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Daniel-Adam Borsotti v. Jay Bray et al Order Content-Type: text/html

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UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA

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Case Name: Daniel-Adam Borsotti v. Jay Bray et al

Case Number: 2:16-cv-07603-FMO-JC

Filer:

Document Number: 59

Docket Text:

SCHEDULING AND CASE MANAGEMENT ORDER RE: JURY TRIAL by Judge Fernando M. Olguin. The court deems a Scheduling Conference unnecessary and hereby vacates the hearing. Jury Trial set for 1/9/2018 at 8:15 AM before Judge Fernando M. Olguin. *See order for deadlines and requirements imposed.*(vdr)

2:16-cv-07603-FMO-JC Notice has been electronically mailed to:

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mcoutts@mccarthyholthus.com
Matthew Bryan Learned wrick@mccarthyholthus.com, mlearned@mccarthyholthus.com,
cvnotice@mccarthyholthus.com
Joseph E Addiego ayshalewis@dwt.com, sfodocket@dwt.com, joeaddiego@dwt.com,
andreadupree@dwt.com
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**2:16-cv-07603-FMO-JC Notice has been delivered by First Class U. S. Mail or by other means
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DANIEL-ADAM BORSOTTI,
Plaintiff,
v.
JAY BRAY, et al.,
Defendants.

Case No. CV 16-7603 FMO (JCx)
**SCHEDULING AND CASE MANAGEMENT
ORDER RE: JURY TRIAL**

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

The term "Counsel," as used in this Order, includes parties appearing pro se.

Having reviewed the docket and the various pending matters, the court deems a Scheduling Conference unnecessary and hereby **vacates** the hearing. The dates and requirements set forth in this Order are firm. The court is unlikely to grant continuances, even if stipulated by the parties, unless the parties establish good cause through a proper showing.

In an effort to comply with Fed. R. Civ. P. 1's mandate "to secure the just, speedy, and inexpensive determination of every action[.]" the court **orders** as follows.

1 I. JOINDER OF PARTIES/AMENDMENT OF PLEADINGS.

2 Any stipulation or motion to amend as to any claims, defenses and/or parties shall be
3 lodged/filed by the deadline set forth in the attached schedule, failing which it shall be deemed that
4 the party has waived any such amendments. All unserved parties not timely served shall be
5 dismissed without prejudice. In addition, all "Doe" defendants are to be identified and named on
6 or before the date set forth below, on which date all remaining "Doe" defendants will be dismissed,
7 unless otherwise ordered by the court upon a showing of good cause.

8 II. DISCOVERY.

9 A. Generally.

10 Discovery is governed by the Federal Rules of Civil Procedure and applicable Local Rules
11 of the Central District of California. Pro se litigants are entitled to discovery to the same extent as
12 are litigants represented by counsel. The court allows discovery to commence as soon as the first
13 answer or motion to dismiss is filed. The parties should note that absent exceptional
14 circumstances, **discovery shall not be stayed** while any motion is pending, including any motion
15 to dismiss or motion for protective order. **The parties are directed to conduct any necessary**
16 **discovery as soon as possible, as the court is not inclined to grant any extensions of the**
17 **discovery or other case-related deadlines.**

18 Counsel are expected to comply with the Federal Rules of Civil Procedure and all Local
19 Rules concerning discovery. Whenever possible, the court expects counsel to resolve discovery
20 disputes among themselves in a courteous, reasonable and professional manner. The court
21 expects that counsel will adhere strictly to the Civility and Professionalism Guidelines (which can
22 be found on the Central District's website under Information for Attorneys>Attorney Admissions).

23 B. Discovery Cut-Off.

24 The court has established a cut-off date for discovery, including expert discovery, if
25 applicable. This is not the date by which discovery requests must be served; it is the date by
26 which all discovery, **including all hearings on any related motions**, is to be completed.

27 C. Discovery Motions.

28

1 Any motion relating to a deposition and/or challenging the adequacy of discovery responses
2 must be filed, served and calendared sufficiently in advance of the discovery cut-off date to permit
3 the responses to be obtained and/or the deposition to be completed before the discovery cut-off
4 if the motion is granted. Given the requirements set forth in the Local Rules (e.g., “meet and
5 confer” and preparation of the Joint Stipulation), any party seeking to file a discovery motion must
6 usually initiate meet and confer discussions at least seven (7) weeks before the discovery cut-off,
7 i.e., the moving party’s counsel must initiate the meet and confer process by preparing and serving
8 the letter required by Local Rule 37-1.

