

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APPLE INC.,
Plaintiff,
v.
MOBILE STAR LLC, et al.,
Defendants.

Case No. [16-cv-06001-WHO](#)

CIVIL PRETRIAL ORDER

A jury trial has been set in this matter for December 10, 2018, beginning at 8:30 A.M. with an attorney conference and jury selection to follow thereafter. A Pretrial Conference has been set for November 13, 2018 at 2:00 P.M.

The following scheduling deadlines and hearing dates have been set:

- Fact discovery cutoff: July 12, 2018**
- Expert disclosure: July 12, 2018**
- Expert rebuttal: July 30, 2018**
- Expert discovery cutoff: August 16, 2018**
- Dispositive Motions heard by: September 12, 2018**

1. Pretrial Conference and Statement

Not less than 28 days prior to the Pretrial Conference, counsel shall exchange (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7), (8), (9) and (10), and any motions in limine.

At least 21 days before the Pretrial Conference, lead trial counsel shall meet and confer with respect to:

- Preparation and content of the joint pretrial conference statement;
- Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and filed pursuant to this Order. To the extent such differences are not resolved, the parties will present the issues in the pretrial conference statement so that the judge may rule on the matter during the Pretrial Conference; and

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- Settlement.

At least 14 days prior to the Pretrial Conference, the parties shall file a joint pretrial conference statement containing the following information:

a. The Action

(i) Substance of the Action. A brief description of the substance of claims and defenses that remain to be decided.

(ii) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents, or other evidentiary material to be presented concerning the amount of those damages.

b. The Factual Basis of the Action

(i) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(ii) Disputed Factual Issues. A plain and concise statement of all disputed factual issues that remain to be decided.

(iii) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(iv) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

c. Disputed Legal Issues

(i) Points of Law. Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and decisions setting forth briefly the nature of each party's contentions concerning each disputed point of law, including procedural and evidentiary issues.

(ii) Proposed Conclusions of Law. If the case is to be tried without a jury, unless otherwise ordered, parties should briefly indicate objections to proposed conclusions of law.

d. Trial Preparation

1 than solely for impeachment or rebuttal, together with a brief statement following each name
2 describing the substance of the testimony to be given.

3 (ii) Exhibits, Schedules and Summaries. A list of all documents and other items to
4 be offered as exhibits at the trial, other than solely for impeachment or rebuttal, with a brief
5 statement following each describing its substance or purpose and the identity of the sponsoring
6 witness. Unless otherwise ordered, parties will indicate their objections to the receipt in evidence
7 of exhibits and materials lodged and that counsel have conferred respecting such objections.

8 (iii) Estimate of Trial Time. An estimate of the number of court days needed for
9 the presentation of each party's case, indicating possible reductions in time through proposed
10 stipulations, agreed statements of facts, or expedited means of presenting testimony and exhibits.

11 (iv) Use of Discovery Responses. Counsel shall cite possible presentation at trial
12 of evidence, other than solely for impeachment or rebuttal, through use of excerpts from
13 depositions, interrogatory answers, or responses to requests for admission. Counsel shall indicate
14 any objections to use of these materials and that counsel has conferred respecting such objections.

15 (v) Further Discovery or Motions. A statement of all remaining discovery or
16 motions, including motions in limine.

17 e. Trial Alternatives and Options

18 (i) Settlement Discussion. A statement summarizing the status of settlement
19 negotiations and indicating whether further negotiations are likely to be productive.

20 (ii) Consent to Trial Before a Magistrate Judge. A statement whether reference of
21 all or part of the action to a master or magistrate judge is feasible, including whether the parties
22 consent to a court or jury trial before a magistrate judge, with appeal directly to the Ninth Circuit.

23 (iii) Amendments, Dismissals. A statement of requested or proposed amendments
24 to pleadings or dismissals of parties' claims or defenses.

