

SECTION II

Proposed Schedule For Trial Exchanges

I. Exhibits

a. Demonstrative Exhibits

Each party will exchange by e-mail any Demonstrative Exhibit by 7pm Central one calendar day before the Exhibit will first be used at trial. For example, a Demonstrative Exhibit intended for use at trial on Monday, July 16, 2018, would be exchanged no later than 7pm Central on Sunday, July 15, 2018. The party receiving identification of a Demonstrative Exhibit shall inform the party identifying the Exhibit of any objection by 9pm Central on the day of receipt of identification of the Exhibit. The parties shall meet-and-confer as soon as reasonably possible thereafter to resolve any such objections. The provision applies to Demonstrative Exhibits used in opening statements and Demonstrative Exhibits intended for use in direct examination of non-adverse witnesses.

If any Demonstrative Exhibit changes after the deadline for disclosure, the party intending to use the Exhibit shall promptly notify the opposing party of the changes, and the opposing party may pose appropriate objections within a reasonable time.

For each Demonstrative Exhibit that is based on a document or documents produced in discovery, the party offering the Demonstrative Exhibit shall disclose to the opposing party, either (1) on the face of the Exhibit or (b) in a table or other writing provided at the time the exhibit is exchanged, all documents that form the basis of the exhibit. The documents shall be identified by Trial Exhibit number.

b. Trial Exhibits

Each party shall provide by e-mail to opposing counsel a listing of all Exhibits a party intends to use during direct examination of a non-adverse witness by 7pm Central two calendar

days before they will be used at trial. For example, a listing of all Exhibits intended for use during direct examination of non-adverse witnesses on Monday, July 16, 2018, would be exchanged by e-mail no later than 7pm Central on Saturday, July 14, 2018.

The party receiving identification of Exhibits intended for use in direct examination of non-adverse witnesses shall inform the party identifying the Exhibits of any objections by 9pm Central on the day of receipt of the Exhibits. The parties shall meet and confer as soon as reasonably possible thereafter to resolve such objections.

The advance notification procedures for Exhibits described above do not apply to Demonstrative Exhibits created in the courtroom during live testimony, Demonstrative or Trial Exhibits intended for use in cross-examination, or to excerpts, enlargements, and/or highlights of the text of Exhibits that already appear on a party's Exhibit List or previously have been properly identified for use during the examination of a witness.

Exhibits used solely for impeachment or cross-examination are not required to be listed on the exhibit lists. The parties reserve the right to object on evidentiary or discovery grounds to any such exhibit if used at trial.

If good-faith efforts to resolve objections to an Exhibit fail, the objecting party shall bring its objections to the Court's attention before the applicable witness is called to the witness stand.

II. Witnesses

By 7pm Central two calendar days before a witness will be called to testify (whether live or by deposition), the name of the witness will be identified by e-mail to opposing counsel, along with an explanation of whether the witness will testify live or by deposition, as well as the expected order of presentation. Thereafter, each party shall update its list of expected witnesses at the end of each trial day.

For witnesses testifying by deposition, the introducing party shall identify the particular designated deposition testimony (by page and line numbers) that are actually intended to be played or read at trial, or a disclosure that all pages and lines previously designated will be played, by 7pm Central two calendar days before introducing the deposition testimony. By 9am Central on the next calendar day, the opposing party shall identify any specific pages and lines from that deposition testimony to counter-designate and any testimony to which it maintains an objection. The parties shall meet and confer to resolve any objections. To provide the introducing party adequate time to prepare any necessary video/DVD of the testimony, a final meet-and-confer shall be conducted, if necessary, by the lunch break or no later than 4pm, on the calendar day before the testimony is to be introduced. If the parties are unable to resolve objections to disputed testimony, they shall present such objections to the Court on the day before intended deposition use at an appropriate time before the testimony is to be presented.

III. Opening Statements / Closing Arguments

The parties intend to seek guidance at the Pretrial Conference regarding the Court's preference for closing arguments in this bench trial. After the Pretrial Conference, the parties will discuss an appropriate exchange for opening statement and/or closing argument exhibits and demonstratives.