9 D. Expert Discovery.

10 All disclosures must be made in writing. The parties should begin expert discovery shortly
11 after the initial designation of experts. The final pretrial conference and trial dates will not be
12 continued because expert discovery is not completed. Failure to comply with these or any other
13 orders concerning expert discovery may result in the expert being excluded as a witness.

14 III. MOTIONS.

15 The court has established a cut-off date for the filing and service of motions for the court’s
16 law and motion calendar. Counsel should consult the court’s Standing Order, located on the
17 Central District’s website, to determine the court’s requirements concerning motions and other
18 matters. If documentary evidence in support of or in opposition to a motion exceeds 50 pages,
19 the evidence must be separately bound and tabbed and include an index. If such evidence
20 exceeds **300 pages**, the documents shall be placed in a **three-ring binder**, with an index and with
21 each item of evidence separated by a tab divider on the right side. In addition, counsel shall
22 provide an electronic copy (i.e., cd, dvd, or flash drive) of the documents in a single, OCR-
23 scanned, .pdf file with each item of evidence separated by labeled bookmarks. Counsel shall
24 ensure that all documents are legible. Counsel are strongly encouraged to cite to Docket numbers
25 (and sub-numbers) when citing to the record.

26 Counsel should also consult the Central District’s website at
27 www.cacd.uscourts.gov>Judges’ Requirements>Judges’ Procedures and Schedules>Hon.
28 Fernando M. Olguin for further information regarding motion procedures.

1 IV. SETTLEMENT.

2 Pursuant to Local Rule 16-15, the parties must complete a settlement conference. **No case**
3 **will proceed to trial unless all parties, including the principals of all corporate parties, have**
4 **appeared personally at a settlement conference.**

5 If the case settles, counsel shall file a Notice of Settlement no later than 24 hours after the
6 case is settled, stating when they expect to file their dismissal papers. Otherwise, **the parties**
7 **must, no later than 48 hours after the settlement proceeding is completed, file a Status**
8 **Report Re: Settlement.** The Status Report shall not disclose the parties' settlement positions,
9 i.e., the terms of any offers or demands. The Status Report shall describe the efforts made by the
10 parties to resolve the dispute, i.e., the occasions and dates when the parties participated in
11 mediation or settlement conferences. The Status Report shall also include the name of the
12 Settlement Officer who assisted the parties with their settlement conference.

13 V. TRIAL PREPARATION.

14 A. Final Pretrial Conference.

15 Unless excused for good cause, each party appearing in this action shall be represented
16 at the final pretrial conference by the attorney who is to serve as lead trial counsel. Counsel must
17 be prepared to discuss streamlining the trial, including presentation of testimony by deposition
18 excerpts or summaries, time limits, stipulations as to undisputed facts and qualification of experts
19 by admitted resumes.

20 B. Pretrial Documents.

21 The filing schedule for pretrial documents is set forth on the last few pages of this Order.
22 **Unless otherwise indicated, compliance with Local Rule 16 is required. The court does not**
23 **exempt pro se parties from the requirements of this Order or Local Rule 16.** Carefully
24 prepared memoranda of contentions of fact and law, witness lists, a pretrial exhibit stipulation and
25 a proposed pretrial conference order shall be submitted in accordance with the Local Rules and
26 the requirements set forth in this Order. All pretrial document copies shall be delivered to the court
27 "binder-ready" (three-hole punched on the left side, without blue-backs and stapled only in the top
28

1 left corner). Failure to comply with these requirements may result in the imposition of sanctions
2 as well as the pretrial conference being taken off-calendar or continued.

3 1. **Witness Lists.**

4 In addition to the requirements of Local Rule 16-5, the witness lists must include a brief
5 description (one or two paragraphs) of the testimony and a time estimate for both direct and cross-
6 examination (separately stated).

7 2. **Pretrial Exhibit Stipulation.¹**

8 **No later than 21 days before the final pretrial conference**, counsel shall conduct a good
9 faith meet and confer in person and prepare a Pretrial Exhibit Stipulation. The Pretrial Exhibit
10 Stipulation shall contain each party's numbered list of trial exhibits, with objections, if any, to each
11 exhibit, including the basis of the objection and the offering party's brief response. All exhibits to
12 which there is no objection shall be deemed admitted. The parties shall stipulate to the
13 authenticity and foundation of exhibits whenever possible, and the Pretrial Exhibit Stipulation shall
14 identify any exhibits to which authenticity or foundation have not been stipulated and the specific
15 reasons for the parties' failure to stipulate.

