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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PLAINTIFF'S NAME, *et al.*,
Plaintiff/s,
v.
DEFENDANT'S NAME, *et al.*,
Defendant/s.

Case No. 0:00-cv-00000-FLA (x)

**SCHEDULING AND TRIAL
ORDER FOR PATENT ACTIONS**

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1 **I. SCHEDULE**

2 The Scheduling Order governing this action is set forth in the Schedule of
3 Pretrial and Trial Dates chart below. The box in the upper right-hand corner of the
4 chart states whether the trial will be by jury or court. If the parties¹ seek to set
5 additional dates, they may file a request or, if they are in agreement, a Stipulation and
6 a Proposed Order.

7 The parties should refer to the court’s Standing Order for requirements
8 regarding specific motions, discovery, certain types of filings, courtesy copies,
9 emailing signature items to chambers, alternative dispute resolution, and other
10 matters pertaining to all cases. A copy of the court’s Standing Order is available at:
11 <http://www.cacd.uscourts.gov/honorable-fernando-l-aenlle-rocha>.

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¹ The term “parties” includes unrepresented parties as well as counsel for represented parties.

DISTRICT JUDGE FERNANDO L. AENLLE-ROCHA
SCHEDULE OF PRETRIAL AND TRIAL DATES

Trial and Final Pretrial Conference Dates	Court Order
Trial	_ at 8:15 a.m. <input checked="" type="checkbox"/> Jury Trial <input type="checkbox"/> Bench Trial Est. _ Days
Final Pretrial Conference ("FPTC") [L.R. 16], Hearing on Motions <i>in Limine</i>	_ at 1:30 p.m.
Event	Court Order
<u>Note</u> : Hearings shall be on Fridays at 1:30 p.m.	
Last Date to <u>Hear</u> Motion to Amend Pleadings or Add Parties [Friday]	
Deadline to Serve Infringement Contentions & Related Disclosures (Patent Rules 2(a), (b))	
Deadline to Serve Invalidity Contentions & Related Disclosures (Patent Rules 2(c), (d))	
Deadline to Exchange Proposed Terms for Construction (Patent Rule 3(a))	
Deadline to Exchange Preliminary Claim Constructions and Extrinsic Evidence (Patent Rule 3(b))	
Deadline to Serve Damages Contentions (Patent Rule 2(h))	
Deadline to Serve Responsive Damages Contentions (Patent Rule 2(i))	
Deadline to Complete Damages Contentions Meeting (Patent Rule 2(j))	
Deadline to Submit Joint Claim Construction and Prehearing Statement, and Expert Reports (Patent Rule 3(c))	
Claim Construction Discovery Cut-Off (Patent Rule 3(d))	
Deadline to File Opening Claim Construction Briefs (Patent Rule 3(e)(i))	
Deadline to File Responsive Claim Construction Briefs (Patent Rule 3(e)(ii))	
Deadline to File Reply Claim Construction Briefs (Patent Rule 3(e)(iii))	
Deadline to Serve Advice of Counsel Disclosures (Patent Rule 3(g))	To be set
Fact Discovery Cut-Off [Friday]	
Expert Disclosure (Initial)	
Expert Disclosure (Rebuttal)	
Expert Discovery Cut-Off	
Last Date to <u>Hear</u> Motions [Friday] <ul style="list-style-type: none"> • Rule 56 Motion due at least 5 weeks before hearing • Opposition due 2 weeks after Motion is filed • Reply due 1 week after Opposition is filed 	

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Deadline to Complete Settlement Conference [L.R. 16-15]	<input type="checkbox"/> 1. Magistrate Judge <input checked="" type="checkbox"/> 2. Court Mediation Panel <input type="checkbox"/> 3. Private Mediation
<u>Trial Filings</u> (first round) <ul style="list-style-type: none">• Motions <i>in Limine</i>• Memoranda of Contentions of Fact and Law [L.R. 16-4]• Witness Lists [L.R. 16-5]• Joint Exhibit List [L.R. 16-6.1]• Joint Status Report Regarding Settlement• Proposed Findings of Fact and Conclusions of Law [L.R. 52] (bench trial only)• Declarations containing Direct Testimony, if ordered (bench trial only)	
<u>Trial Filings</u> (second round) <ul style="list-style-type: none">• Oppositions to Motions <i>in Limine</i>• Joint Proposed Final Pretrial Conference Order [L.R. 16-7]• Joint Agreed Upon Proposed Jury Instructions (jury trial only)• Disputed Proposed Jury Instructions (jury trial only)• Joint Proposed Verdict Forms (jury trial only)• Joint Proposed Statement of the Case (jury trial only)• Proposed <i>Voir Dire</i> Questions, if any (jury trial only)• Evidentiary Objections to Declarations of Direct Testimony (bench trial only)	

