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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 United States of America,

10 Plaintiff,

11 v.

12 ,

13 Defendant(s).  
14

No. CR

**ORDER SETTING FINAL  
PRETRIAL CONFERENCE**

15 Pursuant to Federal Rule of Criminal Procedure 17.1, a Final Pretrial Conference  
16 has been set for \_\_\_\_\_ in Courtroom 502, Sandra Day O'Connor U.S. Federal  
17 Courthouse, 401 W. Washington St., Phoenix, Arizona 85003. In preparation for the  
18 Final  
19 Pretrial Conference, it is hereby ordered:

20 1. Attendance Required. The attorneys (or *pro se* parties) who will be  
21 responsible for the trial of the case, as well as the defendant, must attend the Final Pretrial  
22 Conference. The attendees must bring their calendars and be prepared to discuss trial  
23 scheduling.

24 2. Joint Pretrial Memorandum. The parties must jointly develop and file with  
25 the Clerk of Court, at least **seven days** before the Final Pretrial Conference, a Joint  
26 Pretrial Memorandum. The parties must exchange drafts of the Joint Pretrial  
27 Memorandum no later than **seven days** before the submission deadline. The Joint  
28 Pretrial Memorandum must include the information prescribed in the "Joint Pretrial

Memorandum” form that is available at [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under: Judges’ Information → Orders, Forms and Procedures → Desai, Sharad H. The information may not be set forth in the form of a question and must be presented in concise narrative statements.

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

4. Expert Disclosures. For expert witness testimony a party intends to use during its case in chief at trial, the party must disclose the information required by Rule 16(a)(1)(G) or Rule 16(b)(1)(C) no later than **45 days** before the Final Pretrial Conference. For expert witness testimony a party intends to use to rebut expert witness testimony disclosed by the opposing party, the party must disclose the information required by Rule 16(a)(1)(G) or Rule 16(b)(1)(C) no later than **30 days** before the Final Pretrial Conference.

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

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

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<sup>1</sup> During the in-person meeting, the exhibits must be in the exact physical form that will be used at trial. In other words, if a party intends to offer a paper exhibit at trial, that party must have a marked paper copy at the in-person meeting, not an electronic copy. Also, the parties should mark their exhibits exactly as they intend to offer them at trial. During trial, 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 before being offered.

2 6. Motions in Limine, Daubert Motions, and Trial Memoranda. The parties  
3 must file all motions in limine no later than **fourteen days** before the Final Pretrial  
4 Conference. Each party may file no more than ten motions in limine. Responses must be  
5 filed no later than **seven days** before the Final Pretrial Conference. No replies are  
6 permitted. Each motion in limine must include proposed language for the order being  
7 sought from the Court, and the proposed language must state with precision the evidence  
8 that is subject to the proposed order and the limitation or exclusion placed on the  
9 evidence. Each motion and response must not exceed three pages in length. Each motion  
10 must include a certification pursuant to LRCiv 7.2(l). See LRCrim 12.1(a). Counsel  
11 shall be prepared to argue the merits of such motions at the Final Pretrial Conference.

12 The parties must file all motions challenging the admissibility of expert testimony  
13 no later than **fourteen days** before the Final Pretrial Conference. Responses must be  
14 filed no later than **seven days** before the Final Pretrial Conference. Replies must be filed  
15 no later than **three days** before the Final Pretrial Conference. LRCiv 7.2(e) governs the  
16 briefing of such motions. Counsel shall be prepared to argue the merits of such motions  
17 at the Final Pretrial Conference.

18 The Court notes that trial memoranda often serve as a better vehicle than motions  
19 in limine for parties to address anticipated evidentiary issues. Trial memoranda of no  
20 more than seventeen pages may be filed on the same date the parties file the Joint Pretrial  
21 Memorandum. Trial memoranda may be used for parties to brief, in advance of trial,  
22 their position as to the admissibility of particular pieces of evidence (or categories of  
23 evidence). Additionally, trial memoranda may be used to brief other types of issues that  
24 are anticipated to arise at trial, such as claims related to the sufficiency of the evidence.  
25 The Court thus encourages the parties to carefully assess whether issues that might be  
26 raised in a motion in limine would be better raised in a trial memorandum. The Court  
27 further encourages the parties to raise in a trial memorandum *any* issues the Court should  
28 be aware of before trial.

1           7.     Other Case-Related Documents. The parties must, at least **seven days**  
2 before the Final Pretrial Conference, file the following documents and (and submit copies  
3 of these documents in Word format to Desai\_chambers@azd.uscourts.gov):

4           a.     A stipulated joint statement of the case, which will be read to the  
5 jury during voir dire.

6           b.     A joint master list of the names of every witness who may be called  
7 at trial, , along with pronunciation information for uncommon  
8 names, to be used during voir dire.

