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

Plaintiff,  
  
v.  
  
,  
  
Defendants.

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

**IT IS ORDERED** that the trial is set to begin on **[date]**, and the anticipated end date is [date]. The trial will be held from 9:00 to 4:30 p.m. each day 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.

1 The parties also must submit a copy of the Proposed Pretrial Order to the Court in Word  
2 format to Lanham\_chambers@azd.uscourts.gov.

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

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

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

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

22 5. Motions in Limine and Daubert Motions. The parties must file all motions  
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24 <sup>1</sup> During the in-person meeting, the exhibits must be in the exact physical form that will  
25 be 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 in limine no later than **[4 weeks before FPTC]**. Each party may file no more than ten  
2 motions in limine. Responses must be filed no later than **[2 weeks before FPTC]**. No  
3 replies are permitted. Each motion in limine must include proposed language for the order  
4 being sought from the Court, and the proposed language must state with precision the  
5 evidence that is subject to the proposed order and the limitation or exclusion placed on the  
6 evidence. Each motion and response must not exceed three pages in length. Counsel shall  
7 be prepared to argue the merits of such motions at the Final Pretrial Conference.

8         The Court wishes to emphasize that, in its experience, motions in limine are often  
9 used improperly. The point of a motion in limine is “to exclude anticipated prejudicial  
10 evidence before the evidence is actually offered.” *Luce v. United States*, 469 U.S. 38, 40  
11 n.2 (1984). Thus, it might be permissible for a party to seek a pretrial ruling as to the  
12 admissibility of a particular piece of evidence out of concern that the evidence is not only  
13 inadmissible but also inherently prejudicial, such that the bell could not be unrung even if  
14 an evidentiary objection were made and sustained at trial. In contrast, motions in limine  
15 “should rarely seek to exclude broad categories of evidence, as the court is almost always  
16 better situated to rule on evidentiary issues in their factual context during trial.” *Lankford*  
17 *v. Taylor*, 2020 WL 6395294, \*3 (D. Ariz. 2020) (citation omitted). Additionally, “[a]  
18 motion in limine is not the proper vehicle for seeking a dispositive ruling on a claim,  
19 particularly after the deadline for filing such motions has passed.” *Hana Fin., Inc. v. Hana*  
20 *Bank*, 735 F.3d 1158, 1162 n.4 (9th Cir. 2013).

21         For these reasons, trial memoranda often serve as a better vehicle than motions in  
22 limine for parties to address anticipated evidentiary issues. Trial memoranda of no more  
23 than seventeen pages may be filed on the same date the parties file the Proposed Pretrial  
24 Order. Trial memoranda may be used for parties to brief, in advance of trial, their position  
25 as to the admissibility of particular pieces of evidence (or categories of evidence).  
26 Additionally, trial memoranda may be used to brief other types of issues that are anticipated  
27 to arise at trial, such as claims related to the sufficiency of the evidence. The Court thus  
28 encourages the parties to give careful thought to whether issues that might be raised in a

1 motion in limine would be better raised in a trial memorandum. The Court further  
2 encourages the parties to raise in a trial memorandum *any* issues the Court should be aware  
3 of before trial.

4 6. Other Case-Related Documents. The parties must—by the deadline for filing  
5 the Proposed Pretrial Order—file the following documents (and submit copies of these  
6 documents in Word format to Lanham\_chambers@azd.uscourts.gov):

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

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plaintiff’s authority. Defendant shall support any objection with citation to authority. If defendant offers an alternative instruction, such alternative instruction shall immediately follow defendant’s objection.

(4) Any non-model instructions requested by defendant (numbered consecutively), with only one instruction per page. Defendant shall include citation to authority to support the requested instruction. Plaintiff shall state all objections to such instruction immediately following the instruction and defendant’s authority. Plaintiff shall support any objection with citation to authority. If Plaintiff offers an alternative instruction, such alternative instruction shall immediately follow plaintiff’s objection.

7. Juror Questionnaires: The Court uses the juror questionnaire available at [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under: Judges’ Information → Orders, Forms and Procedures → Lanham, Krissa M. The parties must file a joint statement of the case to be included in that questionnaire no later than **six weeks** before the Final Pretrial Conference. In addition, each side may propose no more than three questions, with no subparts, to be added to that questionnaire. The Court may not approve all questions proposed by the parties. The parties must file the proposed questions no later than **six weeks** before the Final Pretrial Conference. The parties must email a Word version of both the joint statement of the case and any questions they propose to [Lanham\\_chambers@azd.uscourts.gov](mailto:Lanham_chambers@azd.uscourts.gov).

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

9. Information for Court Reporter. To facilitate the creation of an accurate record, please prepare a “Notice to Court Reporter” one week before the Final Pretrial

1 Conference containing the following information:

- 2 a. Proper names, including those of witnesses.
- 3 b. Acronyms.
- 4 c. Geographic locations.
- 5 d. Technical (including medical) terms, names, or jargon.
- 6 e. Case names and citations.
- 7 f. Phonetic spelling of unusual or difficult words or names.

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

12 10. Delivery of Final Exhibits.

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

17 11. Compliance Required. The Court wishes to emphasize to the parties that it  
18 views compliance with the provisions of this order as critical to its case management  
19 responsibilities and to the responsibilities of the parties under Rule 1 of the Federal Rules  
20 of Civil Procedure. Thus, full and complete compliance with this order is required.

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