise defendant’s attorney of the
5 contemplated use of informer testimony (fact of informer only, not name or
6 testimony).
- 7 ix. **Brady Material:** The government shall permit defendant’s attorney to
8 inspect and copy or photograph all material within the purview of
9 *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S.
10 150 (1972).
- 11 x. **Expert Witnesses:** The government shall permit defendant’s attorney to
12 inspect and copy or photograph a written resume of the qualifications of any
13 expert witness which the government intends to call in the case in chief
14 together with a statement of the substance of such expert’s expected
15 testimony.
- 16 c. If, in the judgment of the government, it would not be in the interest of justice to
17 make any one or more disclosures set forth in paragraph (b) and requested by
18 defendant’s counsel, disclosure may be declined, and defense counsel is advised
19 to immediately bring a formal noticed motion to the Court.
- 20 d. **Discovery by Government:**
- 21 i. **Expert Witnesses:** The defendant’s attorney shall at the conference
22 disclose to the government a written resume of the qualifications of any
23 expert witness which the defendant intends to call in his case in chief
24 together with a statement of the substance of such expert’s expected
25 testimony.
- 26 ii. **Scientific or Medical Reports:** The defendant’s attorney shall at the
27 conference disclose to the government the results (original or a copy) of any
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1 scientific or medical report which defendant intends to use in the
2 presentation of his case in chief.

3 iii. **Defense of Alibi:** The government shall at the conference notify defendant
4 in writing of the specific time, date and place at which the offense/offenses
5 charged in the information/indictment is/are alleged to have been committed.

6 (1) Defendant shall in writing, within three (3) days thereafter, notify the
7 government of the specific place at which he claims to have been at
8 the time of the alleged offense/offenses to which a defense of alibi will
9 be addressed and the names and addresses of the witnesses upon
10 whom he intends to establish such alibi.

11 (2) Within five (5) days thereafter or such other time as the Court may
12 direct, the government shall inform the defendant of the names and
13 addresses of the witnesses upon whom the government intends to
14 establish defendant's presence at the scene of the alleged
15 offense/offenses.

16 (3) Failure to comply with the time limits set forth herein shall invoke the
17 sanction provided in Fed. R. Crim. P. 12.1(e).

18 iv. **Defense Based on Mental Condition:** The defendant's attorney shall at the
19 conference disclose to the government in writing that the defendant will rely
20 upon the defense of insanity at the time of the alleged crime, or of mental
21 disease, defect or other condition bearing upon whether he had the mental
22 state required for the offense/offenses charged.

23 (1) Notice of such claimed defense shall also be filed with the Clerk.

24 (2) Failure to give such notification in writing shall involve the sanctions
25 set forth in Fed. R. Crim. P. 12.2(d).

26 v. **Entrapment:** The defendant's attorney shall at the conference disclose to
27 the government that defendant will rely on the defense of the procurement
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1 of government employees or agents to commit the offense/offenses charged
2 in the information/indictment.

3 e. **Report of Conference:** Within five (5) days of the completion of the conference
4 required herein, the parties shall file a Joint Statement:

- 5 i. That the prescribed conference was held;
- 6 ii. The date of the said conference;
- 7 iii. The name of the Assistant United States Attorney with whom the conference
8 was held;
- 9 iv. The contested matters of discovery and inspection and any additional
10 discovery or inspection desired by the defendant;
- 11 v. The fact of disclosure of all material favorable to the defendant or the
12 absence thereof within the meaning of *Brady v. Maryland*, 373 U.S. 83
13 (1963) and related cases;
- 14 vi. The resolution of foundational objections to documentary evidence proposed
15 to be used by both parties (except for the purposes of impeachment);
- 16 vii. The resolution of chain of custody (where in issue); and
- 17 viii. The resolution of the admissibility of scientific analysis without need of calling
18 the expert at the trial.

19 f. **Continuing Duty of Counsel:** Any duty of disclosure and discovery set forth herein
20 is a continuing one.

21 g. **Objections to Evidence:** Unless specific objection to the evidentiary foundation
22 of any document, photograph, book, paper, or other tangible object disclosed by the
23 required conference of counsel is made in the report to the Court hereafter required
24 to be filed, it shall be deemed that the requirement of foundation (including chain of
25 custody) for the introduction of such evidence at trial is waived.

