

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**CIVIL PRETRIAL AND TRIAL STANDING ORDER FOR CASES BEFORE
DISTRICT JUDGE HAYWOOD S. GILLIAM, JR.¹**

MEET AND CONFER

1. At least 28 days before the final Pretrial Conference, lead counsel who will try the case shall meet and confer with respect to the following subjects: (1) settlement of the case; (2) preparation of the joint pretrial filings; and (3) clarifying and narrowing the contested issues for trial. Counsel in close geographical proximity are encouraged to meet in person.

EXCHANGE OF EVIDENCE

2. At least 28 days before the Pretrial Conference, each party shall provide every other party (but not the Court) with one set of all proposed exhibits, charts, schedules, summaries, diagrams, and other similar documentary materials to be used in its case in chief at trial, together with a complete list of all such proposed exhibits. Voluminous exhibits shall be reduced by elimination of irrelevant portions or through the use of summaries. Exhibits must be marked in accordance with paragraphs 16-18 of this Order. *All exhibits not provided are subject to exclusion in the reasonable exercise of the Court's discretion.*

3. At least 28 days before the Pretrial Conference, each party shall provide every other party (but not the Court) with a list containing citations to all evidence that a party might introduce at trial, other than that to be used solely for impeachment or rebuttal, that was obtained from deposition testimony, interrogatory responses, or responses to requests for admission. *All citations not provided are subject to exclusion in the reasonable exercise of the Court's discretion.*

PRETRIAL FILINGS

4. Unless otherwise ordered, the parties shall file the documents listed in paragraphs 6-15 (*i.e.*, joint pretrial statement and proposed order, proposed jury instructions, proposed voir

¹ For the parties' convenience, a time line of the parties' pretrial obligations under this Standing Order is attached as Appendix A. The Appendix contains significantly less detail than the Standing Order itself and should not be used as a substitute for reading and following the requirements in the full Standing Order.

1 dire questions, proposed verdict forms, proposed statement of the case, and trial briefs) no later
2 than 14 days before the pretrial conference. Proposed jury instructions, voir dire questions, verdict
3 forms, and proposed statements of the case should not be submitted in cases tried to the bench.
4 No later than 14 days before the final pretrial conference, the parties shall also submit the
5 proposed joint pretrial statement and proposed order, and any proposed jury instructions, voir dire
6 questions, verdict form(s), and statement of the case in Word format via email to

7 HSGpo@cand.uscourts.gov.

8 5. Two side-tabbed binders containing courtesy copies of these materials (as well as
9 any motions in limine, oppositions to those motions, and/or statements of non-opposition) must be
10 delivered to the Clerk’s office by noon the day after filing. All courtesy copies must be double-
11 sided, three-hole punched at the left margin, and marked with the ECF stamp (case number,
12 document number, date, and page number) on the top of each page. These binders shall be marked
13 “Chambers Copy – Do Not File” and shall be clearly labeled with Judge Gilliam’s name and the
14 case number.

15 6. **Joint Pretrial Statement and Proposed Order.** The parties shall file a joint
16 pretrial statement and proposed order, which must contain the following information:

- 17 a) Substance of the Action. A brief description of the parties, the substance of claims and
18 defenses that remain to be decided, and the operative pleadings that raise the issues.
- 19 b) Relief Requested. A detailed statement of all requested relief, particularly itemizing all
20 elements of damages claimed.
- 21 c) Undisputed Facts. A plain and concise statement of all relevant facts to which the
22 parties will stipulate for incorporation into the trial record without supporting
23 testimony or exhibits. The parties shall exercise good faith in stipulating to facts that
24 are not reasonably disputable.
- 25 d) Disputed Factual Issues. A plain and concise list of the issues of fact that are contested
26 and remain to be litigated at trial.
- 27 e) Agreed Statement. A statement assessing whether all or part of the action may be
28 presented upon an agreed statement of facts.