1 **A. Incorporation of Patent Standing Order**

2 This Order incorporates by reference the Patent Standing Order and Rules
3 issued in this action. The parties should look to that Order for additional information
4 regarding dates and deadlines specific to patent litigation. As stated therein, the
5 parties’ Infringement and Invalidity Contentions may not be amended absent order of
6 the court upon a timely showing of good cause.

7 **B. Deadlines for Motions**

8 All motions must be noticed to be heard on or before their respective
9 deadlines. All unserved parties will be dismissed at the time of the Final Pretrial
10 Conference (“FPTC”) pursuant to Local Rule 16-8.1.

11 **C. Discovery Cut-Off and Discovery Disputes**

12 1. Discovery Cut-off: The cut-off date for discovery is not the date
13 by which discovery requests must be served; it is the date by which all discovery,
14 including all hearings on any related motions, must be completed. Thus, written
15 discovery must be served and depositions must begin sufficiently in advance of the
16 discovery cut-off date to permit the propounding party enough time to challenge
17 responses deemed to be deficient via motion practice. Given the requirements to
18 meet and confer and to give notice, a planned motion to compel must ordinarily be
19 discussed with the opposing party at least six (6) weeks before the cut-off.

20 2. Expert Discovery: All expert disclosures must be made in
21 writing. The parties should begin expert discovery shortly after the initial
22 designation of experts. The FPTC and trial dates will not be continued merely
23 because expert discovery is not completed. Failure to comply with these or any other
24 orders concerning expert discovery may result in the expert being excluded as a
25 witness.

26 3. Discovery Disputes: The parties must make every effort to
27 resolve discovery disputes in a courteous, reasonable, and professional manner.
28 Counsel must adhere to the court’s Civility and Professionalism Guidelines at:

1 [http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines)
2 [guidelines.](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines)

3 4. Discovery Motions: Discovery motions are handled by the
4 Magistrate Judge assigned to the case. Any motion challenging the adequacy of
5 discovery responses must be filed, served, and calendared sufficiently in advance of
6 the discovery cut-off date to permit the responses to be obtained before that date if
7 the motion is granted.

8 **D. Law and Motion and Local Rule 7-3**

9 The parties are required under Local Rule 7-3 to meet and confer to attempt to
10 resolve disputes before filing a motion. In addition, this court requires the parties to
11 meet and confer regarding any other request for relief except those identified as
12 exempt in Local Rules 7-3 and 16-12.

13 The parties should review the court's Standing Order for instructions regarding
14 motions to dismiss, motions to amend, motions for summary judgment, and other
15 forms of relief.

16 **E. Settlement Conference/Alternative Dispute Resolution Procedures**

17 Pursuant to Local Rule 16-15, the parties must participate in a Settlement
18 Conference or Alternative Dispute Resolution ("ADR") procedure. The Scheduling
19 Order indicates the procedure the parties shall use. If the parties prefer an ADR
20 procedure other than the one ordered by the court, they shall file a Stipulation and
21 Proposed Order. The parties' request may not necessarily be granted. No case will
22 proceed to trial unless all parties, including the principals of all corporate parties,
23 have appeared personally at a settlement conference. In the event the settlement
24 conference is before a Magistrate Judge, the latter shall determine the form, manner,
25 and content of the conference.

26 The parties shall file a Joint Status Report regarding the outcome of settlement
27 negotiations, the likelihood of possible further negotiations, and any assistance the
28 court may provide concerning settlement negotiations. The Joint Status Report shall

1 not disclose the parties' settlement positions, *i.e.*, the terms of any offers or demands.
2 If the parties were unable to reach a settlement, the Status Report shall describe the
3 efforts made by the parties to resolve the dispute informally, *i.e.*, the occasions and
4 dates when the parties participated in mediation or settlement conferences. The
5 Status Report shall also include the name of the mediator who assisted the parties
6 with their settlement conference.