- 26 i. If a report produced at the required conference of counsel contains the result
27 of a scientific test, performed by a competent expert witness (as shown by
28 a resume) is not objected to in the report to the Court hereafter required to

1 be filed, an objection to the admissibility of said report in lieu of the testimony
2 of the expert performing such scientific test shall be deemed to have been
3 waived.

4 h. This order is not intended to preclude discovery by the government pursuant to Fed.
5 R. Crim. P 16(c).

6 i. It shall be the joint duty of counsel for the defendant and the government to
7 schedule and hold the conference contemplated herein.

8 i. The government shall assure time and availability for such conference within
9 the time herein provided unless the discovery conference is waived in writing
10 by defendant and his counsel and such waiver is filed with the Court.

11 ii. Counsel for defendant shall (1) have reviewed all the disclosures made and
12 received, and (2) had sufficient discussion with his/her client and the
13 government by the time of the first status conference with the Court to
14 enable counsel to meaningfully discuss with the Court at said status
15 conference the disposition and likelihood of trial of this case.

16 iii. The government shall be represented at all status conferences with the Court
17 by the Assistant United States Attorney who is assigned to the trial of the
18 case, and who is most knowledgeable about the aforesaid matters, as well
19 as any other matters scheduled for discussion with the Court at the status
20 conferences.

21 **10. Trial**

22 a. **Last Conference Prior to Trial:** Before trial commences, the Court will give
23 counsel an opportunity to discuss administrative matters and anticipated procedural
24 or legal problems. At that time, we will discuss *voir dire* procedures, *Batson*
25 objections, and any unusual factors. Counsel for the government shall bring to the
26 meeting the Attached Trial Witness Estimate Form which counsel for each party
27 shall have completed. In the event defendant's counsel has not provided estimates
28 for cross-examination, she or he will have to do so at the Last Conference.

- 1 b. Counsel shall arrive at the courtroom thirty (30) minutes before the scheduled trial
2 time on the first day of trial.
- 3 c. Defense counsel MUST present appropriate number of copies of exhibits for all
4 parties to the action.
- 5 d. Counsel for the government shall present the Courtroom Deputy Clerk with the
6 following documents on the first day of trial:
- 7 i. **Three (3) clean, un-filed copies** of the government’s witness list.
- 8 ii. **Three (3) clean, un-filed copies** of the government’s exhibit list in the form
9 specified in L.R. 16-6 (Civil).
- 10 iii. **All of the government’s exhibits**, with official exhibit tags attached and
11 bearing the same number shown on the exhibit list.
- 12 (1) Defendant’s counsel does not have to deliver his or her exhibits to the
13 Courtroom Deputy Clerk on the first day of trial; however, defendant’s
14 counsel is responsible for affixing completed exhibit tags with the
15 case name and case number to his or her exhibits which are intended
16 to be used in the defendant’s case.
- 17 (2) Exhibit tags can be obtained from the receptionist in the main Clerk’s
18 Office, located at 312 North Spring Street, Main Street FloorRoom
19 G-8.
- 20 (3) Exhibits shall be numbered 1, 2, 3, 4, etc., NOT 1.1, 1.50, etc.
21 Counsel for both (all) sides should agree on the range of numbers to
22 be assigned (e.g., Government exhibits to be 1-99, Defendant One to
23 be 100-199; Defendant Two 200-299, etc.) If a blow up is an
24 enlargement of an existing exhibit, it shall be designated with the
25 number of the original exhibit followed by an “A”.
- 26 (4) Counsel for the government should be aware that the Court will order
27 that exhibits such as firearms, narcotics, etc., remain in the custody
28 of the agent(s) during the pendency of the trial. The agent(s) will be

1 required to sign the appropriate form in order to take custody of such
2 exhibits. It shall be the responsibility of the agent(s) to produce said
3 items for the Court, secure them at night and guard them at all times
4 while in the courtroom.

5 iv. A **Bench Book** containing a copy of all exhibits that can be reproduced.

