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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**GUIDELINES FOR TRIAL AND FINAL PRETRIAL
CONFERENCE IN CIVIL JURY CASES
BEFORE THE HONORABLE WILLIAM ALSUP**

FRCP 26(A)(3) DISCLOSURES

1. All parties are reminded of their disclosure duties under FRCP 26(a)(3), which begin **THIRTY CALENDAR DAYS** before trial. The FRCP 26(a)(3)(A)(ii) requirement for designating deposition transcripts, however, need not be done until later, as set forth below, although the name of each trial witness to appear by deposition must be so designated at least **THIRTY CALENDAR DAYS** before trial.

FINAL PRETRIAL CONFERENCE

2. At least **SEVEN CALENDAR DAYS** in advance of the final pretrial conference, please file the following:

- (a) A joint proposed final pretrial order, signed and vetted by all counsel, that contains: (i) a brief description of the substance of claims and defenses which remain to be decided, (ii) a statement of all relief sought, (iii) all stipulated facts, (iv) a list of all factual issues which remain to be tried, stating the

1 issues with the same generality/specificity as any contested elements in the
2 relevant jury instructions, all organized by counts, (v) a joint exhibit list in
3 numerical order, including a brief description of the exhibit and Bates numbers, a
4 column for when it is offered in evidence, a column for when it is received in
5 evidence, and a column for any limitations on its use, and (vi) each party's
6 separate witness list for its case-in-chief witnesses (including those appearing by
7 deposition) providing, for all such witnesses other than an individual plaintiff and
8 an individual defendant, a statement of the substance of his/her testimony and,
9 separately, what, if any, non-cumulative testimony the witness will give (to be
10 used to set time limits). Items (v) and (vi) should be appendices to the proposed
11 order. Please state which issues, if any, are for the Court to decide, rather than the
12 jury.

13 (b) A joint set of proposed instructions on *substantive* issues of law
14 arranged in a logical sequence. If undisputed, an instruction shall be identified as
15 "Stipulated Instruction No. _____ Re _____," with the blanks filled in as
16 appropriate. If disputed, each version of the instruction shall be inserted together,
17 back to back, in their logical place in the overall sequence. Each such disputed
18 instruction shall be identified as, for example, "Disputed Instruction No. _____
19 Re _____ Offered by _____," with the blanks filled in as
20 appropriate. All disputed versions of the same basic topic shall bear the same
21 number. Citations with pin cites are required, even if the instruction is by
22 stipulation. Any modifications to a form instruction must be plainly identified.
23 If a party does not have a counter-version and simply contends no such instruction
24 in any version should be given, then that party should so state (and explain why)
25 on a separate page inserted in lieu of an alternate version. You need not provide
26 any preliminary instructions, general instruction or concluding instructions, all of
27 which the Court will do on its own in a draft for comment.
28

1 (c) A separate memorandum of law in support of each party’s disputed
2 instruction, organized by instruction number. *Please quote exactly (without*
3 *ellipses) controlling passages from the authorities and give pin cites.*

4 (d) A joint special verdict form with the questions (as few as possible)
5 arranged in a logical sequence.

6 (e) A joint set of proposed voir dire questions supplemented as
7 necessary by separate requests.

8 (f) Any motion *in limine*, with the opposition, filed as follows:
9 At least **TWENTY CALENDAR DAYS** before the conference, serve, but do not yet
10 file, the moving papers. At least **TEN CALENDAR DAYS** before the conference,
11 serve the oppositions. When the oppositions are received, the moving party
12 should collate the motion and the opposition together, back to back, and then file
13 the paired sets at least **SEVEN CALENDAR DAYS** before the conference.
14 Each motion should be presented in a separate memo and numbered as in, for
15 example, “Plaintiff’s Motion in Limine No. 1 to Exclude” Please limit
16 motions *in limine* to circumstances that really need a ruling in advance.
17 Usually five or fewer motions per side is sufficient at the conference stage
18 (without prejudice to raising matters *in limine* as the trial progresses).
19 Each motion should address a single topic, be separate, and contain no more than
20 seven pages of briefing per side.

21 (g) Copies of the Rule 26(a)(3) disclosures.

22 (h) Trial briefs are optional.

23 3. *The above shall be submitted in hard copies and should be three-hole punched on*
24 *the left, so the judge’s copy can be put in binders. Please provide them at least seven calendar*
25 *days prior to the pretrial conference for the judge’s study and review — THIS IS IMPORTANT.*

26 4. At the final pretrial conference, counsel must take notes on rulings and promptly
27 submit a joint summary of all rulings in proposed-order format.