9           c.     Joint proposed forms of verdict, including any proposed special  
10 verdict forms or juror interrogatories.

11          d.     A joint set of proposed jury instructions. **The parties must set**  
12 **forth the full text of each proposed jury instruction and must**  
13 **indicate when the instruction should be given (e.g., preliminary,**  
14 **midtrial, and/or final).** The joint set must be organized into four  
15 sections based on the following categories:

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,  
20 the instruction shall be preceded by “ST” (stipulated-to). If  
21 the instruction is requested by only one party, the instruction  
22 shall be preceded by either “PL” (the Government) or “DF”  
23 (defendant). For model instructions that have bracketed  
24 options or placeholders, the parties shall insert the  
25 information required for the placeholder and indicate to  
26 which bracketed option(s) the parties have stipulated. If the  
27 parties modify model instructions in any other way, they  
28 should indicate any changes.

1 (2) Any non-model instructions to which the parties have  
2 stipulated, with only one instruction per page.

3 (3) Any non-model instructions requested by the Government  
4 (numbered consecutively), with only one instruction per page.  
5 The Government shall include citation to authority to support  
6 the requested instruction. Defendant shall state all objections  
7 to such instruction immediately following the instruction and  
8 authority cited by the Government. Defendant shall support  
9 any objection with citation to authority. If Defendant offers  
10 an alternative instruction, such alternative instruction shall  
11 immediately follow the objection.

12 (4) Any non-model instructions requested by defendant  
13 (numbered consecutively), with only one instruction per page.  
14 Defendant shall include citation to authority to support the  
15 requested instruction. The Government shall state all  
16 objections to such instruction immediately following the  
17 instruction and the authority cited by Defendant. The  
18 Government shall support any objection with citation to  
19 authority. If the Government offers an alternative instruction,  
20 such alternative instruction shall immediately follow the  
21 Government's objection.

22 8. Juror Questionnaires: The Court uses the Juror Questionnaire available at  
23 [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under: Judges' Information → Orders, Forms and Procedures →  
24 Desai, Sharad H. The parties shall meet and confer and jointly prepare a proposed  
25 Juror Questionnaire that includes the following:

- 26 a. A stipulated joint statement of the case after Question 1.  
27 b. No more than three supplemental questions, with no subparts,  
28 proposed by the Government to be added at and after Question 25.

1 Defendant shall briefly state any objection to a proposed question  
2 immediately following the question, and the Government shall  
3 briefly respond after Defendant's objection.

- 4 c. No more than three supplemental questions, with no subparts,  
5 proposed by Defendant to be added after the supplemental questions  
6 proposed by the Government. The Government shall briefly state  
7 any objection to a proposed question immediately following the  
8 question, and Defendant shall briefly respond after the objection.

9 The Court may modify the joint statement and may not approve all questions proposed by  
10 the parties. The parties must file the proposed Juror Questionnaire and provide it to the  
11 Court in Word format to Desai\_chambers@azd.uscourts.gov no later than **six weeks**  
12 before the Final Pretrial Conference.

13 Prior to the Final Pretrial Conference, the Court will make the responses to the  
14 Juror Questionnaire available to the parties and will provide additional instructions.

15 9. Information for Court Reporter. To facilitate the creation of an accurate  
16 record, please prepare a "Notice to Court Reporter" **seven days** before the Final Pretrial  
17 Conference containing the following information:

- 18 a. Proper names, including those of witnesses.  
19 b. Acronyms.  
20 c. Geographic locations.  
21 d. Technical (including medical) terms, names, or jargon.  
22 e. Case names and citations.  
23 f. Phonetic spelling of unusual or difficult words or names.

24 This notice need not be filed but must be provided via e-mail to Kim Portik at  
25 Kim\_Portik@azd.uscourts.gov and to Desai\_chambers@azd.uscourts.gov. Counsel also  
26 must advise the Court Reporter as soon as possible if they would like to receive a real-  
27 time feed or daily turnaround transcript of the proceedings.

28 10. Delivery of Final Exhibits. Counsel shall contact the Courtroom Deputy,

1 Robert\_Vasquez@azd.uscourts.gov, **seven days before trial** to arrange for counsel or  
2 their representative to deliver finalized and marked copies of all exhibits. The finalized  
3 exhibits must be delivered to the Courtroom Deputy at least **48 hours** before trial.

4 11. Plea Agreement Deadline. The parties are advised that absent unusual  
5 circumstances, the Court will not accept a plea agreement entered after noon on the  
6 Friday before trial. It is therefore ordered that the parties shall notify the Court and have  
7 scheduled a change of plea hearing **before noon on the Friday before trial** should they  
8 wish to present a plea agreement to the Court. In all other circumstances, counsel shall  
9 notify the Court immediately if settlement is reached.