16 The Pretrial Exhibit Stipulation shall be substantially in the following form:

17 **Pretrial Exhibit Stipulation**

18 **Plaintiff(s)/Defendant(s)' Exhibits**

19 **Exhibit No. Description Stip. to Adm.?² Objection Response to Objection**

20
21 Failure to comply with this paragraph may be deemed a waiver of all objections. **Do not**
22 **submit** blanket or boilerplate objections to the opposing party's exhibits. These will be
23 disregarded and overruled.

24 3. **Proposed Pretrial Conference Order.**

25
26 _____
27 ¹ It is not necessary to file the Joint Exhibit List required by Local Rule 16-6.1.

28 ² The Pretrial Exhibit Stipulation shall indicate in this column whether an exhibit is admitted for identification purposes only.

1 The format of the proposed final pretrial conference order shall conform to the format set
2 forth in Appendix A to the Local Rules. In drafting the proposed pretrial conference order, the
3 parties shall attempt to agree on and set forth as many non-contested facts as possible. The court
4 will usually read the uncontested facts to the jury at the start of trial. A carefully drafted and
5 comprehensively stated stipulation of facts will reduce the length of trial and increase jury
6 understanding of the case.

7 C. Joint Statement of the Case.

8 **At the time the proposed final pretrial conference order is lodged with the court,**
9 counsel shall file an objective, non-argumentative statement of the case, which the court shall read
10 to all prospective jurors at the beginning of voir dire. The statement should not exceed one page.

11 D. Motions In Limine.

12 Each party is allowed a maximum of five motions in limine, which must be filed no later than
13 the deadline set forth below. In the event a party believes that more than five motions in limine
14 are necessary, the party must obtain leave of court to file additional motions in limine. The court
15 will not hear or resolve motions in limine that are disguised summary judgment motions.

16 Before filing any motion in limine, counsel for the parties shall confer in a good faith effort
17 to eliminate the necessity for the filing of the motion in limine or to eliminate as many of the
18 disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for
19 this conference. The conference shall take place in person, with a court reporter present, within
20 seven (7) calendar days of service upon opposing counsel of a letter requesting such conference,
21 but in no event later than fourteen (14) days before the deadline for filing motions in limine. Unless
22 counsel agree otherwise, the conference shall take place at the office of counsel for the moving
23 party. The moving party's letter shall identify the testimony, exhibits, or other specific matters
24 alleged to be inadmissible and/or prejudicial, shall state thoroughly with respect to each such
25 matter the moving party's position (and provide any legal authority which the moving party believes
26 is dispositive), and shall specify the terms of the order to be sought.

27 If counsel are unable to resolve their differences, they shall prepare and file a separate,
28 sequentially numbered joint motion in limine for each issue in dispute which contains a clear

1 caption which identifies the moving party and the nature of the dispute (e.g., "Plaintiff's Motion in
2 Limine No. 1 to Exclude the Testimony of Defendant's Expert"). Each joint motion in limine shall
3 consist of one document signed by all counsel. The joint motion in limine shall contain a clear
4 identification of the testimony, exhibits, or other specific matters alleged to be inadmissible and/or
5 prejudicial and a statement of the specific prejudice that will be suffered by the moving party if the
6 motion is not granted. The identification of the matters in dispute shall be followed by each party's
7 contentions and each party's memorandum of points and authorities. The title page of the joint
8 motion in limine must state the Pre-Trial Conference date, hearing date for the motions in limine,
9 and trial date.

10 Each separately-represented party shall be limited to ten (10) pages, exclusive of tables
11 of contents and authorities. Repetition shall be avoided and, as always, brevity is preferred.
12 Leave for additional space will be given only in extraordinary cases. The excessive use of
13 footnotes in an attempt to avoid the page limitation shall not be tolerated. All substantive material,
14 other than brief argument on tangential issues, shall be in the body of the brief.

