

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 **CRIMINAL PRETRIAL AND TRIAL STANDING ORDER BEFORE**
4 **DISTRICT JUDGE HAYWOOD S. GILLIAM, JR.**

5 **SCHEDULING**

6 1. **Trial** is set for 8:30 a.m. on _____, in Courtroom 2, 4th floor, 1301
7 Clay Street, Oakland, California.

8 2. A **Pretrial Conference** shall be held at 2:00 p.m. on _____, in
9 Courtroom 2, 4th floor, 1301 Clay Street, Oakland, California. Counsel shall confer in advance of
10 the Pretrial Conference and should be prepared to discuss any pending motions in limine, as well
11 as the items listed in Local Criminal Rule 17.1-1(b).

12 **PRETRIAL FILINGS**

13 3. All pretrial filings in the Court's criminal cases shall be submitted to the Oakland
14 Clerk's Office.

15 4. A joint pretrial statement shall be filed at least seven days prior to the Pretrial
16 Conference and shall address all of the items listed in Criminal Local Rule 17.1-1(b).

17 5. In addition, the government and, to the extent consistent with defendant's right to an
18 effective defense, defense counsel shall do the following at least seven days prior to the Pretrial
19 Conference:

- 20 a. **Serve and file a trial memorandum** that briefly states the legal bases for the
21 charges and the anticipated evidence, and addresses any evidentiary, procedural,
22 or other anticipated legal issue;
- 23 b. **Serve and file a witness list** that includes a brief summary of the testimony of
24 each witness; and
- 25 c. **Serve and file exhibit lists** and serve copies of all marked exhibits on all parties.
26 Each item shall be premarked; generally, the Government shall use numbers 1–
27 100 and the Defendant shall use 101–200 – modified to meet the needs of the
28 case. The parties shall refer to the “EXHIBITS” portion of this order for further
instruction on exhibits.

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- 6. All parties shall do the following at least seven days prior to the Pretrial Conference:
 - a. **Jointly serve and file proposed jury instructions.** The parties shall meet and confer and file a joint set of proposed jury instructions, if they can agree, arranged in the order the parties propose the Court give the instructions. The parties should use the Ninth Circuit Model jury instructions where possible. Any modifications to a form instruction must be plainly identified to the Court. Any language a party proposes to be removed from a model instruction must be designated with a ~~striketrough~~ and language proposed to be added to a model instruction must be underlined.
 - b. The parties should include proposed text for all proposed jury instructions, even for any form preliminary instructions, general instructions, or concluding instructions on which they agree. Instructions upon which the parties agree shall be identified as “Stipulated Instruction No. __ Re _____,” with blanks filled in as appropriate.
 - c. If, after meeting and conferring in good faith, the parties cannot agree on a proposed jury instruction, each party’s proposed version shall be provided and identified as “Disputed Instruction No. __ Re _____, Offered by _____,” with blanks filled in as appropriate. All proposed versions of the same instruction shall bear the same number. Following each set of proposed versions of a disputed instruction, each party shall explain, in no more than one page, why the Court should give that party’s proposed instruction. If the parties dispute whether a particular instruction should be given at all, the proponent of the instruction shall provide proposed language, identified as “Disputed Instruction No. __ Re _____, Offered by _____,” with blanks filled in as appropriate. Following the disputed instruction, each party shall explain, in no more than one page why the instruction should or should not be given.
 - d. Counsel shall e-mail a copy of their proposed jury instructions in Word format to HSGpo@cand.uscourts.gov.

- 1 e. **Serve and file proposed voir dire questions.** The parties shall meet and confer
2 and file a joint set of proposed voir dire questions for the Court to ask.
- 3 f. If, after meeting and conferring in good faith, there are proposed questions about
4 which the parties do not agree, each party may submit a list of disputed questions
5 they wish to be put to the venire. The proponent of each disputed question shall
6 provide proposed language, identified as “Disputed Question No. __, Offered by
7 _____,” with blanks filled in as appropriate. No argument concerning why
8 a disputed proposed question should or should not be asked shall be submitted.
- 9 g. Counsel shall e-mail a copy of their proposed voir dire in Word format to
10 HSGpo@cand.uscourts.gov.
- 11 h. In addition to the basic voir dire conducted by the Court, the Court may allow an
12 additional period of voir dire by counsel in its discretion.
- 13 i. **Serve and file verdict forms.** The parties shall meet and confer and file a joint
14 proposed verdict form, if they can agree. If, after a good faith effort to meet and
15 confer, the parties cannot agree on a joint form, the parties may submit separate
16 proposed verdict forms. If the verdict form is disputed, each party shall explain,
17 in no more than one page, why its proposed verdict form should be given.
18 Counsel shall e-mail a copy of their proposed verdict forms in Word format to
19 HSGpo@cand.uscourts.gov.

