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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON
7

8 UNITED STATES OF AMERICA,

9 No. CR-13-9999-EFS

10 Plaintiff,

11 v.
12 CASE MANAGEMENT ORDER

13 JOHN DOE,

14 Defendant.
15

16 *** SAMPLE ***

17 This Order sets forth the deadlines, hearings, and requirements
18 the parties will observe in this matter. To the extent this Order
19 conflicts with any previously-entered Orders in this matter, this
20 Order shall govern. All counsel are expected to carefully read and
21 abide by this Order. The Court will grant relief from the
22 requirements in this Order only upon motion and good cause shown.

23 **IT IS HEREBY ORDERED:**

24 1. **Discovery**

25 A. By no later than **March 12, 2013**, counsel shall meet
26 to discuss the scope and timeline for discovery
27 disclosures. At that conference, the U.S. Attorney's
28 Office (USAO) shall 1) advise defense counsel which
29 agencies were involved in the investigation, 2)
30 confirm that all relevant discovery material has been

requested from those agencies, and 3) inform defense counsel of the anticipated date that the discovery materials will be provided to counsel.

B. By no later than **March 15, 2013**, the parties shall file: 1) a joint status report on the outcome of the discovery conference, including any agreements reached on the scope and timeline for the parties' discovery disclosures, other than those set forth in this Order, and 2) appropriate motions with respect to any discovery disputes arising at the conference.

c. All discovery documents must be Bates-stamped with a unique identifier and must be produced digitally in a text-searchable format. The Court will grant relief from this requirement only in exceptional circumstances, upon motion and good cause shown.

D. Pursuant to the Order Regarding Discovery and Pretrial Motions previously entered by a U.S. Magistrate Judge in this matter, the Court presumes a defense request for discovery under Federal Rule of Criminal Procedure 16 for ***documents and objects***, Fed. R. Crim. P. 16(a)(1)(E), ***reports of examinations and tests***, Fed. R. Crim. P. 16(a)(1)(F), ***AND expert witnesses***, Fed. R. Crim. P. 16(a)(1)(G). Therefore, the Court imposes a reciprocal duty on defense counsel to provide discovery under Rule 16(b)(1)(A-C) ***for each of the above categories***. Defendants who do

1 not wish to invoke reciprocal discovery obligations
2 must file a notice with the Court and with opposing
3 counsel prior to accepting discovery from the
4 Government.

5 **2. Expert-Witness Summaries**

6 **A.** Each party shall produce to opposing counsel all
7 summaries of its expert-witness testimony for which
8 disclosure is required under Federal Rule of Criminal
9 Procedure 16, by the deadlines set forth below:

10 **USAO's Experts:** **March 29, 2013**

11 **Defendant's Experts:** **April 5, 2013**

12 **USAO's Rebuttal Experts:** **April 12, 2013**

13 Also by the applicable deadline, counsel shall email
14 an electronic copy of the summary to the Court at
15 SheaOrders@waed.uscourts.gov and shall simultaneously
16 file a Notice of Compliance with this requirement.

17 **B.** All summaries of expert witness testimony must
18 conform to Federal Rule of Criminal Procedure 16 and
19 applicable case law interpreting that Rule. The
20 Court will not permit an expert witness to testify
21 about opinions which are not explicitly expressed in
22 that expert's summary. See, e.g., *United States v.*
23 *W.R. Grace*, 526 F.3d 499 (9th Cir. 2008).

24 **C.** By no later than **April 26, 2013**, all objections or
25 motions related to expert witnesses shall be filed.

1 Responses and replies to such motions shall be filed
2 and served in accordance with Local Rule 7.1.

3 **3. Motions**

4 **A. Generally.** By no later than **April 26, 2013**, all
5 pretrial motions – including discovery motions,
6 *Daubert* motions, and motions *in limine* – must be
7 filed and served. All motions shall either be: a)
8 noted for hearing without oral argument fourteen (14)
9 days after filing, or b) noted for hearing with oral
10 argument at the time of the pretrial conference.
11 Responses and replies to any motions shall be filed
12 in accordance with Local Rule 7.1.