7 **F. Final Pretrial Conference/Proposed Final Pretrial Conference Order**

8 The court has set a FPTC pursuant to Fed. R. Civ. P. 16 and Local Rule 16-8.
9 The court requires strict compliance with Fed. R. Civ. P. 16 and 26, and Local Rule
10 16. Each party appearing in this action must be represented at the FPTC by lead trial
11 counsel. The parties must be prepared to discuss streamlining the trial, including
12 presentation of testimony by deposition excerpts or summaries, time limits, and
13 stipulations to undisputed facts.

14 The parties must file a proposed Final Pretrial Conference Order ("Proposed
15 FPTCO") at least fourteen (14) days before the FPTC. A template for the Proposed
16 FPTCO is available on Judge Aenlle-Rocha's webpage. The parties must use this
17 template.

18 In specifying the surviving pleadings under section 1, state which claims or
19 counterclaims have been dismissed or abandoned, *e.g.*, "Plaintiff's second cause of
20 action for breach of fiduciary duty has been dismissed." Also, in multiple-party cases
21 where not all claims or counterclaims will be prosecuted against all remaining parties
22 on the opposing side, state to which party or parties each claim or counterclaim is
23 directed.

24 The parties must attempt to agree on and set forth as many uncontested facts as
25 possible. The court will read the uncontested facts to the jury at the start of trial. A
26 carefully drafted and comprehensively stated stipulation of facts will shorten the trial
27 and increase jury understanding of the case.

28 ///

1 In drafting the factual issues in dispute, the parties must state issues in ultimate
2 fact form, not in the form of evidentiary fact issues. The issues of fact should track
3 the elements of a claim or defense on which the jury will be required to make
4 findings.

5 Issues of law should state legal issues on which the court will be required to
6 rule during the trial and should not list ultimate fact issues to be submitted to the trier
7 of fact.

8 The parties shall email the Proposed FPTCO in Microsoft Word format to
9 chambers at FLA_Chambers@cacd.uscourts.gov.

10 **II. TRIAL PREPARATION**

11 The parties must comply with Local Rule 16. Pursuant to Local Rule 16-2,
12 lead trial counsel for each party are required to meet and confer in person forty (40)
13 days in advance to prepare for the FPTC. The parties must comply with Local Rule
14 16-2, except where the requirements set forth in this order differ from or supplement
15 those contained in Local Rule 16. The court may take the FPTC off calendar,
16 continue the trial, and/or impose other sanctions for failure to comply with these
17 requirements.

18 **A. Schedule for Filing Pretrial Documents for Jury and Bench Trials**

19 The schedule for filing pretrial documents is as follows:

20 **◆ At least twenty-eight (28) days before the FPTC:**

- 21 • Motions *in Limine*
- 22 • Memoranda of Contentions of Fact and Law
- 23 • Witness Lists
- 24 • Joint Exhibit List
- 25 • Joint Status Report Regarding Settlement
- 26 • Proposed Findings of Fact and Conclusions of Law (bench trial only)
- 27 • Declarations containing Direct Testimony (bench trial only)

28 ///

1 ♦ At least fourteen (14) days before the FPTC:

- 2 • Oppositions to Motions *in Limine*
- 3 • Joint Proposed FPTCO
- 4 • Joint Agreed Upon Proposed Jury Instructions (jury trial only)
- 5 • Disputed Proposed Jury Instructions (jury trial only)
- 6 • Joint Proposed Verdict Forms (jury trial only)
- 7 • Joint Proposed Statement of the Case (jury trial only)
- 8 • Proposed *Voir Dire* Questions, if any (jury trial only)
- 9 • Evidentiary Objections to Declarations of Direct Testimony (bench
- 10 trial only)

11 The parties shall email copies of: (1) the Witness Lists, (2) the Joint Exhibit

12 List, (3) the Joint Proposed FPTCO, (4) the Joint Agreed Upon Proposed Jury

13 Instructions, (5) the Disputed Proposed Jury Instructions, (6) Joint Proposed Verdict

14 Forms, and (7) Proposed *Voir Dire* Questions, including any amended documents, in

15 Microsoft Word format to chambers the day they are due at:

16 FLA_Chambers@cacd.uscourts.gov.

17 **1. Motions *in Limine***

18 Motions *in limine* will be heard and ruled on at the FPTC. The court may rule

19 orally instead of in writing. Each side is limited to five (5) motions *in limine* unless

20 the court grants leave to file additional motions. All motions *in limine* must be filed

21 at least twenty-eight (28) days before the FPTC. Oppositions must be filed at least

22 fourteen (14) days before the FPTC. There shall be no replies. Motions *in limine* and

23 oppositions must not exceed 2,800 words in length, or ten (10) pages for handwritten

24 briefs and briefs prepared using a typewriter. Challenges to expert testimony and/or

25 reports should be brought as motions *in limine* and are subject to the aforementioned

26 limit on such motions per side. Any challenges to expert testimony and/or reports

27 that are brought as separate motions to strike such expert discovery shall be stricken

28 without further discussion by the court.