20 7. Parties shall deliver two copies of the pretrial statement, attaching the items described
21 above, in three-ringed binders that comply with the instructions at paragraph 19 below to the
22 Oakland Clerk’s Office.

23 **MOTIONS IN LIMINE**

24 8. The parties are encouraged to resolve trial issues by stipulation where possible and to
25 come to agreement on uncontested matters. Any party wishing to have motions in limine heard
26 prior to the commencement of trial must file and serve them at least fourteen (14) days prior to the
27 Pretrial Conference. Any opposition thereto must be filed and served at least seven (7) days
28 before the Pretrial Conference. Reply briefs are not permitted.

1 9. Each motion and opposition shall be no longer than five pages and should address a
2 single, separate topic. Motions should be clearly identified as “_____’s Motion in Limine
3 No. ___ Re: _____.”

4 10. Courtesy copies of all motions in limine and oppositions thereto shall be provided in
5 the manner set out at paragraph 19.

6 **EXHIBITS**

7 11. The parties are to jointly prepare a single set of trial exhibits. Each item shall be pre-
8 marked with a trial exhibit sticker (“Trial Exhibit No. ___”), not a deposition exhibit label, and
9 defendant’s exhibit numbers shall be sequenced to begin after the government’s exhibit numbers.

10 12. Exhibits shall be identified with tags in the format shown here:



A rectangular box containing a trial exhibit tag template. The text inside the box is as follows:
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 100

Case No. _____
Date Entered _____
By _____
 Deputy Clerk

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20 13. The parties shall agree on blocks of numbers to fit the needs of the case (e.g., the
21 Government has 1–100, Defendant has 101–200) and make a good faith effort to avoid marking
22 the same exhibit in their respective blocks. If the same exhibit is marked by more than one party,
23 the Defendant shall withdraw the duplicative exhibit (but should not renumber its portion of the
24 exhibit list.)

25 14. Two sets of binders containing copies of the exhibits must be provided to the Clerk’s
26 office in Oakland five days before trial. One should be marked “Chambers Copies” and the other
27 as “Clerk’s Copies.” Each exhibit must be separated with a label divider identifying the exhibit
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1 number. Each binder should bear a spine label indicating the numbers of the exhibits contained
2 therein.

3 15. Counsel must consult with each other and Judge Gilliam’s Courtroom Deputy, Nikki
4 Riley, at the beginning of the first day of trial regarding the procedure for tracking admitted
5 exhibits and any limitations thereon. If there are any disagreements between the parties regarding
6 the status of the exhibits, counsel should bring them promptly to the Court’s attention

7 16. At the close of evidence, before closing arguments, counsel must confer with Ms. Riley
8 to ensure the exhibits in evidence are in good order.

9 17. Upon the conclusion of the trial, the admitted exhibits are filed by the Court. The
10 exhibits not admitted are returned to counsel.

11 **OPENING STATEMENTS**

12 18. Parties must meet and confer to exchange any visuals, graphics, or exhibits to be used
13 in opening statements. Unless otherwise agreed, the exchange must occur no later than close of
14 business the Wednesday before trial. Any objections not resolved must be filed in writing by the
15 Thursday before trial. The parties shall be available by telephone on the Friday before trial to
16 discuss the issues raised with the Court.

17 **COURTESY COPIES**

18 19. Counsel shall submit two courtesy copies of all filings. All courtesy copies must be
19 double-sided, three-hole punched at the left margin, and marked with the ECF stamp (case
20 number, document number, date, and page number) on the top of each page. These printed copies
21 shall be marked “Chambers Copy – Do Not File” and shall be in an envelope clearly labeled with
22 Judge Gilliam’s name and the case number. Exhibits to motions or declarations shall be side-
23 tabbed and numbered or lettered. If the documents filed exceed 50 pages including exhibits, the
24 filing party shall submit courtesy copies in three ring binders.

25 20. In addition, one extra copy of the witness lists and exhibit lists should be furnished to
26 the court reporter.

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TRANSCRIPTS

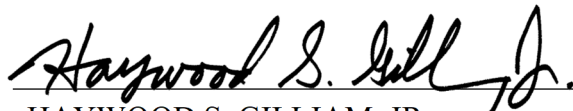
21. Should a daily transcript and/or real-time reporting be desired, the parties shall e-file a transcript order form (CAND 435), at least 14 days before trial.

TECHNOLOGY

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

IT IS SO ORDERED.

Dated: February 21, 2019



HAYWOOD S. GILLIAM, JR.
United States District Judge