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PRETRIAL ARRANGEMENTS

5. Should a daily transcript and/or real-time reporting be desired, the parties shall make timely arrangements with Kristen Melen, Court Reporter Supervisor, at Kristen.Melen@cand.uscourts.gov.

6. So that the jury may follow the evidence, counsel are strongly encouraged to use overhead projectors, laser-disk/computer graphics, poster blow-ups, models or specimens. The United States Marshal requires a court order to allow equipment into the courthouse. For electronic equipment, either know how to fix it or have a technician handy. For overhead projectors, have a spare bulb. Tape extension cords to the carpet for safety. Please take down and store the equipment (in the courtroom) at the end of each court day. Please work with Angie Meuleman (415-522-2020) on courtroom-layout issues and contact her to learn how to use the electronic presentation system. The specifics of our audio-visual trial equipment is set forth at <https://cand.uscourts.gov/judges/courtroom-technology> (look under Courtroom No. 12). You should also learn the basics of the Jury Electronic Evidence PC that will be used by the jury in deliberations so that you will have any videos, audios, or digitized exhibits in compatible formats.

SCHEDULING

7. The normal trial schedule will be 7:30 a.m. to 1:00 p.m. (or slightly longer to finish a witness) with two fifteen-minute breaks and ending before lunch. Counsel must arrive by 7:30 a.m., or earlier as needed for any matters to be heard out of the presence of the jury. The jury will be on-site by 7:45 a.m. Counsel should be prepared to begin jury proceedings as soon as the morning's *in limine* proceedings end, which will normally be by 8:00 a.m. at the latest. Once the jury begins deliberations, it usually stays past 1:00 p.m. The trial week is usually Monday through Friday.

JURY SELECTION

8. On the first day of trial, counsel shall please submit a joint statement of the case to be read to the jury during voir dire. This statement should normally be one page. The Court

1 will usually conduct the voir dire with supplemental questions by counsel at the end. Counsel
2 should not use voir dire to indoctrinate the jury.

3 9. In civil cases, there are no alternate jurors. To end up with a final jury of
4 eight jurors, we will do the following: Fourteen prospective jurors will be called to fill the jury
5 box and given seat numbers (1 through 14). Others will remain on the public benches. For
6 those in the jury box, hardship excuses will be considered first and then voir dire will proceed.
7 Some will usually be excused for cause or hardship during voir dire and their seats will be filled
8 as excusals are made. After the panel is passed for cause (or all cause motions are denied), each
9 side may exercise its allotment of peremptory challenges against the fourteen in the jury box.
10 We will use the “thank-and-excuse” method whereby counsel stands and thanks and excuses a
11 candidate. The eight surviving the challenge process become the final jury. For example, if the
12 plaintiff strikes 1, 5 and 7 and the defendant strikes 2, 4 and 9, then 3, 6, 8, 10, 11, 12 13 and 14
13 become the final jury. If fewer than six are struck, then the eight unstruck jurors with the *lowest*
14 seat numbers will be sworn. If there are two consecutive passes, then the eight unstruck jurors
15 with the *lowest seat numbers* will be sworn as the final jurors. Once the jury selection is
16 completed, they will be re-seated in the jury box and sworn. The Court may alter the procedure
17 in its discretion. If more than eight jurors (or less) are to be seated, then the starting number
18 will be adjusted. So too if more than a total of six peremptories are allowed.

19 **OPENING STATEMENTS**

20 10. Each side will have a time limit for its opening statement (to be determined at the
21 final pretrial conference). Counsel must cooperate and meet and confer to exchange any
22 visuals, graphics or exhibits to be used in the opening statements, allowing for time to work out
23 objections and any reasonable revisions. Be prepared for opening statements as soon as the jury
24 is sworn.

