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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Plaintiff,  
  
v.  
  
,  
  
Defendants.

No. CV  
**ORDER SETTING BENCH TRIAL  
AND FINAL PRETRIAL  
CONFERENCE**

**IT IS ORDERED** that the trial is set to begin on [date] at 9:00 a.m. and conclude on [date] in Courtroom 503, Sandra Day O'Connor U.S. Federal Courthouse, 401 W. Washington St., Phoenix, Arizona 85003.

**IT IS FURTHER ORDERED** that pursuant to Rule 16(d) of the Federal Rules of Civil Procedure, a Final Pretrial Conference shall be held on [approx. 1 week before trial]. In preparation for the Final Pretrial Conference, it is hereby ordered:

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

2. Proposed Pretrial Order.

*Timing:* The parties must jointly prepare a Proposed Pretrial Order and file it with the Court at least **fourteen days** before the Final Pretrial Conference. The parties must exchange drafts of the Proposed Pretrial Order no later than **fourteen days** before the submission deadline. The plaintiff(s) has the burden of initiating such communications. The parties also must submit a copy of the Proposed Pretrial Order to the Court in Word

1 format to Lanham\_chambers@azd.uscourts.gov.

2        *Content:* The Proposed Pretrial Order must include the information prescribed in  
3 the “Joint Proposed Pretrial Order” form that is available at www.azd.uscourts.gov under:  
4 Judges’ Information → Orders, Forms and Procedures → Lanham, Krissa M. The  
5 information may not be set forth in the form of a question and must be presented in concise  
6 narrative statements.

7        3.        Marking of Exhibits. The parties must meet in person to exchange marked  
8 copies of all exhibits to be used at trial no later than **fourteen days** before the submission  
9 deadline for the Proposed Pretrial Order. During this meeting, the parties also must  
10 eliminate any duplicate exhibits.<sup>1</sup> Further information about the Court’s exhibit marking  
11 procedures can be found in the document entitled “Exhibit Marking Instructions,” which  
12 is available at www.azd.uscourts.gov under: Judges’ Info → Orders, Forms and Procedures  
13 → Standard Forms Used by All Phoenix Judges.

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

17        4.        Preclusion of Undisclosed Matters. The parties are advised that the Court  
18 will not allow the parties to offer any exhibit, witness, or other evidence that was not  
19 disclosed in accordance with this order and the Federal Rules of Civil Procedure and listed  
20 in the Proposed Pretrial Order, except to prevent manifest injustice.

21        5.        Motions in Limine. This case will be tried to the Court, and therefore the  
22 parties may not file motions in limine. *United States v. Heller*, 551 F.3d 1108, 1111-12

23 \_\_\_\_\_  
24 <sup>1</sup> 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 (9th Cir. 2009) (“A motion in limine is a procedural mechanism to limit in advance  
2 testimony or evidence in a particular area . . . before attempted use of the evidence before  
3 the jury. . . . [I]n the case of a bench trial, a threshold ruling is generally superfluous.”).  
4 Trial memoranda often serve as a better vehicle than motions in limine for parties to address  
5 anticipated evidentiary issues. Trial memoranda of no more than seventeen pages may be  
6 filed on the same date the parties file the Proposed Pretrial Order. Trial memoranda may  
7 be used for parties to brief, in advance of trial, their position as to the admissibility of  
8 particular pieces of evidence (or categories of evidence). Additionally, trial memoranda  
9 may be used to brief other types of issues that are anticipated to arise at trial, such as  
10 arguments related to the sufficiency of the evidence. The Court encourages the parties to  
11 raise in trial memoranda *any* issues the Court should be aware of before trial.

12 6. Other Case-Related Documents. The Court does not require the submission  
13 of proposed findings and fact and conclusions of law prior to the bench trial. The Court  
14 expects to solicit post-trial briefing, including the filing of proposed findings of fact and  
15 conclusions of law. Proposed findings of fact must contain specific citations to the portions  
16 of the trial record that support each factual assertion.

17 7. Settlement Discussions: The parties must be prepared to advise the Court at  
18 the Final Pretrial Conference of the status of settlement discussions. Should settlement be  
19 reached at any time, the parties must promptly file a Notice of Settlement with the Clerk  
20 of the Court.

21 8. Information for Court Reporter. To facilitate the creation of an accurate  
22 record, please prepare a “Notice to Court Reporter” one week before the Final Pretrial  
23 Conference containing the following information:

- 24 a. Proper names, including those of witnesses.
- 25 b. Acronyms.
- 26 c. Geographic locations.
- 27 d. Technical (including medical) terms, names, or jargon.
- 28 e. Case names and citations.

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f. Phonetic spelling of unusual or difficult words or names.

This notice need not be filed but must be provided via e-mail to Teri Veres at Teri\_veres@azd.uscourts.gov and to Lanham\_chambers@azd.uscourts.gov. Counsel also must advise the court reporter as soon as possible if they would like to receive a real-time feed or daily turnaround transcript of the proceedings.

9. Delivery of Final Exhibits.

Counsel shall contact the Courtroom Deputy, Norma\_hunt@azd.uscourts.gov, **seven days before trial** to make arrangements for counsel or their representative to deliver finalized and marked copies of all exhibits. The finalized exhibits must be delivered to the Courtroom Deputy at least **48 hours** before trial.

10. Compliance Required. The Court wishes to emphasize to the parties that it

views compliance with the provisions of this order as critical to its case management responsibilities and to the responsibilities of the parties under Rule 1 of the Federal Rules of Civil Procedure. Thus, full and complete compliance with this order is required.