

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

RICHARD MCKENZIE

Plaintiff(s),

v.

THE REGENTS OF THE UNIVERSITY OF  
CALIFORNIA , et al.

Defendant(s).

CASE NO:

8:14-cv-00149-JVS-JPR

ORDER SETTING RULE 26(f)  
SCHEDULING CONFERENCE

Monday, June 2, 2014 at 11:30 AM

This case has been assigned to Judge James V. Selna. If plaintiff has not already served the complaint (or any amendment thereto) on all defendants, plaintiff shall promptly do so and shall file proofs of service within three days thereafter. Defendants also shall timely serve and file their responsive pleadings and file proofs of service within three days thereafter.

This matter is set for a scheduling conference on the above date. The conference will be held pursuant to Fed.R.Civ.P., Rule 16(b). The parties are reminded of their obligations under Fed.R.Civ.P., Rule 26(a)(1) to disclose information (without awaiting a discovery request) and under Rule 26(f) to confer

///

1 on a discovery plan not later than twenty-one (21) days prior to the scheduling  
2 conference and to file a Joint Rule 26(f) Report not later than fourteen (14) days  
3 after they confer. Failure to comply with the following requirements or to  
4 cooperate in the preparation of the Joint Rule 26(f) Report may lead to the  
5 imposition of sanctions.

6  
7 **Unless there is a likelihood that upon motion by a party the**  
8 **Court would order that any or all discovery is premature, it is advisable for**  
9 **counsel to begin to conduct discovery actively before the Scheduling**  
10 **Conference. At the very least, the parties shall comply fully with the letter**  
11 **and spirit of Rule 26(a) and thereby obtain and produce most of what would**  
12 **be produced in the early stage of discovery.**

13  
14 **1. Joint Rule 26(f) Report.**

15  
16 The Joint Rule 26(f) Report, which shall be filed not later than one  
17 week before the scheduling conference, shall be drafted by plaintiff (unless the  
18 parties agree otherwise), but shall be submitted and signed jointly. "Jointly"  
19 contemplates a single report, regardless of how many separately-represented  
20 parties there are. The Joint Rule 26(f) Report shall report on all matters  
21 enumerated below, which include those required to be discussed by Rule 26(f)  
22 and Local Rule 26:

- 23  
24 a. Synopsis: a short synopsis (not to exceed two pages) of the main  
25 claims, counterclaims, and/or affirmative defenses.  
26 b. Legal issues: a brief description of the key legal issues.  
27 c. Damages: the realistic range of provable damages.

28 ///

- 1 d. Insurance: whether there is insurance coverage, the extent of  
2 coverage, and whether there is a reservation of rights.
- 3 e. Motions: a statement of the likelihood of motions seeking to (i) add  
4 other parties or claims or (ii) file amended pleadings or (iii) transfer  
5 venue.
- 6 f. Discovery and experts: pursuant to Rule 26(f), state what, if any,  
7 changes in the disclosures under R. 26(a) should be made; the  
8 subjects on which discovery may be needed and whether discovery  
9 should be conducted in phases or otherwise be limited; what  
10 discovery has been conducted thus far; whether applicable  
11 limitations should be changed or other limitations imposed; and  
12 whether the Court should enter other orders. Please state how many  
13 depositions each side will conduct. Also discuss the proposed time  
14 of expert witness disclosures under F.R.Civ.P. 26(a)(2).
- 15 g. Dispositive motions: a description of the issues or claims that any  
16 party believes may be determined by motion for summary judgment  
17 or motion *in limine*.
- 18 h. Settlement and settlement mechanism: a statement of what settlement  
19 discussions and/or written communications have occurred (specifically  
20 excluding any statement of the terms discussed) and a statement  
21 pursuant to the Local Rule 16–14.4 selecting a settlement mechanism  
22 under that rule.
- 23 i. Trial estimate: realistic estimate of the time required for trial and  
24 whether trial will be by jury or by court. Each side should specify  
25 (by number, not by name) how many witnesses it contemplates  
26 calling. If the time estimate for trial given in the Rule 26(f) Joint  
27 Report exceeds eight court days, counsel shall be prepared to discuss  
28 in detail the estimate.

1 j. Timetable: complete of the Presumptive Schedule of Pretrial Dates  
2 form attached as Exhibit A to this Order and attach it to the Rule 26(f)  
3 report. Submission of a completed Exhibit A is mandatory. The current  
4 entries in the "Weeks Before Trial" column merely reflect what the  
5 Court believes are appropriate for many, if not most, cases; those entries  
6 are not necessarily applicable to this case, and the form is designed to  
7 enable counsel to request the Court to set different last dates by which  
8 the key requirements must be completed. Each side should write in the  
9 month, day and year it requests for each event. *E.g.*, for the expert  
10 discovery cut-off it might be "10/7/02" for plaintiff and "10/28/02" for  
11 defendant, if they cannot agree. At the conference, the Court will review  
12 this form with counsel. Each entry proposing dates shall fall on a  
13 Monday, except the trial date which is a Tuesday. In appropriate cases  
14 the Court will order different dates after it hears from Counsel. The  
15 proposed non-expert and expert discovery cut-off date means: the last  
16 day by which all depositions must be completed and responses to all  
17 previously-served written discovery must be provided. The proposed  
18 cut-off date for motions means: the last date on which motions may  
19 be heard, not noticed.