15 The moving party must provide its portion of the joint motion in limine to the nonmoving
16 party, via e-mail, no later than nine (9) days before the deadline set forth below for filing motions
17 in limine. The nonmoving party shall then provide the integrated joint motion in limine, along with
18 any exhibits, to the moving party no later than two (2) days before the filing deadline. (The moving
19 party may not make any further revisions to the joint motion in limine other than finalizing it for
20 filing). The moving party shall be responsible for filing the joint motion in limine and preparing and
21 filing any supporting exhibits.

22 The moving party may file a reply memorandum of points and authorities no later than the
23 deadline set forth below. The reply memorandum shall not exceed five pages, unless otherwise
24 ordered by the court.

25 A motion in limine made for the purpose of precluding the mention or display of inadmissible
26 or prejudicial matter in the presence of the jury shall be accompanied by a declaration that
27 includes the following: (A) a clear identification of the specific matter alleged to be inadmissible
28 or prejudicial; (B) a representation to the court that the subject of the motion in limine has been

1 discussed with opposing counsel, and that opposing counsel has either indicated that such matter
2 will be mentioned or displayed in the presence of the jury before it is admitted in evidence or that
3 counsel has refused to stipulate that such matter will not be mentioned or displayed in the
4 presence of the jury unless and until it is admitted in evidence; and (C) a statement of the specific
5 prejudice that will be suffered by the moving party if the motion in limine is not granted.

6 The mandatory chambers copy of all evidence in support of or in opposition to a motion in
7 limine, including declarations and exhibits to declarations, shall be submitted in a separately bound
8 volume and shall include a Table of Contents. **The transcript of the meet and confer session**
9 **shall be included as an exhibit to the motions in limine.** If the supporting evidence exceeds
10 50 pages, then each copy of the supporting evidence shall be placed in a three-ring binder with
11 each item of evidence separated by a tab divider on the right side, and shall include a label on the
12 spine of the binder identifying its contents.

13 The court will not consider any motion in limine in the absence of a joint motion or a
14 declaration from counsel for the moving party establishing that opposing counsel: (A) failed to
15 confer in a timely manner; (B) failed to provide the opposing party's portion of the joint motion in
16 a timely manner; or (C) refused to sign and return the joint motion after the opposing party's
17 portion was added.

18 E. Jury Instructions and Special Verdict Forms.

19 1. No later than thirty-five days (35) days before the deadline to file the required
20 jury instructions and verdict forms, the parties shall exchange their respective proposed jury
21 instructions and verdict forms. No later than twenty-eight (28) days before the filing
22 deadline, each party shall serve objections to the other party's instructions and verdict
23 forms. No later than twenty-one (21) days before the deadline to file the required jury
24 instructions and verdict forms, lead counsel for the parties shall meet and confer in person
25 at an agreed-upon location within the Central District of California and attempt to come to
26 agreement on the proposed jury instructions and verdict forms.

27 2. **No later than the deadline set forth below**, counsel shall submit both
28 general and substantive jury instructions in the form described below. Counsel must

1 provide the documents described below in WordPerfect (the court's preference) or Word
2 format. When the Ninth Circuit's Manual of Model Civil Jury Instructions provides an
3 applicable jury instruction, the parties should submit the most recent version, modified and
4 supplemented to fit the circumstances of this case. If there is no applicable Ninth Circuit
5 jury instruction, counsel should consult the current edition of O'Malley, et al., Federal Jury
6 Practice and Instructions. Where California law applies, counsel should use the current
7 edition of the Judicial Council of California Civil Jury Instructions ("CACI"). Each requested
8 instruction shall: (a) cite the authority or source of the instruction; (b) be set forth in full; (c)
9 be on a separate page; (d) be numbered; (e) cover only one subject or principle of law; and
10 (f) not repeat principles of law contained in any other requested instruction.

11 The proposed jury instructions shall be submitted as follows:

12 a. **Joint Jury Instructions:** Counsel shall file a **joint set of jury**
13 **instructions** on which there is agreement. Jury instructions should be modified as
14 necessary to fit the facts of the case, i.e., inserting names of defendant(s) or
15 witness(es) to whom an instruction applies. Where language appears in brackets
16 in the model instruction, counsel shall select the appropriate text and eliminate the
17 inapplicable bracketed text. The court expects counsel to agree on the substantial
18 majority of jury instructions, particularly when pattern or model instructions provide
19 a statement of applicable law. If one party fails to comply with the provisions of this
20 section, the other party must file a unilateral set of jury instructions.