25 **WITNESSES**

26 11. Except for good cause, all counsel are entitled to written firm notice of the order
27 of witnesses for the next court day and the exhibits (including merely illustrative exhibits) to be
28 used on direct examination (other than for true impeachment of a witness). The Court

1 encourages two days' notice, *i.e.*, written notice by 2:00 p.m. on the *second* calendar day before
2 the witnesses testify or the exhibit is used. At a minimum, notice must be given no later than
3 2:00 p.m. on the calendar day *immediately* preceding. If two days written notice is given or two
4 days' notice is given that no documents will be used, then all other counsel must give written
5 notice of all other exhibits to be used on cross-examination (except for true impeachment) by
6 2:00 p.m. on the calendar day immediately preceding the testimony; otherwise, other
7 responding counsel need not give notice of exhibits they may use. Any exhibit timely noticed
8 by anyone for the witness is usable as if timely noticed by everyone, subject to substantive
9 objections. Similarly, if reference is made to an exhibit during an examination (even if not
10 offered in evidence and even if not noticed for use with the witness), then in any follow-up
11 examination by others, the exhibit may be used to the same extent as if it had been timely
12 noticed, subject to substantive objections. All notices shall be sent by fax or electronically and
13 be time-and-date verifiable. If counsel decides not to call a noticed witness, then prompt
14 written notice of the cancellation must be given. Impeachment exhibits are ordinarily limited to
15 statements signed by or adopted by the witness. Compliance with a two-day notice period, of
16 course, will not satisfy compliance with FRCP 26 or any other disclosure rule.

17 12. The official tagged exhibit should be shown to witnesses — not supposed copies
18 or notebooks of supposed copies. Before the examination begins, retrieve the official tagged
19 exhibits to be used and have them at the ready. Using copies leads to discrepancies between the
20 exhibit actually introduced into the record (*always* the official tagged exhibit) versus the stray
21 before the witness. The required procedure also helps find any glitches in the official tagged
22 exhibits.

23 13. Always have your next witness ready and in the courthouse. Failure to have the
24 next witness ready or to be prepared to proceed with the evidence will usually constitute resting.
25 If counsel plans to read in a transcript of a deposition anyway, it is advisable to have a
26 deposition prepared and vetted early on to read “just in case.”

27 14. When there are multiple parties, counsel are responsible for coordination of the
28 cross-examination to avoid duplication. Stand at or near the microphone to ask questions,

1 straying only to point out material on charts or overheads. Please request permission to
2 approach the witness or the bench.

3 **EXPERTS**

4 15. A recurring problem in trials is the problem of expert witnesses trying to go
5 beyond the scope of their expert reports on direct examination. FRCP 26(a)(2) and FRCP 37(c)
6 limit experts to the opinions and bases contained in their timely reports (absent substantial
7 justification or harmlessness). The Court regularly enforces these rules. FRCP 26(a) also
8 requires that any “exhibits to be used as a summary of or support for the opinions” be included
9 in the report. Accordingly, at trial, the direct testimony of experts will be limited to the matters
10 disclosed in their reports. New matters may not ordinarily be added on direct examination.
11 This means the reports must be complete and sufficiently detailed. Illustrative animations,
12 diagrams, charts and models may be used on direct examination only if they were part of the
13 expert’s report, with the exception of simple drawings and tabulations that plainly illustrate
14 what is already in the report, which can be drawn by the witness at trial or otherwise shown to
15 the jury. If cross-examination fairly opens the door, however, an expert may go beyond the
16 written report on cross-examination and/or re-direct examination. By written stipulation, of
17 course, all sides may relax these requirements. Material in a “reply” report must ordinarily be
18 presented in a party’s rebuttal (or sur-rebuttal) case *after* the other side’s expert has appeared
19 and testified.

20 16. Another recurring problem is the retained expert who seeks to vouch for the
21 credibility of fact witnesses and/or to vouch for one side’s fact scenario. Qualified experts,
22 of course, are always welcome to testify concerning relevant scientific principles, professional
23 standards, specialized facts known within a trade or discipline and the like (so long as it is in the
24 report). They are also welcome to apply those principles and standards to various assumed fact
25 scenarios. This is so even if an opinion is given on the “ultimate issue.” But they should not try
26 to vouch for one side’s *fact* scenario, *i.e.*, witness believability. It is the jury’s responsibility to
27 sort out whose fact scenario is correct, including issues of credibility. An expert, therefore,
28 should give opinions based only on one or more *assumed* fact scenarios.

1 Stating “question” and “answer” is necessary so the jury and the court reporter
2 can follow who was talking at the deposition.

3 (d) The first time a deposition is read, state the deponent’s name, the
4 date of the deposition, the name of the lawyer asking the question, and if it was
5 FRCP 30(b)(6) deposition, please say so. The first time a deposition is read,
6 the Court will give an appropriate explanation to the jury about depositions.
7 Please do not embellish on this with follow-on questions.