1 Before filing a motion *in limine*, the parties must meet and confer to determine
2 whether the opposing party intends to introduce the disputed evidence and attempt to
3 reach an agreement that would obviate the need for the motion. Motions *in limine*
4 should address specific issues (*e.g.*, not “to exclude all hearsay”). Motions *in limine*
5 should not be disguised motions for summary adjudication of issues. The court may
6 strike excessive or unvetted motions *in limine*.

7 **2. Witness Lists**

8 Witness lists must be filed twenty-eight (28) days before the FPTC. They must
9 be in the format specified in Local Rule 16-5, and must include for each witness (i) a
10 brief description of the testimony, (ii) the reasons the testimony is unique and not
11 redundant, and (iii) a time estimate in hours for direct and cross-examination. The
12 parties should use the template posted to Judge Aenlle-Rocha’s webpage. Any
13 Amended Witness List must be filed by 12:00 p.m. (noon) on the Friday before trial
14 and emailed to FLA_Chambers@cacd.uscourts.gov in Microsoft Word format.

15 **3. Joint Exhibit List**

16 The Joint Exhibit List must be filed twenty-eight (28) days before the FPTC. It
17 must be in the format specified in Local Rule 16-6 and shall include an additional
18 column stating any objections to authenticity and/or admissibility and the reasons for
19 the objections. The parties should use the template posted to Judge Aenlle-Rocha’s
20 webpage. Any Amended Joint Exhibit List must be filed by 12:00 p.m. (noon) on the
21 Friday before trial and emailed to FLA_Chambers@cacd.uscourts.gov in Microsoft
22 Word format.

23 **4. Jury Instructions (Jury Trial Only)**

24 Joint agreed upon proposed jury instructions must be filed no later than
25 fourteen (14) days prior to the FPTC. The parties shall make every effort to agree
26 upon jury instructions before submitting proposals to the court. The court expects the
27 parties to agree on the substantial majority of instructions, particularly when pattern
28 or model jury instructions exist and provide a statement of applicable law. The

1 parties shall meet and confer regarding jury instructions according to the following
2 schedule:

- 3 • Thirty-five (35) days before the FPTC: The parties shall exchange
4 proposed general and special jury instructions.
- 5 • Twenty-eight (28) days before the FPTC: The parties shall exchange any
6 objections to the instructions.
- 7 • Twenty-one (21) days before the FPTC: The parties shall meet and
8 confer with the goal of reaching agreement on one set of Joint Agreed
9 Upon Proposed Jury Instructions.
- 10 • Fourteen (14) days before FPTC: The parties shall file their (1) Joint
11 Agreed Upon Proposed Jury Instructions and their (2) Disputed Jury
12 Instructions.

13 The parties shall file clean and “redline” sets of their (1) Joint Agreed Upon
14 Proposed Jury Instructions, and (2) Disputed Jury Instructions. The “redline” sets
15 shall include all modifications made by the parties to pattern or model jury
16 instructions, any disputed language, and the factual or legal basis for each party’s
17 position as to each disputed instruction. Where appropriate, the disputed instructions
18 shall be organized by subject, so that instructions that address the same or similar
19 issues are presented sequentially. If there are excessive or frivolous disagreements
20 over jury instructions, the court will order the parties to meet and confer immediately
21 until they substantially narrow their disagreements.

22 Sources: When the *Manual of Model Jury Instructions for the Ninth*
23 *Circuit* provides an applicable jury instruction, the parties should submit the most
24 recent version, modified and supplemented to fit the circumstances of the case.
25 Where California law applies, the parties should use the current edition of the
26 *Judicial Council of California Civil Jury Instructions* (“CACI”). If neither applies,
27 the parties should consult the current edition of O’Malley, *et al.*, *Federal Jury*
28 *Practice and Instructions*. The parties may submit alternatives to these instructions

1 only if there is a reasoned argument that they do not properly state the law or are
2 incomplete. The court seldom gives instructions derived solely from case law.