- 1 f) Stipulations. A statement of stipulations requested or proposed.
- 2 g) Witness to be Called. A list of all witnesses likely to be called at trial, other than solely
3 for impeachment or rebuttal, together with a brief statement following each name
4 describing the substance of the testimony to be given. *No party shall be permitted to*
5 *call any witness in its case in chief who is not disclosed in its pretrial statement unless*
6 *the Court grants leave for good cause.*
- 7 h) Exhibits, Schedules, and Summaries. A list of all documents or other items to be
8 offered as exhibits at trial, other than solely for impeachment or rebuttal, and a brief
9 statement following each that describes: (1) its substance or purpose; (2) the identity of
10 the sponsoring witness; and (3) whether the parties have stipulated to its admissibility
11 and, if they have not, the objection to its admission, the grounds for the objection, and
12 the position of the offering party. If the list is voluminous, Section h) should be
13 attached as an appendix to the joint pretrial statement and proposed order.
- 14 i) Disputed Legal Issues. Without extended legal argument, a concise statement of each
15 disputed point of law concerning liability or relief, citing supporting statutes and
16 decisions.
- 17 j) Pending Motions or Matters. A statement of any motions or other matters that must be
18 resolved prior to trial.
- 19 k) Bifurcation or Separate Trial of Issues. A statement of whether either party requests
20 bifurcation or a separate trial of specific issues and why.
- 21 l) Use of Discovery Responses. A list containing citations to all evidence that a party
22 might introduce at trial, other than that to be used solely for impeachment or rebuttal,
23 that was obtained from deposition testimony, interrogatory responses, or responses to
24 requests for admission. Counsel shall state any objections to the use of these materials,
25 the grounds for the objections, the position of the offering party, and shall certify that
26 the parties have conferred regarding such objections. If the list is voluminous, Section
27 l) should be attached as an appendix to the joint pretrial statement and proposed order.
- 28 m) Estimate of Trial Time. An estimate of the number of court days needed for the

1 presentation of each party’s case, indicating possible reductions in time through
2 proposed stipulations, agreed statements of facts, or expedited means of presenting
3 testimony and exhibits.

4 n) Settlement Discussion. A brief summary of the status of settlement negotiations,
5 without indicating specific dollar amounts, and an indication of whether further
6 negotiations are likely to be productive and what, if anything, would facilitate
7 settlement.

8 o) Miscellaneous. Any other matters that will facilitate the just, speedy, and efficient
9 resolution of the action.

10 The joint pretrial statement and proposed order shall include the following language
11 directly above the signature lines:

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

15 7. **Proposed Jury Instructions**. The parties shall meet and confer and file a joint set
16 of proposed jury instructions, arranged in the order the parties propose the Court give the
17 instructions. The parties should use the Ninth Circuit Model jury instructions where possible.
18 Any modifications to a form instruction must be plainly identified to the Court. Any language a
19 party proposes to be removed from a model instruction must be designated with a ~~striketrough~~
20 and language proposed to be added to a model instruction must be underlined.

21 8. The parties should include proposed text for all proposed jury instructions, even for
22 any form preliminary instructions, general instructions, or concluding instructions on which they
23 agree. Instructions upon which the parties agree shall be identified as “Stipulated Instruction No.
24 ___ Re _____,” with blanks filled in as appropriate.

25 9. If, after meeting and conferring in good faith, the parties cannot agree on a
26 proposed jury instruction, each party’s proposed version shall be provided and identified as
27 “Disputed Instruction No. ___ Re _____, Offered by _____,” with blanks filled in as
28 appropriate. All proposed versions of the same instruction shall bear the same number. Following

1 each set of proposed versions of a disputed instruction, each party shall explain, in no more than
2 one page, why the Court should give that party’s proposed instruction. If the parties dispute
3 whether a particular instruction should be given at all, the proponent of the instruction shall
4 provide proposed language, identified as “Disputed Instruction No. ___ Re _____, Offered by
5 _____,” with blanks filled in as appropriate. Following the disputed instruction, each party
6 shall explain, in no more than one page why the instruction should or should not be given.

7 10. **Proposed Voir Dire Questions.** In cases tried before a jury, the parties are
8 expected to meet and confer and file a joint set of proposed voir dire questions for the Court to
9 ask. Unless otherwise indicated, the Court will conduct voir dire.