21 b. **Disputed Jury Instructions:** Counsel shall file those instructions
22 propounded by a party to which another party objects. On a separate page
23 following each disputed jury instruction, the party opposing the instruction shall
24 briefly state the basis for the objection, any authority in support thereof and, if
25 applicable, an alternative instruction. On the following page, the party proposing the
26 disputed instruction shall briefly state its response to the objection, and any authority
27 in support of the instruction. Each requested jury instruction shall be numbered and
28

1 set forth in full on a separate page, citing the authority or source of the requested
2 instruction.

3 3. For both the Joint Jury Instructions and Disputed Jury Instructions, counsel
4 must provide an index of all instructions submitted, which must include the following:

- 5 a. the number of the instruction;
- 6 b. the title of the instruction;
- 7 c. the source of the instruction and any relevant case citations; and
- 8 d. the page number of the instruction.

9 For example:

10 Number	Title	Source	Page Number
11 1	Trademark-Defined (15 U.S.C. § 1127)	9th Cir. 8.5.1	1

13 F. Voir Dire.

14 1. The court will conduct the voir dire. Counsel may, but are not required to, file
15 and submit (electronically to the chambers's e-mail address and in paper form) a list of
16 proposed case-specific voir dire questions at the time they lodge the proposed final pretrial
17 conference order.

18 2. In most cases the court will conduct its initial voir dire of 14 prospective jurors
19 who will be seated in the jury box. Generally the court will select eight jurors.

20 3. Each side will have three peremptory challenges. If 14 jurors are seated in
21 the box and all six peremptory challenges are exercised, the remaining eight jurors will
22 constitute the jury panel. If fewer than six peremptory challenges are exercised, the eight
23 jurors in the lowest numbered seats will be the jury. The court will not necessarily accept
24 a stipulation to a challenge for cause. If one or more challenges for cause are accepted,
25 and all six peremptory challenges are exercised, the court may decide to proceed with six
26 or seven jurors.

27 G. Trial Exhibits.
28

1 1. Exhibits must be placed in three-ring binders indexed by exhibit number with
2 tabs or dividers on the right side. The spine portion of the binder shall indicate the volume
3 number **and** contain an index of each exhibit included in the volume.

4 2. The court requires that the following be submitted to the Courtroom Deputy
5 Clerk ("CRD") on the **first day of trial**.

6 a. **Four (4) copies** of each party's **witness list** in the order in which the
7 witnesses may be called to testify.

8 b. **Four (4) copies** of the **Pretrial Exhibit Stipulation** in the form
9 specified in this Order, which shall be sent in WordPerfect or Word format to the
10 chambers's e-mail box **no later than noon on the day before trial**.

11 c. All of the exhibits (except those to be used for impeachment only), with
12 official exhibit tags attached and bearing the same number shown on the exhibit list.
13 Exhibit tags may be obtained from the Clerk's Office, located on the Main Street
14 level of the courthouse at 312 North Spring Street. Exhibits shall be numbered 1,
15 2, 3, etc., **not** 1.1, 1.2, etc. The defense exhibit numbers shall not duplicate
16 plaintiff's numbers. If a "blow-up" is an enlargement of an existing exhibit, it shall be
17 designated with the number of the original exhibit followed by an "A."

18 d. The three-ring binder of **original exhibits** with the court's exhibit tags,
19 yellow tags for plaintiff and blue tags for defendant, stapled to the front of the exhibit
20 at the upper right-hand corner with the case number, case name and exhibit number
21 placed on each tag.

22 e. **Two** three-ring binders with a **copy** of each exhibit tabbed with exhibit
23 numbers, as described above, for use by the court and the CRD.

24 f. A three-ring binder containing a copy of all exhibits for use by
25 witnesses.

26 3. Admitted exhibits will be given to the jury during deliberations. Counsel shall
27 review all admitted exhibits with the CRD before the jury retires to begin deliberations.
28

1 4. **Where** a significant number of exhibits will be admitted, the court encourages
2 counsel, preferably by agreement, to consider ways in which testimony about exhibits may
3 be made intelligible to the jury while it is being presented. Counsel should consider such
4 devices as overhead projectors, jury notebooks for admitted exhibits or enlargements of
5 important exhibits. The court has an Elmo and other equipment available for use during
6 trial. Information concerning training or the use of electronic equipment is available on the
7 Central District's website. The court does not permit exhibits to be "published" by passing
8 them up and down the jury box. Exhibits may be displayed briefly using the screens in the
9 courtroom, unless the process becomes too time-consuming.