20 k. Other issues: a statement of any other issues affecting the status or  
21 management of the case (*e.g.*, unusually complicated technical or  
22 technological issues, disputes over protective orders, extraordinarily  
23 voluminous document production, non-English speaking witnesses,  
24 discovery in foreign jurisdictions, etc.).

25 l. Conflicts: for conflict purposes, corporate parties must identify all  
26 subsidiaries, parents and affiliates.

27 ///

28 ///

1 m. Patent cases: propose dates and methodology for claim construction  
2 and *Markman* hearings. The Court requires the parties to file  
3 concurrent opening briefs and concurrent reply briefs for the hearing.  
4 The Court intends to follow the rule for patent cases which have  
5 been adopted by the Northern District of California.

6 n. Magistrates: Do the parties wish to have a Magistrate Judge preside?  
7 Under 28 U.S.C. § 636, the parties may consent to have a Magistrate  
8 Judge preside over all the proceedings, not just discovery. They may  
9 pick *any* Magistrate Judge (not just the one assigned to this case)  
10 from among those Magistrate Judges who accept these designations.  
11 (They are identified on the Central District's website, which also  
12 contains the consent form.)  
13

14 The Joint Rule 26(f) Report should set forth the above enumerated information  
15 under section headings corresponding to this Order.  
16

17 **2. Scheduling Conference.**  
18

19 Scheduling Conferences will be held in the Ronald Reagan Building,  
20 411 West Fourth Street, Court Room 10C, Santa Ana. Counsel shall comply with  
21 the following:  
22

- 23 a. Participation: The lead trial attorney must attend the Scheduling  
24 Conference, unless excused for good cause shown in advance of the  
25 Scheduling Conference.
- 26 b. Continuance: A continuance of the Scheduling Conference will be  
27 granted only for good cause.  
28

///  
28

1       **3.   Protective Orders.**

2

3           If you seek a protective order, propose it to opposing counsel before

4       the Scheduling Conference, if at all possible. Protective Orders are considered by

5       the Magistrate Judge assigned in this action.

6

7       **4.   Notice to be Provided by Counsel.**

8

9           Plaintiff's counsel or, if plaintiff is appearing *pro se*, defendant's

10       counsel, shall provide this Order to any parties who first appear after the date of

11       this Order and to parties who are known to exist but have not yet entered

12       appearances.

13

14       **5.   Disclosures to Clients.**

15

16           Counsel are ordered to deliver to their respective clients a copy of

17       this Order and of the Court's Scheduling and Case Management Order, which

18       contains the schedule that the Court sets at the Scheduling Conference.

19

20       **6.   Court's Website.**

21

22           Copies of this and all other orders of this Court that may become

23       applicable to this case are available on the Central District of California website,

24       at "www.cacd.uscourts.gov," under "Judge's Procedures and Schedules." Copies

25       of the Local Rules are available on the website.<sup>1</sup>

26       

---

<sup>1</sup>Local rules may be purchased from the following:

27           Los Angeles Daily Journal  
 28           915 East First Street  
              Los Angeles, CA 90012

             West Publishing Co.  
              50 West Kellogg Boulevard  
              St. Paul MN 55164-9979

             Metropolitan News  
              210 South Spring Street  
              Los Angeles, CA 90012

1 The Court thanks the parties and their counsel for their anticipated  
2 cooperation in carrying out these requirements.  
3

4 **IT IS SO ORDERED.**

5 DATED: February 21, 2014



---

7 James V. Selna  
United States District Judge

8  
9 Copies to: All Counsel of Record  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**JUDGE JAMES V. SELNA****PRESUMPTIVE SCHEDULE OF PRETRIAL DATES**

Matter	Time	Weeks before trial	Plaintiff's Request (Insert specific date)	Defendant's Request (Insert specific date)	Court Order
Trial date (jury) (court) Estimated length: _____ days	8:30 a.m. (Tuesdays)				
[Court trial:] File Findings of Fact and Conclusions of Law and Summaries of Direct Testimony		-1			
Final Pretrial Conference; Hearing on Motions in Limine; File Agreed Upon Set of Jury Instructions and Verdict Forms and Joint Statement re Disputed Instructions and Verdict Forms; File Proposed <i>Voir Dire</i> Qs and Agreed-to Statement of Case	11:00 a.m. (Mondays)	-2			
Lodge Pretrial Conf. Order; File Memo of Contentions of Fact and Law; Exhibit List; Witness List; Status Report re Settlement		-3			
Last day for hand-serving Motions in Limine		-6			
Last day for hearing motions	1:30 p.m. (Mondays)	-7			
Last day for hand-serving motions and filing (other than Motions in Limine). Please note extended notice requirements for motions for summary judgment under F.R.Civ.P.56(c).		-11			
Non-expert Discovery cut-off		-15			

**ADDITIONAL MATTERS TO BE DETERMINED AT SCHEDULING CONFERENCE**

L.R. 16-14 Settlement Choice: (1) CT/USMJ (2) Court Mediation Panel (3) Private ADR

Expert discovery cut-off					
Rebuttal Expert Witness Disclosure					
Opening Expert Witness Disclosure [See F.R.Civ.P. 26(a)(2)]					
Last day to conduct Settlement Conference					
Last day to amend pleadings or add parties					

**EXHIBIT A**

Revised 1-6-10