

1 Pursuant to Federal Rule of Criminal Procedure 17.1, a Final Pretrial Conference
2 has been set for _____ in Courtroom 503, Sandra Day O'Connor U.S. Federal
3 Courthouse, 401 W. Washington St., Phoenix, Arizona 85003. In preparation for the Final
4 Pretrial Conference, it is hereby ordered:

5 1. Attendance Required. The attorneys (or *pro se* parties) who will be
6 responsible for the trial of the case, as well as the defendant, must attend the Final Pretrial
7 Conference. The attendees must bring their calendars so trial scheduling can be discussed.

8 2. Joint Pretrial Memorandum. The parties must jointly develop and file with
9 the Clerk of Court, at least **seven days** before the Final Pretrial Conference, a Joint Pretrial
10 Memorandum. The Joint Pretrial Memorandum must include the information prescribed in
11 the "Joint Pretrial Memorandum" form that is available at www.azd.uscourts.gov under:
12 Judges' Information → Orders, Forms and Procedures → Desai, Sharad H. The
13 information may not be set forth in the form of a question and must be presented in concise
14 narrative statements.

15 3. Notices Of Intent. All Notices of the Government's Intent to Use Evidence
16 must be filed and served at least **seven days** before the Final Pretrial Conference. Untimely
17 notices are subject to being summarily denied or stricken by the Court.

18 4. Expert Disclosures. For expert witness testimony a party intends to use
19 during its case in chief at trial, the party must disclose the information required by Rule
20 16(a)(1)(G) or Rule 16(b)(1)(C) no later than **45 days** before the final pretrial conference.
21 For expert witness testimony a party intends to use to rebut expert witness testimony
22 disclosed by the opposing party, the party must disclose the information required by
23 Rule 16(a)(1)(G) or Rule 16(b)(1)(C) no later than **14 days** before the final pretrial
24 conference.

25 5. Marking of Exhibits. The parties must meet in person to exchange marked
26 copies of all exhibits to be used at trial no later than **seven days** before the submission
27 deadline for the Final Pretrial Conference. During this meeting, the parties also must
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1 eliminate any duplicate exhibits.¹ Further information about the Court’s exhibit marking
2 procedures can be found in the document entitled “Exhibit Marking Instructions,” which
3 is available at www.azd.uscourts.gov under: Judges’ Info → Orders, Forms and Procedures
4 → Standard Forms Used by All Phoenix Judges.

5 During trial, the parties must advise the Courtroom Deputy in advance which
6 exhibits will be needed for each witness. All exhibits must be shown to opposing counsel
7 before being offered.

8 6. Motions in Limine and Trial Memoranda. The parties must file all motions
9 in limine no later than **fourteen days** before the Final Pretrial Conference. Each party may
10 file no more than ten motions in limine. Responses must be filed no later than **seven days**
11 before the Final Pretrial Conference. No replies are permitted. Each motion in limine must
12 include proposed language for the order being sought from the Court, and the proposed
13 language must state with precision the evidence that is subject to the proposed order and
14 the limitation or exclusion placed on the evidence. Each motion and response must not
15 exceed three pages in length. Counsel shall be prepared to argue the merits of such motions
16 at the Final Pretrial Conference.

17 The Court notes that trial memoranda often serve as a better vehicle than motions
18 in limine for parties to address anticipated evidentiary issues. Trial memoranda of no more
19 than seventeen pages may be filed on the same date the parties file the Joint Pretrial
20 Memorandum. Trial memoranda may be used for parties to brief, in advance of trial, their
21 position as to the admissibility of particular pieces of evidence (or categories of evidence).
22 Additionally, trial memoranda may be used to brief other types of issues that are anticipated
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24 ¹ During the in-person meeting, the exhibits must be in the exact physical form that will be
25 used at trial. In other words, if a party intends to offer a paper exhibit at trial, that party
26 must have a marked paper copy at the in-person meeting, not an electronic copy. Also, the
27 parties should mark their exhibits exactly as they intend to offer them at trial. During trial,
28 exhibits will be admitted or rejected in their entirety. Thus, if any part of an exhibit is
objectionable, it will be excluded in its entirety. The parties will not be permitted to break
offered exhibits into admissible sub-parts if an objection is sustained.

1 to arise at trial, such as claims related to the sufficiency of the evidence. The Court thus
2 encourages the parties to carefully assess whether issues that might be raised in a motion
3 in limine would be better raised in a trial memorandum. The Court further encourages the
4 parties to raise in a trial memorandum *any* issues the Court should be aware of before trial.