10 VI. JURY TRIAL.

11 A. Generally.

12 On the first day of trial, court will commence at 8:30 a.m. and conclude at approximately
13 4:30 p.m., with two 15-minute breaks and a one-hour lunch break. On the first day of trial,
14 **counsel must appear at 8:15 a.m.** to discuss preliminary matters with the court. Trial days are
15 Monday through Wednesday and Friday from 8:30 a.m. to approximately 4:30 p.m., with two 15-
16 minute breaks and a one-hour lunch break.

17 On the first day of trial, the jury panel will be called when the court is satisfied that the
18 matter is ready for trial. Jury selection usually takes only a few hours. Counsel should be
19 prepared to proceed with opening statements and witness examination immediately after jury
20 selection.

21 B. Advance Notice of Unusual or Difficult Issues.

22 If any counsel have reason to anticipate that a difficult question of law or evidence will
23 necessitate legal argument requiring research or briefing, counsel must give the court advance
24 notice. Counsel are directed to notify the CRD at the day's adjournment if an unexpected legal
25 issue arises that could not have been foreseen and addressed by a motion in limine. See Fed.
26 R. Evid. 103. Counsel must also advise the CRD at the end of each trial day of any issues that
27 must be addressed outside the presence of the jury, so that there is no interruption of the trial.
28 **The court will not keep jurors waiting.**

1 C. Opening Statements, Examining Witnesses and Summation.

- 2 1. Counsel must use the lectern at all times.
- 3 2. Counsel shall not discuss the law or argue the case in opening statements.
- 4 3. Counsel must not consume time by writing out words, drawing charts or
5 diagrams, etc. Counsel must prepare such materials in advance.
- 6 4. The court will honor (and may establish) reasonable time estimates for
7 opening and closing arguments, examination of witnesses, etc.

8 D. Objections to Questions.

- 9 1. Counsel must not use objections to make a speech, recapitulate testimony
10 or attempt to guide the witness.
- 11 2. Counsel must speak up when making an objection. The acoustics in the
12 courtroom make it difficult for all to hear an objection when it is being made.
- 13 3. When objecting, counsel must rise to state the objection and state only that
14 counsel objects and the legal ground of objection. If counsel wishes to argue an objection
15 further, counsel must ask for permission to do so.

16 E. General Decorum.

- 17 1. Counsel should not approach the CRD or the witness box, or enter the well
18 of the court, without specific permission and must return to the lectern when the purpose
19 for approaching has been accomplished.
- 20 2. Counsel should rise when addressing the court, and when the court or the
21 jury enters or leaves the courtroom, unless directed otherwise.
- 22 3. Counsel should address all remarks to the court. Counsel are not to address
23 the CRD, the court reporter, persons in the audience or opposing counsel. If counsel wish
24 to speak with opposing counsel, counsel must ask permission to do so. Any request for
25 the re-reading of questions or answers or to have an exhibit placed in front of a witness
26 shall be addressed to the court.
- 27 4. Counsel should not address or refer to witnesses or parties by first names
28 alone, with the exception of witnesses under 14 years of age.

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

3 6. While court is in session, counsel must not leave the counsel table to confer
4 with any person in the back of the courtroom unless permission has been granted in
5 advance.

6 7. Counsel shall not make facial expressions; nod or shake their heads;
7 comment or otherwise exhibit in any way any agreement, disagreement or other opinion
8 or belief concerning the testimony of a witness. Counsel shall admonish their clients and
9 witnesses not to engage in such conduct.

10 8. Counsel should not talk to jurors at all, and should not talk to co-counsel,
11 opposing counsel, witnesses or clients where the conversation can be overheard by jurors.
12 Each counsel should admonish counsel's own clients and witnesses to avoid such conduct.

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

15 10. Water is permitted in the courtroom. Food is not permitted in the courtroom.

16 F. Promptness of Counsel and Witnesses.

17 1. Promptness is expected from counsel and witnesses. Once counsel are
18 engaged in trial, this trial is counsel's first priority. The court will not delay the trial or
19 inconvenience jurors.

20 2. If a witness was on the stand at a recess or adjournment, counsel who called
21 the witness shall ensure the witness is back on the stand and ready to proceed when trial
22 resumes.