8 (e) Please do NOT ask, “Didn’t you say XYZ in your deposition?”
9 The problem with such a question is that the “XYZ” rarely turns out to be
10 exactly what the deponent said and is part spin. Instead, ask for permission to
11 read in a passage, as above, and read it in exactly, without spin, so that the jury
12 can hear what was actually testified to.

13 (f) Subject to FRE 403, party depositions may be read in whether or
14 not they contradict (and regardless of who the witness is on the stand).
15 For example, a short party deposition excerpt may be used as foundation for
16 questions for a different witness on the stand.

17 (g) Rather than reading the passage, counsel are free to play an
18 audiovisual digitized version of the passage but counsel must have a system for
19 immediate display of the precise passage.

20 **DEPOSITION DESIGNATION**

21 20. The following procedure applies only to witnesses who appear by deposition.
22 It does not apply to live witnesses whose depositions are read in while they are on the stand. To
23 save time and avoid unnecessary work, it is not necessary to make all deposition designations
24 before trial (as normally required by FRCP 26(3)(A)(ii)). In the Court’s experience, by the time
25 the read-in occurs, the proponent has usually reduced substantially the proposed read-ins.
26 Instead, the following steps should be followed:

27 (a) To designate deposition testimony, photocopy the cover page,
28 the page where the witness is sworn, and then each page from which any

1 testimony is proffered. Line through or x-out any portions of such pages not
2 proffered. Also, line through objections or colloquy unless they are needed to
3 understand the question. Please make sure any corrections are interlineated and
4 that references to exhibit numbers are conformed to the trial numbers.
5 Such interlineations should be done by hand. The finished packet should then be
6 the actual script and should smoothly present the identification and swearing of
7 the witness and testimony desired. The packet should be provided to all other
8 parties at least **FIVE CALENDAR DAYS** before it will be used in court. For the rare
9 case of voluminous designations, more lead time will be required. Please be
10 reasonable.

11 (b) All other parties must then promptly review the packet and
12 highlight in yellow any passages objected to and write in the margin the legal
13 basis for the objections. If any completeness objection is made, the objecting
14 party must insert into the packet the additional passages as needed to cure the
15 completeness objection. A completeness objection should normally be made
16 only if a few extra lines will cure the problem. Such additions shall be
17 highlighted in blue and an explanation for the inclusion shall be legibly
18 handwritten in the margin. Please line out or x-out any irrelevant portions of the
19 additional pages.

20 (c) The packets, as adjusted, must then be returned to the proffering
21 party, who must then decide the extent to which to accept the adjustments.
22 The parties must meet and confer as reasonable. Counsel for the proffering party
23 must collate and assemble a final packet that covers the proffer and all remaining
24 issues. At least **TWO CALENDAR DAYS** before the proffer will be used, the
25 proponent must provide the Court with the final packet, with any objected-to
26 portions highlighted and annotated as described above. If exhibits are needed to
27 resolve the objections, include copies and highlight and tag the relevant
28 passages. Alert the Court on the record that the packet is being provided and

1 whether any rulings are needed. *Tag all passages that require a ruling.*

2 The Court will then read the packet and indicate its rulings.

3 Ordinarily, argument will not be needed.

4 (d) Counter designations must be made by providing a packet with
5 the counter-designated passages to the proponent at the same time any objections
6 to the original proffer are returned to the first proffering party, who must then
7 supply its objections in the same manner.

8 (e) When a witness appears by deposition rather than live, counsel
9 may present it by reading or by video. When reading, it is best — for jury
10 comprehension — to use a “witness” (usually co-counsel, a legal assistant or
11 opposing counsel) to read the answers from the witness stand while counsel
12 reads the questions from the lectern. If the read-in is short, a single attorney can
13 read it all, being careful to say “question” and “answer,” as appropriate, so that
14 everyone including the court reporter, will follow exactly who said what. The
15 exhibits, if admitted, may be projected onto the screen during the read-in as they
16 are referenced. In the Court’s judgment, this is an effective procedure and
17 avoids the problems of paper-shuffling, background noise, long pauses, difficult
18 accents, and video-quality problems. When showing a videotaped deposition, it
19 is best to scroll the question and answer in text near the bottom of the screen and
20 to show any exhibits on a split screen. The entire length of all designations
21 should never be longer than one hour without prior court clearance. Anything
22 longer is usually counterproductive to jury comprehension. Remember that court
23 reporters do *not* transcribe video excerpts, so counsel must file with the deputy
24 clerk an exact record of what was shown and identify it for the record.