3 Format: Each requested instruction shall: (1) cite the authority or source
4 of the instruction, (2) be set forth in full, (3) be on a separate page, (4) be numbered,
5 (5) cover only one subject or principle of law, and (6) not repeat principles of law
6 contained in any other requested instruction. Jury instructions should be modified as
7 necessary to fit the facts of the case (*e.g.*, inserting names of parties or witnesses to
8 whom an instruction applies). Where language appears in brackets in the pattern or
9 model instruction, counsel shall select the appropriate text and eliminate the
10 inapplicable bracketed text.

11 Index: All proposed jury instructions must have a consecutively
12 numbered joint index that lists the instructions in the order they will be given.
13 Disputed instructions should be included in the index. The court will renumber the
14 jury instructions once they are finalized. The joint index should include the
15 following for each instruction, as illustrated in the example below:

- 16 • the number of the instruction;
- 17 • the title of the instruction;
- 18 • the source of the instruction and any relevant case citations; and
- 19 • the page number of the instruction.

20 ***Example:***

21 Instruction			
22 <u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page Number</u>
23 1	Trademark-Defined (15 U.S.C. § 1127)	9th Cir. 8.5.1	1

24
25 During the FPTC and at trial and before closing argument, the court will meet
26 with the parties to settle the instructions. At that time, the parties will have an
27 opportunity to make an oral record concerning their objections.

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1 **5. Joint Verdict Forms (Jury Trial Only)**

2 The parties shall make every effort to agree on a general verdict form before
3 submitting proposals to the court, and shall file a proposed joint general verdict form
4 fourteen (14) days before the FPTC. If the parties are unable to agree on a verdict
5 form, the parties shall file one document titled “Competing Verdict Forms” which
6 shall include: (i) the parties’ respective proposed verdict form; (ii) a “redline” of any
7 disputed language; and (iii) the factual or legal basis for each party’s respective
8 position.

9 **6. Joint Statement of the Case (Jury Trial Only)**

10 The parties must file a Joint Statement of the Case fourteen (14) days before
11 the FPTC for the court to read to the prospective jurors before commencement of *voir*
12 *dire*. The joint statement should be brief and neutral and must not be more than one
13 page in length.

14 **7. Voir Dire (Jury Trial Only)**

15 Generally, a jury in a civil action will consist of eight (8) jurors. In most cases,
16 the court will seat eight (8) prospective jurors in the jury box. The court will conduct
17 the *voir dire*. The court uses a written questionnaire that requires prospective jurors
18 to answer orally, a copy of which is posted on Judge Aenlle-Rocha’s webpage. The
19 parties may file any proposed case-specific *voir dire* questions for the court’s
20 consideration at least fourteen (14) days before the FPTC. If it considers the
21 questions proper, the court will pose the questions to the prospective jurors.

22 Each side will have three (3) peremptory challenges. All challenges for cause
23 shall be made at side bar or otherwise outside the prospective jurors’ presence. The
24 court will not necessarily accept a stipulation to a challenge for cause. After all
25 challenges have been exercised or the parties accept the panel consecutively, the
26 remaining jurors will be the jury.

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1 **8. Proposed Findings of Fact and Conclusions of Law (Bench**
2 **Trial Only)**

3 For any trial requiring findings of fact and conclusions of law, each party shall
4 file and serve on the opposing party, no later than twenty-eight (28) days before the
5 FPTC, its Proposed Findings of Fact and Conclusions of Law in the format specified
6 in Local Rule 52-3.

7 The parties may submit Supplemental Proposed Findings of Fact and
8 Conclusions of Law during the trial. Once trial concludes, the court may order the
9 parties to file Revised Proposed Findings of Fact and Conclusions of Law with
10 citations to the record.

11 **9. Declarations of Direct Testimony (Bench Trial Only)**

12 When ordered by the court in a particular case, each party shall, at least
13 twenty-eight (28) days before the FPTC, file declarations containing the direct
14 testimony of each witness whom that party intends to call at trial. If such
15 declarations are filed, each party shall file any evidentiary objections to the
16 declarations submitted by any other party at least fourteen (14) days before the FPTC.
17 Such objections shall be submitted in the following three-column format: (i) the left
18 column should contain a verbatim quote of each statement objected to (including
19 page and line number); (ii) the middle column should set forth a concise legal
20 objection (*e.g.*, hearsay, lacks foundation, *etc.*) with a citation to the corresponding
21 Federal Rule of Evidence or, where applicable, a case citation; and (iii) the right
22 column should provide space for the court’s ruling on the objection. The court
23 anticipates issuing its ruling on the objections during the FPTC.