10 11. If, after meeting and conferring in good faith, there are proposed questions about
11 which the parties do not agree, each party may submit a list of disputed proposed questions they
12 wish to be put to the venire. The proponent of each disputed question shall provide proposed
13 language, identified as “Disputed Question No. ___, Offered by _____,” with blanks filled in as
14 appropriate. No argument concerning why a disputed proposed question should or should not be
15 asked shall be submitted.

16 12. Note that during voir dire the Court will elicit the jurors’ basic biographical
17 information through its own questioning (*e.g.*, current employment, marital status, past jury
18 service), so those subjects need not be included in the parties’ set of proposed questions.

19 13. **Proposed Verdict Forms.** The parties are expected to meet and confer and file a
20 joint proposed verdict form. If, after a good faith effort to meet and confer, the parties cannot
21 agree on a joint form, the parties may submit separate proposed verdict forms. If the verdict form
22 is disputed, each party shall explain, in no more than one page, why its proposed verdict form
23 should be given.

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

27 15. **Trial Briefs.** Parties are not required to file trial briefs. If a party chooses to file a
28 trial brief, it shall not be longer than five pages. Trial briefs shall not duplicate the contents of the

1 joint pretrial statement and proposed order.

2 **EXHIBITS**

3 16. Each exhibit shall be pre-marked with a trial exhibit sticker (“Trial Exhibit
4 No. __”), not deposition exhibit label, and defendant’s exhibit numbers shall be sequenced to begin
5 after plaintiff’s exhibit numbers.

6 17. The parties shall agree on blocks of numbers to fit the needs of the case (e.g.,
7 Plaintiff has 1-100, Defendant has 101-200) and make a good faith effort to avoid marking the
8 same exhibit in their respective blocks. If the same exhibit is marked by more than one party, the
9 defendant shall withdraw the duplicative exhibit (but should not renumber its portion of the
10 exhibit list). Section h) of the parties’ joint pretrial statement and proposed order must identify the
11 exhibit numbers of the exhibits withdrawn as duplicates.

12 18. Exhibits shall be identified as follows:

13
14
15
16
17
18
19
20

21 19. At least 14 days prior to the Pretrial Conference, the parties shall make a good faith
22 effort to stipulate to exhibits’ admissibility. If stipulation is not possible, the parties shall make
23 every effort to stipulate to at least authenticity and foundation absent a legitimate (not tactical)
24 objection.

25 20. Two sets of side-tabbed binders containing copies of the exhibits identified in
26 Section h) of the joint pretrial statement and proposed order (and not already excluded by the
27 Court in limine) must be provided to the Clerk’s office seven days before trial. One should be
28 marked as “Chambers Copies” and the other as “Clerk’s Copies.” Each binder should be marked,

1 tabbed, and indexed, and bear a spine label indicating the numbers of the exhibits contained
2 therein.

3 **MOTIONS IN LIMINE**

4 21. The parties are encouraged to resolve as many trial issues by stipulation as
5 possible. The parties shall meet and confer no later than 21 days before the pretrial conference to
6 determine whether any evidentiary issues may be resolved by stipulation. No party may file a
7 motion in limine without first making a good faith effort to resolve the evidentiary issue with
8 opposing counsel.

9 22. Any party wishing to have motions in limine heard prior to the commencement of
10 trial must file the same no later than 21 days prior to the date set for the Pretrial Conference. Each
11 party is limited to bringing five motions in limine. Each motion shall be no longer than five pages
12 and should address a single, separate topic. Motions should be clearly identified as
13 “_____’s Motion in Limine No. ___ Re: _____.” If the content of an exhibit is
14 necessary to the resolution of a motion in limine, that exhibit must be attached to a declaration in
15 support of the motion. No party filing a motion in limine should submit courtesy copies of their
16 motions to the Court until the parties file their pretrial filings 14 days before the Pretrial
17 Conference.

18 23. Any party opposing a motion in limine shall file its opposition papers (or statement
19 of non-opposition) no later than 14 days prior to the Pretrial Conference. Each opposition is
20 limited to five pages; the moving party shall not file a reply brief. Courtesy copies of all motions
21 in limine and oppositions must be included in the binder containing the parties’ pretrial filings in
22 the format described in paragraph five of this Order.