23 3. Counsel must notify the CRD in advance if any witness should be
24 accommodated based on a disability or for other reasons.

25 4. No presenting party may be without a witness. If a party's remaining
26 witnesses are not immediately available and there is more than a brief delay, the court may
27 deem that party to have rested.
28

1 5. The court attempts to cooperate with professional witnesses and will, except
2 in extraordinary circumstances, accommodate them by permitting them to be called out of
3 sequence. Counsel must anticipate any such possibility and discuss it with opposing
4 counsel. If there is an objection, counsel must confer with the court in advance.

5 G. Exhibits.

6 1. Each counsel should keep counsel's own list of exhibits and should note
7 when each exhibit has been admitted into evidence (if not already admitted pursuant to the
8 pretrial exhibit stipulation).

9 2. Each counsel is responsible for any exhibits that counsel secures from the
10 CRD and must return them before leaving the courtroom at the end of the session.

11 3. An exhibit not previously marked should, at the time of its first mention, be
12 accompanied by a request that it be marked for identification. Counsel must show a new
13 exhibit to opposing counsel before the court session in which it is mentioned.

14 4. Counsel are to advise the CRD of any agreements with respect to the
15 proposed exhibits and as to those exhibits that may be received without further motion to
16 admit.

17 5. When referring to an exhibit, counsel should refer to its exhibit number.
18 Witnesses should be asked to do the same.

19 6. Counsel must neither ask witnesses to draw charts or diagrams nor ask the
20 court's permission for a witness to do so. Any graphic aids must be fully prepared before
21 the court session starts.

22 H. Depositions.

23 1. All depositions to be used at trial, either as evidence or for impeachment,
24 must be lodged with the CRD **on the first day of trial or such earlier date as the court**
25 **may order**. Counsel should verify with the CRD that the relevant deposition is in the
26 CRD's possession.

27 2. In using depositions of an adverse party for impeachment, either one of the
28 following procedures may be adopted:

1 a. If counsel wishes to read the questions and answers as alleged
2 impeachment and ask the witness no further questions on that subject, counsel shall
3 first state the page and line where the reading begins and the page and line where
4 the reading ends, and allow time for any objection. Counsel may then read the
5 portions of the deposition into the record.

6 b. If counsel wishes to ask the witness further questions on the subject
7 matter, the deposition shall be placed in front of the witness and the witness shall
8 be told to read the relevant pages and lines silently. Then counsel may: (a) ask the
9 witness further questions on the matter and thereafter read the quotations; or (b)
10 read the quotations and thereafter ask further questions. Counsel should have an
11 extra copy of the deposition for this purpose.

12 3. Where a witness is absent and the witness's testimony is offered by
13 deposition, counsel may: (a) have a reader occupy the witness chair and read the
14 testimony of the witness while the examining lawyer asks the questions; or (b) have
15 counsel read both the questions and answers.

16 I. Interrogatories and Requests for Admissions.

17 Whenever counsel expects to offer a group of answers to interrogatories or requests for
18 admissions extracted from one or more lengthy documents, counsel must prepare a new
19 document listing each question and answer and identifying the document from which it has been
20 extracted. Copies of this new document should be given to the court and opposing counsel.

21 VII. COMPLIANCE WITH THIS ORDER, THE LOCAL RULES AND THE FEDERAL RULES
22 OF CIVIL PROCEDURE.

23 All parties and their counsel are ordered to become familiar with the Federal Rules of Civil
24 Procedure, the Local Rules of the Central District of California and the court's standing orders. The
25 failure of any party or attorney to comply with the requirements of this Order, the Local Rules or
26 the Federal Rules of Civil Procedure may result in sanctions being imposed.

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CASE DEADLINES

The court hereby enters the following scheduling order:

1. Any stipulation or motion to amend as to any claims, defenses and/or parties shall be lodged/filed no later than **Mach 3, 2017**, failing which it shall be deemed that party's waiver of any such amendments in this action. All "Doe" defendants are to be identified and named on or before **Mach 3, 2017**, on which date all remaining "Doe" defendants will be dismissed, unless otherwise ordered by the court upon a showing of good cause.