5 7. Other Case-Related Documents. The parties must, at least **seven days** before
6 the Final Pretrial Conference, file the following documents and deliver a copy of the
7 documents to chambers, three-hole punched on the left side of the page:

- 8 a. A stipulated joint statement of the case, which will be read to the jury.
- 9 b. A joint master witness list naming every witness who may be called
10 at trial, to be used during voir dire.
- 11 c. Joint proposed forms of verdict, including any proposed special
12 verdict forms or juror interrogatories.
- 13 d. A joint set of proposed jury instructions. The joint set must contain
14 the following four sections with each instruction clearly identified
15 when it should be given (*e.g.*, preliminary, midtrial, final):
 - 16 (1) A list of all applicable Ninth Circuit Model Criminal Jury
17 Instructions, which are available at
18 [http://www3.ce9.uscourts.gov/jury-instructions/model-](http://www3.ce9.uscourts.gov/jury-instructions/model-criminal)
19 [criminal](http://www3.ce9.uscourts.gov/jury-instructions/model-criminal). If a model instruction is requested by both parties, the
20 instruction shall be preceded by “ST” (stipulated-to). If the
21 instruction is requested by only one party, the instruction shall
22 be preceded by either “PL” (the government) or “DF”
23 (defendant).
 - 24 (2) Any non-model instructions to which the parties have
25 stipulated, with only one instruction per page.
 - 26 (3) Any non-model instructions requested by the government
27 (numbered consecutively), with only one instruction per page.
28 The government shall include citation to authority to support

1 the requested instruction. Defendant shall state all objections
2 to such instruction immediately following the instruction and
3 the government's authority. Defendant shall support any
4 objection with citation to authority. If defendant offers an
5 alternative instruction, such alternative instruction shall
6 immediately follow defendant's objection.

7 (4) Any non-model instructions requested by defendant
8 (numbered consecutively), with only one instruction per page.
9 Defendant shall include citation to authority to support the
10 requested instruction. The government shall state all objections
11 to such instruction immediately following the instruction and
12 defendant's authority. The government shall support any
13 objection with citation to authority. If the government offers an
14 alternative instruction, such alternative instruction shall
15 immediately follow the government's objection.

16 8. Word Copies of Case-Related Documents. **Seven days** before the Final
17 Pretrial Conference, the parties must submit copies of the following documents in Word
18 format by email to Desai_chambers@azd.uscourts.gov:

- 19 a. Joint statement of the case.
20 b. Joint proposed forms of verdict.
21 c. A full-text version of all proposed jury instructions, including the full
22 text of all applicable Ninth Circuit Model Criminal Jury Instructions,
23 organized in the same four sections described above with each
24 instruction clearly identified when it should be given (*e.g.*,
25 preliminary, midtrial, final).

26 9. Juror Questionnaire: The Court uses the juror questionnaire available at
27 www.azd.uscourts.gov under: Judges' Information → Orders, Forms and Procedures →
28 Desai, Sharad H. Each side may propose no more than three questions, with no subparts,

1 to be added to that questionnaire. If the parties have any disagreement about a particular
2 question, they must state the reason for their objection below the question. The parties
3 must jointly file the juror questionnaire with a joint statement of the case and their proposed
4 questions and email a Word version to Desai_chambers@azd.uscourts.gov no later than
5 **six weeks** before the Final Pretrial Conference. The Court may not approve all questions
6 proposed by the parties.

7 10. Information for Court Reporter. To facilitate the creation of an accurate
8 record, please prepare a “Notice to Court Reporter” **seven days** before the Final Pretrial
9 Conference containing the following information:

- 10 a. Proper names, including those of witnesses.
- 11 b. Acronyms.
- 12 c. Geographic locations.
- 13 d. Technical (including medical) terms, names, or jargon.
- 14 e. Case names and citations.
- 15 f. Phonetic spelling of unusual or difficult words or names.

16 This notice need not be filed but must be provided via e-mail to Andrea Bluedorn at
17 Andrea_Bluedorn@azd.uscourts.gov and to Desai_chambers@azd.uscourts.gov. Counsel
18 also must advise the court reporter as soon as possible if they would like to receive a real-
19 time feed or daily turnaround transcript of the proceedings.

20 11. Delivery of Final Exhibits. Counsel shall contact the Courtroom Deputy,
21 Robert_Vasquez@azd.uscourts.gov, **seven days before trial** to make arrangements for
22 counsel or their representative to deliver finalized and marked copies of all exhibits. The
23 finalized exhibits must be delivered to the Courtroom Deputy at least **48 hours** before trial.

24 12. Plea Agreement Deadline. The parties are advised that absent unusual
25 circumstances, the Court will not accept a plea agreement entered after noon on the Friday
26 before trial. It is therefore ordered that the parties shall notify the Court and have scheduled
27 a change of plea hearing **before noon on the Friday before trial** should they wish to
28 present a plea agreement to the Court. In all other circumstances, counsel shall notify the

1 Court immediately if settlement is reached.

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