23 24. The motions will be heard at the Pretrial Conference or at such other time as the
24 Court may direct.

25 **TRIAL**

26 25. Trial will be conducted from 8:30 a.m. to 1:30 p.m. on Mondays through Fridays.
27 Counsel must arrive by 8:00 a.m. each day, or earlier if directed by the Court, to discuss any
28 matters that need to be heard outside the presence of the jury. The jury will be called at 8:30 a.m.

1 26. Should a daily transcript and/or real-time reporting be desired, the parties shall
2 make arrangements with the Supervisor of the Court Reporting Services at (415) 522-2079 at least
3 14 days before trial.

4 27. The courtroom is equipped with monitors and a sound system. Should the parties
5 wish to utilize additional technology, the United States Marshals Service requires a court order to
6 allow equipment into the Courthouse. The parties must file a written request and proposed order
7 no later than seven days prior to the beginning of trial if they wish to bring any such technology
8 into the Courthouse. Parties should be prepared to fix any equipment, if necessary.

9 28. At the end of each trial day, the parties shall disclose the witnesses whom they will
10 call and the exhibits to be introduced through those witnesses (except exhibits to be used solely for
11 impeachment purposes) during the next day of trial. Failure to have a witness ready to proceed at
12 trial will usually constitute resting.

13 29. Counsel must consult with the Courtroom Deputy at the beginning of the first day
14 of trial regarding the procedure for tracking admitted exhibits and any limitations thereon. If there
15 are any disagreements between the parties regarding the status of the exhibits, counsel shall bring
16 them promptly to the Court's attention. At the close of evidence, before closing arguments,
17 counsel must confer with the Courtroom Deputy to make sure the exhibits in evidence are in good
18 order.

19 30. Upon the conclusion of the trial, each party shall retain its exhibits through the
20 appellate process. It is each party's responsibility to make arrangements with the Clerk of Court
21 to file the record on appeal.

22

23 **IT IS SO ORDERED.**

24 Dated: February 19, 2015

25



26

HAYWOOD S. GILLIAM, JR.
United States District Judge

27

28

APPENDIX A

CHRONOLOGICAL SUMMARY OF PRETRIAL EXCHANGES AND SUBMISSIONS

Date	Event
28 Days Before Pretrial Conference	Lead counsel to meet and confer regarding settlement, pretrial filings, and narrowing of issues (¶ 1)
	Provide all other parties with proposed exhibits, charts, schedules, summaries, diagrams, and other similar documentary materials to be used case in chief at trial, as well as a list of those materials (¶ 2)
	Provide all other parties a list containing citations to all evidence that a party might introduce at trial, other than that to be used solely for impeachment or rebuttal, that was obtained from deposition testimony, interrogatory responses, or responses to requests for admission (¶ 3)
21 Days Before Pretrial Conference	File any motions in limine (¶¶ 21- 22)
14 Days Before Pretrial Conference	File joint pretrial statement and proposed order (¶ 6)
	File proposed jury instructions (jury trial only) (¶¶ 7-9)
	File proposed voir dire questions (jury trial only) (¶¶ 10-12)
	File proposed verdict forms (jury trial only) (¶ 13)
	File proposed statement of the case (jury trial only) (¶ 14)
	File trial briefs (optional) (¶ 15)
	File any oppositions or statements of non-opposition to motions in limine (¶ 23)
13 Days Before Pretrial Conference (by Noon)	Email Word versions of the proposed joint pretrial statement and proposed order, proposed jury instructions, voir dire questions, verdict form(s), and statement of the case to HSGpo@cand.uscourts.gov . (¶ 4)
	Submit two binders to the Clerk’s office containing the joint pretrial statement and proposed order, any proposed jury instructions, voir dire questions, verdict forms, statement of the case, and trial briefs, as well as all motions in limine, oppositions, and/or statements of non-opposition (¶ 5)
7 Days Before Trial	Submit two binders to the Clerk’s office containing copies of the exhibits identified in Section h) of the parties’ joint pretrial statement and proposed order (and not already excluded by the Court in limine) (¶ 20)

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28