6 (1) Each exhibit shall be tabbed with the exhibit number for easy referral.
7 Defendant's counsel shall provide the Court with a copy of their
8 exhibits as they are introduced during trial.

9 v. **Exhibit List:** The exhibit list shall be e-mailed to the Courtroom Deputy
10 Clerk in Word or WordPerfect format. A copy of the exhibit list with all
11 admitted exhibits will be given to the jury during deliberations. Government
12 and defense counsel shall review and approve the exhibit list with the
13 Courtroom Deputy Clerk prior to it being given to the jury.

14 vi. **Witness List:** Counsel for the government shall submit a witness list listing
15 each witness. Counsel shall identify witnesses who will actually testify at
16 trial.

17 (1) **Trial Witness Estimate:** The witness list and summary must give
18 accurate time estimates for each witness to conduct direct, cross, re-
19 direct and re-cross. Counsel shall include a summary of the
20 testimony of each witness. If more than one witness is offered on the
21 same subject matter, the witness summary should be sufficiently
22 detailed to allow the Court to determine if the testimony is cumulative.

23 (2) The list shall be substantially in the form indicated by the following
24 example:

25 CASE: _____ TRIAL DATE: _____

26

Witness Name	Party Calling Witness and Estimate	Cross Examiner's Estimate	Description of Testimony	Comments

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1 vii. **Witness Statement:** The government shall file with the Court *in camera* a
2 list of the statements of all witnesses to be called by the government in its
3 case in chief.

4 (1) Such statement shall be filed at least ten (10) days before trial.

5 (2) Such statement shall include the name of the person taking the
6 statement.

7 (3) Failure to file such statement with the Court may, at the discretion of
8 the Court, preclude the presentation testimony of any witness whose
9 statement has been previously taken and available to the
10 government.

11 e. If counsel need to arrange for the installation of their own additional equipment,
12 such as a video monitor, overhead projector, etc., please refer to the Court's
13 website (www.cacd.uscourts.gov) or contact the Courtroom Technology Help Desk
14 at (213) 894-3061 in order to make any necessary arrangements.

15 f. Before trial commences, the Court will give counsel an opportunity to discuss
16 administrative matters and anticipated procedural or legal issues. During the trial,
17 if there are any matters counsel wish to discuss, counsel shall inform the Courtroom
18 Deputy Clerk.

19 g. The trial before the jury shall commence promptly at 8:30 a.m. or earlier at the
20 direction of the Court. Counsel are urged to anticipate matters which may need
21 discussion or hearing outside of the presence of the jury and to raise them during
22 this period, during breaks, or at the end of the day.

23 h. Counsel are ordered to e-mail courtesy copies of all trial documents to the
24 Courtroom Deputy Clerk.

25 **11. Joint Statement:** Counsel shall file their Joint Statement of the Case which the Court shall
26 read to all prospective jurors prior to the commencement of *voir dire*. The statement shall
27 not exceed one page. The Joint Statement is to be submitted no later than the
28 **WEDNESDAY OF THE WEEK PRIOR TO TRIAL.**

1 **12. Jury Instructions and Verdict Forms**

- 2 a. **Jury Instructions:** Counsel must submit proposed SUBSTANTIVE and GENERAL
3 instructions.
- 4 i. In those cases where a special verdict is desired, counsel shall submit a
5 proposed verdict form with the jury instructions.
- 6 b. The parties must submit **joint jury instructions** and a **joint proposed verdict form**
7 (if a special verdict is desired). In order to produce these joint instructions, the
8 parties shall meet and confer sufficiently in advance of the required submission date
9 with the goal of agreeing upon instructions and verdict forms. The jury instructions
10 shall be submitted as follows:
- 11 i. JOINT JURY INSTRUCTIONS, those instructions which are agreed to by all
12 parties; and
- 13 ii. DISPUTED JURY INSTRUCTIONS, those instructions propounded by a
14 party to which another party objects.
- 15 iii. Objections to disputed INSTRUCTIONS shall be filed no later than the
16 FRIDAY BEFORE the trial. Each requested jury instruction shall be
17 numbered and set forth in full on a separate page, citing the authority or
18 source of the requested instruction.
- 19 c. The Court prefers counsel to use the instructions from the MANUAL OF MODEL
20 CRIMINAL JURY INSTRUCTIONS FOR THE NINTH CIRCUIT, West Publishing,
21 latest edition. Another suggested source is FEDERAL JURY PRACTICE AND
22 INSTRUCTIONS, Devitt, Blackmar, Wolff and O'Malley, West Publishing Co., latest
23 edition.
- 24 d. The Court will send several copies of the jury instructions into the jury room for use
25 by the jury during deliberations. Accordingly, in addition to the filed copies, an extra
26 set of the proposed instructions shall be submitted to the Court with only the text of
27 an instruction on each page (i.e., no titles, supporting authority, indication of party
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proposing, etc.). This will be referred to as the "Jury Copy" of the instructions.
(Duplicates will be made by the Court.)