13 **B. Expedited Hearing.** Any party seeking an expedited
14 hearing on a time-sensitive matter must file a motion
15 to expedite which 1) demonstrates good cause, 2)
16 states the position of the opposing party to the
17 motion, and 3) sets a date of hearing that is no less
18 than **seven (7) days** after the motion's filing.
19 Should the motion to expedite require more immediate
20 judicial attention, the motion shall establish the
21 necessity for an immediate hearing, and the filing
22 party shall notify chambers staff of the motion.

23 **C. Trial Continuances.** All motions to continue the
24 trial must be heard before or at the pretrial
25 conference. **Any motion to continue trial that is**
26 **filed after the pretrial conference has occurred will**

not be granted absent exceptional circumstances. If the Defendant seeks a continuance, a Statement of Reasons in support of the motion to continue must be filed contemporaneously with the motion. The Statement of Reasons must 1) be signed by the Defendant, 2) be signed by a certified translator, if applicable, and 3) indicate the latest date upon which Defendant is willing to proceed to trial.

4. Exhibit Lists

A. By no later than **May 3, 2013**, each party shall file a list of exhibits the party intends to introduce at trial. Each party shall also email copies of their exhibit list to the Court at SheaOrders@waed.uscourts.gov. The parties shall provide their exhibit list in the following format:

Ex. #	Admitted	Description
1		Photograph of items seized
2		Aerial video surveillance from 1/1/2011. Start Time: 01:03:23 End Time: 01:09:54

Exhibit lists shall include a unique exhibit number and a brief description of the exhibit. For all exhibits consisting of an audio or video file, the exhibit list must designate the precise beginning and ending time indexes of the portion of the file the party intends to use at trial.

1 **B.** The USAO shall consecutively number their exhibits
2 from **1 to 499**. Defendant shall consecutively number
3 exhibits from **500 to 999**. Exhibits shall be pre-
4 marked for identification before trial commences.

5 **5.** **Preliminary Witness Lists.** By no later than **May 3, 2013**,
6 each party shall file and serve a preliminary list of
7 witnesses that party intends to call to testify at trial.
8 The preliminary witness list must identify the existence,
9 but need not include the name, of any confidential
10 informant (CI) the USAO intends to call to testify.
11 Parties shall email copies of their preliminary witness
12 list to the Court at SheaOrders@waed.uscourts.gov.
13 Disclosure of the names of CIs is governed by paragraph 8
14 of this Order.

15 **6.** **Grand Jury Transcripts.** By no later than **May 10, 2013**, the
16 USAO shall produce copies of the grand jury transcripts for
17 any witness it intends to call at trial, not including
18 transcripts for any CIs. Disclosure of grand jury
19 transcripts for CIs is governed by paragraph 8 of this
20 Order.

21 **7.** **Pretrial Conference.**

22 **A.** The Court **SETS** a **Pretrial Conference** for **May 20,**
23 **2013**, at **9:00 a.m.** in **RICHLAND**. At this hearing, the
24 Court will hear **ALL** pretrial motions.

25 **B.** All Pretrial Conferences are scheduled to last no
26 more than **thirty (30) minutes**, with each side

1 allotted **fifteen (15) minutes** to present their own
2 motions and resist motions by opposing counsel. If
3 any party anticipates requiring longer than fifteen
4 minutes, that party must notify the Courtroom Deputy
5 at least seven (7) days prior to the hearing. **Any**
6 **party who fails to provide this notice will be**
7 **limited to fifteen (15) minutes.**

8. **Confidential Informants.** By no later than **May 21, 2013**,
9 the USAO shall disclose to Defendant the identity of any
10 CIs used in the case and shall produce the grand jury
11 transcript of any CI so identified, if applicable. The
12 USAO shall also advise Defendant at that time whether any
13 CI so identified is willing to be interviewed by defense
14 counsel.

15. **Trial Briefs, Proposed Jury Instructions and Verdict Form,**
16 **and Requested Voir Dire.** By no later than **May 31, 2013**,
17 each party shall file a trial brief, proposed jury
18 instructions and verdict form, and requested voir dire, in
19 accordance with the requirements below. Each party shall
20 email copies to the Court at SheaOrders@waed.uscourts.gov.

21. **A. Trial Briefs.** Trial briefs shall not exceed twenty
22 (20) pages without prior Court approval, upon motion
23 and good cause shown. LR 39.1.