25 **REQUESTS FOR ADMISSIONS AND INTERROGATORIES**

26 21. Please designate responses to requests for admissions and interrogatory answers
27 in the same manner and under the same timetable as depositions.

28

EXHIBITS

1
2 22. As stated, FRCP 26(a)(3) disclosures regarding proposed exhibits must be made
3 at least **THIRTY CALENDAR DAYS** before trial and any objections thereto must be made within
4 **FOURTEEN CALENDAR DAYS** thereafter (or waived unless excused for good cause). The joint list
5 must be filed **SEVEN CALENDAR DAYS** in advance of the final pretrial conference (as per
6 paragraph 2 above). By designating an exhibit, a party waives any objection to authenticity
7 and any reciprocal objection, meaning any objection mutually available to both the designating
8 party and the opposing party if and when offered by one against the other. Therefore, the non-
9 designating party may offer the exhibit subject only to non-reciprocal objections. For example,
10 if P designates a record from a non-party, such as a telephone company, then D can equally
11 offer the same exhibit save for any objection that would be unique against D. To take a contra
12 example, if P designates D’s internal email, it will usually *not* be admissible at the instance of
13 D, there being a non-reciprocal hearsay hurdle when offered by D. If the designating party
14 states that the exhibit is only for a limited purpose, then the waiver extends only to the same
15 limited purpose. Notwithstanding the foregoing, FRE 403 objections are never waived. And,
16 any party may always attempt to lay full foundation to admit any exhibit designated by itself or
17 by any other party without regard to any waiver.

18 23. Prior to the final pretrial conference, counsel will please meet and confer in
19 person over all exhibit numbers and objections and to weed out duplicate exhibits and confusion
20 over the precise exhibit. Use numbers only, not letters, for exhibits, preferably the same
21 numbers as were used in depositions. Blocks of numbers should be assigned to fit the need of
22 the case (*e.g.*, Plaintiff has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300,
23 etc.). A single exhibit should be marked only once, just as it should have been marked only
24 once in discovery (if this Court’s guidelines were followed). If the plaintiff has marked an
25 exhibit, then the defendant should not re-mark the exact document with another number.
26 Different *versions* of the same document, *e.g.*, a copy with additional handwriting, must be
27 treated as different exhibits with different numbers. To avoid any party claiming “ownership”
28 of an exhibit, all exhibits shall be marked and referred to as “Trial Exhibit No. _____,” not as

1 “Plaintiff’s Exhibit” or “Defendant’s Exhibit.” If an exhibit number differs from that used in a
2 deposition transcript, then the latter transcript must be conformed to the new trial number if and
3 when the deposition testimony is read to the jury (so as to avoid confusion over exhibit
4 numbers). The jury should always hear any given exhibit referred to by its trial number.

5 24. The exhibit tag shall be in the following form:

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7
8 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
9 **TRIAL EXHIBIT 100**
10 CASE NO. _____
11 DATE ENTERED _____
12 BY _____
13 DEPUTY CLERK
14

15
16 Place the tag on or near the lower right-hand corner or, if a photograph, on the back.

17 Counsel should fill in the tag but leave the last two spaces blank. The parties must jointly
18 prepare a *single* set of all trial exhibits that will be the official record set to be used with the
19 witnesses, in the jury room, and on appeal. Each exhibit must be tagged and in a separate folder
20 (not in notebooks). Deposit the exhibits with the deputy clerk (Angie Meuleman) on the
21 first day of trial.

22 25. Please move exhibits into evidence as soon as the foundation is laid and it is fresh
23 in the judge’s mind. Do not postpone motions and expect the judge to remember the
24 foundation. Counsel must consult with each other and with the deputy clerk at the end of each
25 trial day and compare notes as to which exhibits are in evidence and any limitations thereon.
26 If there are any differences, counsel should bring them promptly to the Court’s attention.
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1 which the jury can organize the disputed issues. It should be large enough to view from across
2 the courtroom, about four by eight feet, and in timeline format. Counsel should also stipulate to
3 the maximum feasible extent as to all facts that in good faith cannot be disputed, so that the jury
4 can concentrate on assessing the issues in play. Some evidence can still be presented on any
5 stipulated point as it is often necessary to do so to tell the story but stipulations allow the jury
6 and counsel to concentrate their time on the points in controversy (and for the jury to appreciate
7 *which* points are in controversy). In a further effort to improve jury comprehension, the Court
8 will sua sponte invite counsel at various points during the evidence to make short statements to
9 alert the jury to the upcoming items of interest. The Court welcomes other ideas for improving
10 jury comprehension.