24 **B. Trial Exhibits**

25 Trial exhibits that consist of documents and photographs must be submitted to
26 the court in three-ring binders. The parties shall submit to the court three (3) sets of
27 binders: one (1) original set of trial exhibits, and two (2) copies of trial exhibits. The
28 original set of exhibits shall be for use by the jury during its deliberations, and the

1 copies are for the court. The parties should prepare additional copies of exhibits for
2 their own use and for use by witnesses. The parties must review the exhibit list and
3 exhibit binders with the Courtroom Deputy Clerk before the admitted exhibits will be
4 given to the jury.

5 All exhibits placed in three-ring binders must be indexed by exhibit number
6 with tabs or dividers on the right side. Exhibits shall be numbered sequentially 1, 2,
7 3, *etc.*, not 1.1, 1.2, *etc.* See Local Rule 16-6. Every page of a multi-page exhibit
8 must be numbered. Defendant's exhibit numbers shall not duplicate Plaintiff's
9 numbers. The spine of each binder shall indicate the volume number and the range of
10 exhibit numbers included in the volume.

- 11 • The original exhibits shall bear the official exhibit tags (yellow tags for
12 Plaintiff's exhibits and blue tags for Defendant's exhibits) affixed to the
13 front upper right-hand corner of the exhibit, with the case number, case
14 name, and exhibit number stated on each tag. Tags may be obtained from
15 the Clerk's Office, or the parties may print their own exhibit tags using
16 Forms G-14A and G-14B on the "Court Forms" section of the court's
17 website at: <https://www.cacd.uscourts.gov/forms/exhibit-tags-plaintiff-g-14a-defendant-g-14b-joint-g-14c>.
18
- 19 • The copies of exhibits must bear copies of the official exhibit tags that were
20 placed on the original exhibits and be indexed with tabs or dividers on the
21 right side.

22 The parties must also submit to the court a USB flash drive containing
23 electronic versions of all exhibits. Plaintiff's exhibits must be placed in a separate
24 folder from Defendant's exhibits, and the document file names must include the
25 exhibit number and a brief description of the document, for example: "Ex. 1 - Smith
26 Declaration.pdf" or "Ex. 105 - Letter Dated 1-5-20.pdf."

27 The court provides audio/visual equipment for use during trial. The parties are
28 encouraged to use it. More information is available at:

1 <http://www.cacd.uscourts.gov/clerk-services/courtroom-technology>. The court does
2 not permit exhibits to be “published” to the jurors before they are admitted into
3 evidence. Once admitted, exhibits may be displayed electronically using the
4 equipment and screens in the courtroom. The court ordinarily does not permit
5 exhibits to be handed to the jurors in the jury box. In the event an exhibit cannot be
6 displayed properly via the monitors in the courtroom, counsel must secure approval
7 by the court before handing an exhibit to the jury.

8 The parties must meet and confer at least ten (10) days before trial to stipulate
9 as much as possible to foundation, waiver of the best evidence rule, and exhibits that
10 may be received into evidence at the start of the trial. All such exhibits should be
11 noted as admitted on the court and Courtroom Deputy Clerk’s copy of the exhibit list.

12 **C. Materials to Present on First Day of Trial**

13 The parties must present the following materials to the Courtroom Deputy
14 Clerk on the first day of trial:

- 15 1. The three sets of binders described above, with one (1) original set of
16 trial exhibits for the jury, and two (2) copies of trial exhibits for the
17 court.
- 18 2. The USB flash drive containing electronic versions of all exhibits.
- 19 3. Any excerpts of deposition transcripts to be used at trial, either as
20 evidence or for impeachment. These lodged depositions are for the
21 court’s use. The parties must use their own copies during trial.

22 **D. Court Reporter**

23 Any party requesting special court reporter services for any hearing, such as
24 “RealTime” transmission or daily transcripts, shall notify the court reporter at least
25 fourteen (14) days before the hearing date.

26 **E. Jury Trial**

27 Court will commence at 8:15 a.m. and conclude at approximately 2:30 p.m.
28 during trial. On the first day of trial, the court will address initially preliminary

1 matters and call a jury panel only when it is satisfied the case is ready for trial. Jury
2 selection usually takes a few hours. The parties should be prepared to proceed with
3 opening statements and witness examination immediately after jury selection.

4 Trial days are generally Monday through Thursday. Fridays are usually
5 reserved for the court's calendar. Trial will not be held on Fridays unless the jury is
6 deliberating or the court's calendar allows trial to proceed.