e. **Special Verdict:** If counsel seek a special verdict, counsel shall follow the procedure set forth in paragraphs b and c in order to formulate a Joint Proposed Verdict Form. Counsel shall submit the proposed verdict form with the proposed jury instructions.

f. An **Index Page** shall accompany all jury instructions that are submitted to the Court. The index shall indicate the following:

- i. The number of the instruction;
- ii. A brief title of the instruction;
- iii. The source of the instruction; and
- iv. The page number of the instruction.

For example:

<i>Number</i>	<i>Title</i>	<i>Source</i>	<i>Page Number</i>
1	Duty of the Jury	9th Cir. 1.01	5

13. Instructions Governing Procedure During Trial

- a. Criminal trials are held Monday through Friday from 8:30 a.m. to 11:30 a.m. and from 1:00 p.m. to 4:00 p.m.
- b. Opening statements, examination of witnesses, and closing arguments should be made from the lectern only.
- c. Counsel shall not refer to their clients or any witness by their first names during trial.
- d. Counsel shall not discuss the law or argue the case in opening statements.
- e. When objecting, counsel shall state only that counsel is objecting and the legal ground of the objection, e.g., hearsay, irrelevant, etc. Counsel shall *not* argue an objection before the jury.
- f. Counsel shall *not* approach the Courtroom Deputy Clerk or the witness box without the Court's permission.
- g. Counsel shall return to the lectern when his or her purpose has been accomplished.

- 1 h. Counsel shall not enter the well of the Court without the Court's permission.
- 2 i. Counsel shall rise when addressing the Court. In jury cases, please rise when the
- 3 jury enters or leaves the courtroom.
- 4 j. Counsel shall address all remarks to the Court.
- 5 k. Counsel shall not directly address the Courtroom Deputy Clerk, the reporter, or
- 6 opposing counsel.
- 7 l. If counsel wish to speak with opposing counsel, counsel shall ask permission to talk
- 8 to counsel **OFF THE RECORD**.
- 9 m. All requests for the re-reading of questions or answers or to have an exhibit placed
- 10 in front of a witness shall be addressed to the Court.
- 11 n. Counsel shall not make an offer of stipulation unless counsel has conferred with
- 12 opposing counsel and reached an agreement.
- 13 o. Any stipulation of fact will require the defendant's personal concurrence and shall
- 14 be submitted to the Court in writing for approval.
- 15 p. A proposed stipulation shall be explained to him or her in advance.
- 16 q. While the Court is in session, counsel shall not leave the counsel table to confer
- 17 with investigators, secretaries, or witnesses unless permission is granted in
- 18 advance.
- 19 r. When a party has more than one lawyer, only one may conduct the examination of
- 20 a given witness and only that same lawyer may handle objections during the
- 21 testimony of that witness.
- 22 s. If a witness was on the stand at a recess or adjournment, counsel shall have the
- 23 witness back on the stand and ready to proceed when Court resumes.
- 24 t. Counsel shall not run out of witnesses. If counsel is out of witnesses and there is
- 25 more than a brief delay, the Court may deem that counsel has rested.
- 26 u. The Court attempts to cooperate with doctors and other professional witnesses and
- 27 will, except in extraordinary circumstances, accommodate them by permitting them
- 28 to be out of sequence. Counsel should anticipate any such possibility and discuss

1 it with opposing counsel. If there is an objection, counsel shall confer with the Court
2 in advance.