2. All fact discovery shall be completed no later than **July 3, 2017**.

3. All expert discovery shall be completed by **September 8, 2017**. The parties must serve their Initial Expert Witness Disclosures no later than **July 10, 2017**. Rebuttal Expert Witness Disclosures shall be served no later than **August 10, 2017**. The parties should commence expert discovery shortly after the initial designation of experts, because Local Rules 7-3 and 37-1 require ample time to meet and confer as well as brief the matters, and because the final pretrial conference and trial dates will not be continued merely because expert discovery is still underway.

4. The parties shall complete their settlement conference before the assigned magistrate judge no later than **July 3, 2017**. Defendants' counsel shall contact the settlement officer, with enough time so that the settlement conference date is early enough to comply with the settlement completion deadline imposed by this court. After obtaining available dates from the settlement officer, counsel for the parties shall confer with each other and select one of the proposed dates. Defendants' counsel shall then advise the settlement officer of the settlement conference date selected by parties. If the case settles, counsel shall file a Notice of Settlement no later than 24 hours after the case is settled, stating when they expect to file their dismissal papers. Otherwise, the parties must, no later than 48 hours after the settlement proceeding is completed, file a Status Report Re: Settlement. The Status Report shall not disclose the parties' settlement positions, i.e., the terms of any offers or demands. The Status Report shall describe the efforts made by the parties to resolve the dispute informally, i.e., the occasions and dates when the

1 **parties participated in mediation or settlement conferences. The Status Report shall also include**
2 **the name of the Settlement Officer who assisted the parties with their settlement conference.**

3 **5. Any motion for summary judgment and/or other potentially dispositive motion shall be**
4 **filed no later than October 10, 2017, and noticed for hearing regularly under the Local Rules. Any**
5 **untimely or non-conforming motion will be denied. Each party is allowed one potentially**
6 **dispositive motion.**

7 **6. Counsel for the parties shall file a memorandum of contentions of fact and law; witness**
8 **lists; their Pretrial Exhibit Stipulation; and joint motions in limine no later than December 1, 2017.**

9 **7. Counsel for the parties shall lodge their proposed Pretrial Conference Order and file the**
10 **Joint Jury Instructions; Disputed Jury Instructions; a joint proposed verdict form; a joint statement**
11 **of the case; proposed additional voir dire questions, if desired; and reply memoranda to motions**
12 **in limine no later than December 8, 2017.**

13 **Counsel for the parties shall also send to the chambers's e-mail address**
14 **(fmo_chambers@cccd.uscourts.gov) a copy of the proposed Pretrial Conference Order; Joint Jury**
15 **Instructions; Disputed Jury Instructions; the joint proposed verdict form; the joint statement of the**
16 **case; and any proposed additional voir dire questions, in either WordPerfect (the court's**
17 **preference) or Word format.**

18 **8. The final pretrial conference and hearing on motions in limine is scheduled for**
19 **December 22, 2017, at 10:00 a.m.**

20 **9. Counsel for the parties shall file trial briefs not to exceed 15 pages no later than January**
21 **2, 2018.**

22 **10. The trial is scheduled to begin on Tuesday, January 9, 2018, at 8:30 a.m. On the first**
23 **day of trial, counsel must appear at 8:15 a.m. to discuss preliminary matters with the court.**

24 Dated this 3rd day of January, 2017.

25 _____
26 /s/
27 Fernando M. Olguin
28 United States District Judge

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24 Dated this 3rd day of January, 2017.

25 _____
26 /s/
27 Fernando M. Olguin
28 United States District Judge

FRB
01/13/2017

THE COURT APPROVED A PROPOSED SETTLEMENT OF THE CLASS ACTION UNDER FEDERAL RULES OF PROCEDURE (FRP) AND FEDERAL RULES OF CIVIL PROCEDURE (FRCP). THE COURT HAS REVIEWED THE SETTLEMENT AND FINDS IT TO BE FAIR, REASONABLE, AND IN THE BEST INTERESTS OF THE CLASS. THE COURT HAS APPROVED THE SETTLEMENT AND HAS GRANTED THE PLAINTIFFS' MOTION FOR JUDICIAL CONFERENCE OF THE UNITED STATES POLICY. THE COURT HAS APPROVED THE SETTLEMENT AND HAS GRANTED THE PLAINTIFFS' MOTION FOR JUDICIAL CONFERENCE OF THE UNITED STATES POLICY. THE COURT HAS APPROVED THE SETTLEMENT AND HAS GRANTED THE PLAINTIFFS' MOTION FOR JUDICIAL CONFERENCE OF THE UNITED STATES POLICY.