25 (iv) Bifurcation, Separate Trial of Issues. A statement of whether bifurcation or a
26 separate trial of specific issues is feasible and desired.

27 **2. Witnesses**

1 required in part by 1(d)(i) above. In addition, in the case of expert witnesses, the summary shall
2 clearly state the expert's theories and conclusions and the basis therefore and shall be
3 accompanied by a curriculum vitae; if the expert has prepared a report in preparation for the
4 testimony, a copy thereof shall be furnished to opposing counsel. Witnesses not included on the
5 list may be excluded from testifying.

6 **3. Jury Instructions**

7 a. Joint Set of Instructions. The parties shall jointly prepare a set of jury instructions,
8 and shall file the proposed instructions at least fourteen days prior to the Pretrial Conference. The
9 submission shall contain both agreed upon instructions (which shall be so noted), and contested
10 instructions, all in the order in which they should be read to the jury. Where contested instructions
11 are included, they should be annotated both with the proponent's authority for seeking the
12 instruction and the opponent's reason for opposition. Counsel shall deliver to Chambers a copy of
13 the joint submission on a CD/DVD in Word format. The label shall include the case number and a
14 description of the documents.

15 b. Substance and Format of Instructions. The instructions shall cover all substantive
16 issues and other points not covered by the Ninth Circuit Manual of Model Jury Instructions. Each
17 requested instruction shall be typed in full on a separate page and citations to the authorities upon
18 which the instruction is based shall be included. Instructions shall be brief, clear, written in plain
19 English, and free of argument. Pattern or form instructions shall be revised to address the
20 particular facts and issues of this case.

21 c. Preliminary Statement and Instructions. If the parties wish to have a preliminary
22 statement read to the jury, and/or preliminary instructions given to the jury, they shall jointly
23 prepare and file the text of the proposed preliminary statement and/or preliminary instructions at
24 least fourteen days prior to the Pretrial Conference.

25 d. Voir Dire and Verdict Forms. Each party shall file proposed questions for jury voir
26 dire and a proposed Form of Verdict at least fourteen days prior to the Pretrial Conference.

27 **4. Exhibits**

28 c. Provide Copies of Exhibits to Other Parties. Each party shall provide every other

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1 party with one set of all proposed exhibits, charts, schedules, summaries, diagrams, and other
 2 similar documentary materials to be used in its case in chief at trial, together with a complete list
 3 of all such proposed exhibits. Voluminous exhibits shall be reduced by elimination of irrelevant
 4 portions or through the use of summaries. Each item shall be pre-marked with a trial exhibit
 5 sticker (“Trial Exhibit No. ___”), not deposition exhibit label, and defendant’s exhibit numbers shall
 6 be sequenced to begin after plaintiff’s exhibit numbers. If there are numerous exhibits, they
 7 should be provided in three-ring binders with marked tab separators. All exhibits that have not
 8 been provided as required are subject to exclusion.

9 b. Stipulations re Admissibility. At least fourteen days prior to the Pretrial
 10 Conference, the parties shall make a good faith effort to stipulate to exhibits’ admissibility. If
 11 stipulation is not possible, the parties shall make every effort to stipulate to authenticity and
 12 foundation absent a legitimate (not tactical) objection.

13 c. Objections to Exhibits. In addition to the exhibit list, counsel shall confer with
 14 respect to any other objections to exhibits in advance of the Pretrial Conference. Each party shall
 15 file a statement briefly identifying each item objected to, the grounds for the objection, and the
 16 position of the offering party at least fourteen days prior to the date set for the Pretrial Conference.

17 d. Provide Copies of Exhibits to Court. One set of exhibits shall be provided to the
 18 Court in Chambers on the Friday prior to the trial date, in binders, marked, tabbed, and indexed in
 19 accordance with Local Rule 16-10(b)(7). Exhibits shall be identified as follows:

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA TRIAL EXHIBIT 100 CASE NO. _____ DATE ENTERED _____ BY _____

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