24. **B. Proposed Jury Instructions and Verdict Form.** Jury
25 instructions shall 1) address issues that are unique
26 to the case, and 2) include instructions regarding

the elements of each charge or defense. If a Ninth Circuit Model Jury Instruction exists for a particular charge or defense, the parties shall provide the model instruction or shall submit argument as to why the instruction is inadequate or no longer supported by law. Proposed jury instructions shall be accompanied by a proposed verdict form. **The parties must confer to develop joint proposed jury instructions and the verdict form.** The Court will only accept an individual party's proposed jury instructions on those points/issues upon which the parties could not agree, and only if the party's memoranda accompanying the individually-proposed instruction(s) sets forth the legal authority and justification for why the instruction is necessary.

C. Requested Voir Dire. The parties may request that the Court include specific questions during the Court's standard voir dire. Requested voir dire shall not duplicate information elicited in the Clerk's Office Jury Questionnaire ("COJQ") and the Court's Criminal Jury Trial Procedures Letter.

10. Exhibit Binders. By no later than **May 31, 2013**, each party must provide to all other parties and to the Court a Bates-stamped copy of all trial exhibits – or, in the case of physical exhibits, a photograph or other reproduction of

1 the exhibit – the party intends to introduce at trial. All
2 trial exhibits shall be organized sequentially by exhibit
3 number in a three-ring binder.

4 **11. JERS.** The Court utilizes the Jury Evidence Recording
5 System (JERS), a system that makes electronic evidence
6 available in the jury room during deliberations. All
7 parties must supply exhibits electronically to the Court in
8 a format compatible with JERS. By no later than **June 3,**
9 each party who intends to introduce evidence at trial
10 must contact the Courtroom Deputy to ensure that evidence
11 supplied to the Court is compatible with JERS.

12 **12. Trial Notices.** By no later than **June 3, 2013**, each party
13 shall file a notice that indicates the amount of time
14 requested for opening statement and for voir dire. In
15 addition, defense counsel must indicate if his/her client
16 waives presence at sidebar and jury questions.

17 **13. Technology Readiness Meeting.** By no later than **June 5,**
18 any party seeking to offer video or audio evidence at
19 trial must meet with Court staff at the location of the
20 trial to verify compatibility with the Court's presentation
21 systems. The parties shall contact the Courtroom Deputy to
22 arrange this meeting.

23 **14. Trial.** The Court **SETS** this matter for jury trial on **June**
24 **10, 2013**, at **9:00 a.m.** in **RICHLAND**. Counsel and Defendant
25 shall be prepared to meet with the Court at least thirty
26 (30) minutes prior to the commencement of the trial.

1 **15. Summary of Deadlines**

All counsel to meet and confer about discovery scope and timeline	March 12, 2013
Joint status report on discovery conference and discovery motions filed	March 15, 2013
Rule 16 expert summaries produced to other parties and emailed to Court: USAO's Experts Defendant Experts USAO's Rebuttal Experts	March 29, 2013 April 5, 2013 April 12, 2013
Objections/motions related to expert witness testimony filed	April 26, 2013
All pretrial motions, including discovery motions, Daubert motions, and motions <i>in limine</i> , filed	April 26, 2013
Exhibit lists filed and emailed to Court	May 3, 2013
Preliminary witness lists, <i>not including names of CIS</i> , filed and emailed to Court	May 3, 2013
Grand jury transcripts, <i>not including CIS</i> , produced to Defendant	May 10, 2013
PRETRIAL CONFERENCE Deadline for motions to continue trial	May 20, 2013 9:00 a.m. - RICHLAND
CIS' identities, grand jury transcripts, and willingness to be interviewed disclosed to Defendant	May 21, 2013
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to Court	May 31, 2013
Exhibit binders delivered to all parties and to the Court	May 31, 2013
Conference with Courtroom Deputy to ensure evidence is compatible with JERS	June 3, 2013
Trial notices filed with Court	June 3, 2013
Technology readiness meeting (in-person)	June 5, 2013
JURY TRIAL	June 10, 2013 9:00 a.m. - RICHLAND

21 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
22 Order and provide copies to all counsel, the U.S. Probation Office,
23 and the U.S. Marshals Service.

24 **DATED** this __ day of March 2013.

25 *** SAMPLE - SAMPLE - SAMPLE ***

26 EDWARD F. SHEA
 Senior United States District Judge