11 **TIME LIMITS**

12 33. Ordinarily, the Court shall set fixed time limits at the final pretrial conference.
13 All of your examination time (whether direct, cross, re-direct or re-cross) for all witnesses must
14 fit within your time limit and you may allocate it as you wish. Opening and closing time limits
15 shall be *in addition to* your examination allocation.

16 **PUNITIVE DAMAGES**

17 34. For punitive damages, the jury will ordinarily be asked in their main deliberations
18 only to determine whether a defendant acted with fraud, malice or oppression. If the jury
19 answers “yes,” then (after a fifteen-minute recess) a short supplemental jury proceeding shall be
20 held. The parties may then present evidence of that defendant’s financial condition, followed
21 by brief argument by each side. The Court will then give the jury a supplemental instruction on
22 punitives and a special verdict form. For this proceeding, counsel typically stipulate to the
23 financial condition of the defendant. Failing a stipulation, the parties must put on proof in the
24 traditional way. It is the responsibility of counsel to make whatever motions are necessary, in a
25 timely way, to obtain any relevant financial information.

26 **CHARGING CONFERENCE**

27 35. As the trial progresses and the evidence is heard, the Court will fashion a
28 comprehensive set of jury instructions to cover all issues actually being tried. A few days

1 before the close of the evidence the Court will provide a draft final charge to the parties. After a
2 reasonable period for review, one or more charging conferences will be held at which each party
3 may object to any passage, ask for modifications, or ask for additions. Any instruction request
4 must be renewed specifically at the conference or it will be deemed waived, whether or not it
5 was requested prior to trial. One reason for this ground rule is that, before trial, parties usually
6 submit numerous instruction requests that fall away as the evidence is received. The draft
7 charge will omit points of law that appear irrelevant to the Court. If, however, a party still
8 wishes to request an omitted instruction after reviewing the Court's draft, then it must
9 affirmatively re-request it at the charging conference in order to give the Court a fair
10 opportunity to correct any error. Otherwise, as stated, the request will be deemed abandoned or
11 waived.

12 **PREPARING ELECTRONIC EVIDENCE TO GO INTO JURY ROOM**

13 36. While the jury is deliberating, it may wish to view videos, audios or digitized
14 exhibits using the Court's Jury Electronic Evidence PC. Please read the Court's website
15 describing the simple steps counsel will need to take to enable this PC. (Of course, the hard
16 copies of all non-electronic exhibits received in evidence will go into the jury room during
17 deliberations.)

18 **SETTLEMENTS AND CONTINUANCES**

19 37. Shortly before trial or a final pretrial conference, counsel occasionally wish
20 jointly to advise the clerk that a settlement has been reached and seek to take the setting off
21 calendar (but it turns out later that there was only a settlement "in principle" and disputes
22 remain). Cases, however, cannot be taken off calendar in this manner. Unless and until a
23 stipulated dismissal or judgment is filed or placed on the record, all parties must be prepared to
24 proceed with the final pretrial conference as scheduled and to proceed to trial on the trial date,
25 on pain of dismissal of the case for lack of prosecution or entry of default judgment. Only an
26 advance continuance expressly approved by the Court will release counsel and the parties from
27 their obligation to proceed. If counsel expect that a settlement will be final by the time of trial
28 or the final pretrial conference, they should notify the Court immediately in writing or, if it

1 occurs over the weekend before the trial or conference, by voice mail to the deputy courtroom
2 clerk. The Court will attempt to confer with counsel as promptly as circumstances permit to
3 determine if a continuance will be in order. Pending such a conference, however, counsel must
4 prepare and make all filings and be prepared to proceed with the trial.

5 38. Local Rule 40-1 provides that jury costs may be assessed as sanctions for failure
6 to provide the Court with timely written notice of a settlement. Please be aware that any
7 settlement reached on the day of trial, during trial, or at any time after the jury or potential
8 jurors have been summoned without sufficient time to cancel, will normally require the parties
9 to pay juror costs.

10 39. The Court strongly encourages lead counsel to permit young lawyers to examine
11 witnesses at trial and to have an important role. It is the way one generation will teach the next
12 to try cases and to maintain our district's reputation for excellence in trial practice.

13
14 **IT IS SO ORDERED.**

15
16 Dated: July 26, 2023.

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19 _____
20 WILLIAM ALSUP
21 SENIOR UNITED STATES DISTRICT JUDGE
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