3 v. Counsel are advised to be on time as the Court starts promptly.

4 w. Counsel should not by facial expression, nodding, or other conduct exhibit any
5 opinions, adverse or favorable, concerning any testimony which is being given by
6 a witness. Counsel should similarly admonish their own clients and witnesses to
7 avoid such conduct.

8 x. SPEAK UP when making an objection, the acoustics in the courtroom make it
9 difficult for all to hear an objection when it is being made.

10 y. ***Voir Dire***: At least four (4) court days prior to trial, each counsel shall file with the
11 Clerk and served on opposing counsel any special question requested to be put to
12 prospective jurors on *voir dire*. The parties need not submit requests for standard
13 *voir dire* questions, such as education, current occupation, marital status, prior jury
14 service, etc., but should include only proposed questions specifically tailored to the
15 parties and issues of the case.

16 **14. Motions and Motion Cut-Off Date**: Unless the Local Rules prescribe a different time for
17 filing a particular motion, all pretrial motions, except motions governed by Local Criminal
18 Rule 12-1, shall be filed and served not later than twenty-one (21) days before the trial and
19 set for hearing not later than the Monday eight (8) days prior to trial at 10:00 a.m., or
20 otherwise allowed by the Court. Motions *in limine* are heard on the first day of trial, unless
21 otherwise ordered by the Court. Counsel's estimate of the time required for presentation
22 of the motion must be set forth adjacent to the caption.

23 a. The party opposing the motion shall file a response not later than fourteen (14) days
24 before trial or not later than seven (7) days after service of the motion, whichever
25 is earlier, or as otherwise allowed by the Court. Responding counsel's estimate of
26 the time required for presentation of opposition of the motion must be set forth in
27 the caption of the responding papers.

28 b. All criminal law and motion matters shall be filed on the electronic filing system.

1 c. Memoranda of points and authorities in support of or in opposition to motions shall
2 not exceed twenty-five (25) pages. Replies shall not exceed twelve (12) pages.
3 Only in rare instances and for good cause shown will the Court grant an application
4 to extend page limitations. No supplemental brief shall be filed without proof of
5 leave of Court. Typeface shall comply with L.R. 11-3.1.1. (Civil). **NOTE:** If the
6 Times Roman font is used, the size must be no less than 14; if Courier is used, the
7 size must be no less than 12. Footnotes shall be in typeface no less than one size
8 smaller than text size and shall be used sparingly. Filings which do not conform to
9 the Local Rules and this Order will not be considered.

10 **15. Motions to Suppress:** Motions to Suppress must be filed thirty-five (35) days prior to the
11 trial date and set for hearing two (2) weeks prior to the trial date at 10:00 am.

12 **16. Sentencing Proceedings:** Sentencing proceedings are conducted pursuant to Fed. R.
13 Crim. P. 32(i) of the Federal Rules of Criminal Procedure and the Local Criminal Rules.
14 If any party wishes to present material to the Court related to the sentencing, such party
15 must file, or otherwise make available to, and serve opposing counsel/parties and the
16 assigned United States Probation Officer, such information or evidence no later than **two**
17 **(2) weeks** before the scheduled sentencing hearing. The foregoing notwithstanding, a
18 statement of each party's position concerning sentencing shall be filed, or otherwise made
19 available, and served no later than two (2) weeks before the sentencing hearing and the
20 proof of service shall reflect service on the Probation Officer. The Probation Officer must
21 be able to prepare and disclose any addendum that may be required in response to new
22 information and/or evidence and/or a party's sentencing position. Failure to timely file or
23 present and serve such information or evidence or statement of position may result in such
24 information not being considered by the Court in imposing a defendant's sentence.

25
26 If any item regarding pretrial or trial is not specifically addressed in this Order, the Local Rules and
27 Federal Rules of Criminal Procedure shall be observed.

1 The Court thanks counsel and the parties for their anticipated cooperation.

2

3 DATED:

S. JAMES OTERO
UNITED STATES DISTRICT JUDGE

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