7 **III. CONDUCT OF ATTORNEYS AND PARTIES**

8 **A. Meeting and Conferring Throughout Trial**

9 The parties must continue to meet and confer on all issues that arise during
10 trial. The court will not rule on any such issue unless the parties have attempted to
11 resolve it first.

12 **B. Opening Statements, Witness Examinations, and Summation**

13 Counsel must use the lectern. Counsel should not consume jury time by
14 writing out words and drawing charts or diagrams. All such aids must be prepared in
15 advance. When appropriate, the court will establish and enforce time limits for all
16 phases of trial, including opening statements, closing arguments, and the examination
17 of witnesses.

18 **C. Objections to Questions**

19 Counsel must not make speaking objections before the jury or otherwise make
20 speeches, restate testimony, or attempt to guide a witness.

21 When objecting, counsel must rise to state the objection and state only that
22 counsel objects and the legal grounds for the objection. If counsel desires to argue an
23 objection further, counsel must seek permission from the court to do so.

24 **D. Closing Arguments and Post-Trial Briefs (Bench Trial)**

25 For an overview and review of the evidence presented during trial, the court
26 will rely on the parties' closing arguments. In delivering closing arguments, the
27 parties shall use their respective proposed findings of fact and conclusions of law as a
28 "checklist" and should identify the evidence that supports their proposed findings.

1 The court will not accept post-trial briefs unless it finds that circumstances warrant
2 additional briefing and such briefing is specifically authorized.

3 **E. General Decorum While in Session**

4 1. Counsel must not approach the Courtroom Deputy Clerk, the jury
5 box, or the witness stand without court authorization and must return to the lectern
6 when the purpose for the approach has been accomplished.

7 2. Counsel must rise when addressing the court, and when the court
8 or the jury enters or leaves the courtroom, unless directed otherwise.

9 3. Counsel must address all remarks to the court. Counsel must not
10 address the Courtroom Deputy Clerk, the court reporter, persons in the audience, or
11 opposing counsel. Any request to re-read questions or answers shall be addressed to
12 the court. Counsel must ask the court's permission to speak with opposing counsel.

13 4. Counsel must not address or refer to witnesses or parties by first
14 names alone, except for witnesses who are below age fourteen (14).

15 5. Counsel must not offer a stipulation unless counsel have conferred
16 with opposing counsel and have verified that the stipulation will be acceptable.

17 6. Counsel must remain at counsel table throughout trial except to
18 examine witnesses, or as otherwise needed to present evidence. Counsel must not
19 leave counsel table to sit in the gallery or confer with any person in the back of the
20 courtroom without the court's permission.

21 7. Counsel must not make facial expressions, nod, shake their heads,
22 comment, or otherwise exhibit in any way any agreement, disagreement, or other
23 opinion or belief concerning the testimony of a witness or argument by opposing
24 counsel. Counsel shall instruct their clients and witnesses not to engage in such
25 conduct.

26 8. Counsel must never speak to jurors under any circumstance, and
27 must not speak to co-counsel, opposing counsel, witnesses, or clients if the
28 conversation can be overheard by jurors. Counsel must instruct their clients and

1 witnesses to avoid such conduct.

2 9. Where a party has more than one lawyer, only one attorney may
3 conduct the direct or cross-examination of a particular witness or make objections as
4 to that witness.

5 10. Bottled water is permitted in the courtroom but may not be placed
6 on counsel table or the lectern. Food and other beverages are not permitted. Cell
7 phones must be silenced or may be confiscated.

8 **F. Promptness**

9 1. The court expects the parties, counsel, and witnesses to be
10 prompt. Once the parties and their counsel are engaged in trial, the trial must be their
11 priority. The court will not delay progress of the trial or inconvenience jurors.

12 2. If a witness was on the stand at the time of a recess or
13 adjournment, the party that called the witness shall ensure the witness is back on the
14 stand and ready to proceed as soon as trial resumes.

15 3. The parties must notify the Courtroom Deputy Clerk in advance if
16 any party, counsel, or witness requires a reasonable accommodation based on a
17 disability or other reason.

18 4. No presenting party may be without witnesses. If a party's
19 remaining witnesses are not immediately available, thereby causing an unreasonable
20 delay, the court may deem that party to have rested.

21 5. The court generally will accommodate witnesses by permitting
22 them to be called out of sequence. Counsel should meet and confer in advance and
23 make every effort to resolve the matter.

24 **G. Exhibits**

25 1. Counsel must keep track of their exhibits and exhibit list, and
26 record when each exhibit has been admitted into evidence.

27 2. Counsel are responsible for any exhibits they secure from the
28 Courtroom Deputy Clerk and must return them before leaving the courtroom.

1 3. Any exhibit not previously marked must be accompanied by a
2 request that it be marked for identification at the time of its first mention. Counsel
3 must show a new exhibit to opposing counsel before the court session in which it is
4 mentioned.

5 4. Counsel must inform the Courtroom Deputy Clerk of any
6 agreements reached regarding any proposed exhibits, as well as those exhibits that
7 may be received into evidence without a motion to admit.

8 5. When referring to an exhibit, counsel must refer to its exhibit
9 number. Counsel should instruct their witnesses to do the same.

10 6. Counsel should not ask witnesses to draw charts or diagrams or
11 ask the court's permission for a witness to do so. All demonstrative aids must be
12 prepared fully in advance of the day's trial session.

13 **H. Depositions**

14 1. In using deposition testimony for impeachment, counsel may
15 adhere to either one of the following procedures:

16 a. If counsel wish to read the questions and answers as
17 alleged impeachment and ask the witness no further questions on that subject,
18 counsel shall first state the page and line where the reading begins and the page and
19 line where the reading ends, and allow time for any objection. Counsel may then
20 read the portions of the deposition into the record.

21 b. If counsel wish to ask the witness further questions on the
22 subject matter, the deposition shall be placed in front of the witness and the witness
23 told to read the relevant pages and lines silently. Counsel may then either ask the
24 witness further questions on the matter and thereafter read the quotations, or read the
25 quotations and thereafter ask further questions. Counsel should have available for
26 the court and the witness extra copies of the deposition transcript for this purpose.

27 2. Where a witness is absent and the witness's testimony is to be
28 offered by deposition, counsel may (a) have an individual sit on the witness stand and

1 read the testimony of the witness while the examining lawyer asks the questions, or
2 (b) have counsel read both the questions and the answers.

3 **I. Using Numerous Answers to Interrogatories and Requests for**
4 **Admission**

5 Whenever counsel expect to offer a group of answers to interrogatories or
6 requests for admissions extracted from one or more lengthy discovery responses,
7 counsel should prepare a new document listing each question and answer and
8 identifying the document from which it has been extracted. Copies of this new
9 document should be given to the court and the opposing party in advance.

10 **J. Advance Notice of Unusual or Difficult Issues**

11 If any party anticipates that a difficult question of law or evidence will
12 necessitate legal argument requiring research or briefing, that party must give the
13 court advance notice. The parties must notify the Courtroom Deputy Clerk
14 immediately of any unexpected legal issue that could not have been foreseen and
15 addressed in advance. To the extent such issue needs to be addressed outside the
16 jury's presence, the relevant party must inform the Courtroom Deputy Clerk before
17 jurors are excused for the day to minimize the time jurors are kept waiting. The court
18 expects all parties to work diligently to minimize delays and avoid keeping jurors
19 waiting.

20 **K. Continuances of Pretrial and Trial Dates**

21 Requests for continuances of pretrial and trial dates must be by motion,
22 stipulation, or application, and be accompanied by a detailed declaration setting forth
23 the reasons for the requested relief. The declaration should include whether any
24 previous requests for continuances have been made and whether these requests were
25 granted or denied by the court. Stipulations extending dates set by the court are not
26 effective unless approved by the court.

27 The court has a strong interest in keeping scheduled dates certain, and changes
28 in dates are disfavored. Trial dates set by the court will not readily be changed.

1 Therefore, a request or stipulation to continue a trial or pretrial date must be
2 supported by a detailed factual showing of good cause and due diligence
3 demonstrating the necessity for the continuance and a description of the parties'
4 efforts, dating back to the filing of the complaint, of the steps they have taken to
5 advance the litigation. This detailed showing must demonstrate that the work still to
6 be performed reasonably could not have been accomplished within the applicable
7 deadlines. General statements are insufficient to establish good cause. Without such
8 compelling factual support and showing of due diligence, requests to continue dates
9 set by the court may be denied.

10 Parties appearing *pro se* must comply with the Federal Rules of Civil
11 Procedure and the Local Rules. See Local Rules 1-3 and 83-2.2.3.

12
13 IT IS SO ORDERED.

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15 Dated:

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18 FERNANDO L. AENLLE-ROCHA
19 United States District Judge
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