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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BELL NORTHERN RESEARCH,
LLC,

Plaintiff,

v.

LG ELECTRONICS INC., LG
ELECTRONICS U.S.A., INC., and
LG ELECTRONICS MOBILE
RESEARCH U.S.A., LLC,

Defendants.

Case No. 3:18-CV-2864-CAB-BLM

**SCHEDULING ORDER
REGULATING DISCOVERY AND
OTHER PRETRIAL
PROCEEDINGS**

13 On January 21, 2020, District Judge Cathy A. Bencivengo issued an Order
14 governing claim construction, after which the parties contacted chambers in
15 compliance with this Court's May 29, 2019 Case Management Order (Dkt. No. 38).
16 On January 30, 2010, the parties submitted a proposed scheduling order, as requested
17 by District Judge Bencivengo during the hearing on claim construction. Accordingly,
18 the Court sets the remaining pretrial dates and deadlines as follows:

19 1. Counsel shall refer to Judge Bencivengo's Chambers Rules for Civil
20 Cases, which is accessible via the Court's website at www.casd.uscourts.gov.

21 2. All fact discovery shall be completed by all parties on or before **April 17,**
22 **2020**. "Completed" means that all discovery under Rules 30-36 of the Federal Rules
23 of Civil Procedure, and discovery subpoenas under Rule 45, must be initiated a
24 sufficient period of time in advance of the cut-off date, so that it may be completed by
25 the cut-off date, taking into account the times for service, notice, and response as set
26 forth in the Federal Rules of Civil Procedure.

27 Counsel shall promptly and in good faith meet and confer with regard to all
28 discovery disputes in compliance with Federal Rule of Civil Procedure 37(e)(1) and

1 Civil Local Rule 26.1(a). All discovery motions must be filed within 30 days of the
2 service of an objection, answer or response which becomes the subject of dispute or
3 the passage of a discovery due date without response or production, and only after
4 counsel have met and conferred and have reached impasse with regard to the particular
5 issue. The Court's procedures for resolving discovery disputes are set forth in
6 Magistrate Judge Barbara L. Major's Civil Chambers Rules, which are posted on the
7 Court's website. **A failure to comply in this regard will result in a waiver of a
8 party's discovery issue. Absent an order of the court, no stipulation continuing
9 or altering this requirement will be recognized by the court.**

10 3. Plaintiff(s) (or the party(ies) having the burden of proof on any claim) shall
11 serve on all parties a list of experts whom that party expects to call at trial on or before
12 **April 17, 2020**. Defendant(s) (or the party(ies) defending any claim, counterclaim,
13 crossclaim, or third-party claim) shall serve on all parties a list of experts whom that
14 party expects to call at trial on or before **April 17, 2020**. On or before **May 8, 2020**,
15 any party may supplement its designation in response to any other party's designation,
16 so long as that party has not previously retained an expert to testify on that subject.
17 Expert designations shall include the name, address, and telephone number of each
18 expert, and a reasonable summary of the testimony the expert is expected to provide.
19 The list shall also include the normal rates the expert charges for deposition and trial
20 testimony.

21 The parties must identify any person who may be used at trial to present
22 evidence pursuant to Rules 702, 703 or 705 of the Federal Rules of Evidence. This
23 requirement is not limited to retained experts.

24 **Please be advised that failure to comply with this section or any other
25 discovery order of the Court may result in the sanctions provided for in Fed. R.
26 Civ. P. 37, including a prohibition on the introduction of experts or other
27 designated matters in evidence.**

28 4. All expert disclosures required by Fed. R. Civ. P. 26(a)(2) shall be served

1 on all parties on or before **May 22, 2020**. Any contradictory or rebuttal disclosures
2 within the meaning of Rule 26(a)(2)(D)(ii) shall be disclosed on or before **July 2,**
3 **2020**. Unless otherwise stipulated by the parties, the required expert disclosures shall
4 include an expert report as required by Rule 26(a)(2)(B). If a written report is not
5 required, the disclosure must provide the information required under Rule 26(a)(2)(c).

6 5. All expert discovery shall be completed by all parties on or before **July**
7 **31, 2020** and shall be completed in the same manner as described in paragraph one (1)
8 governing the completion of fact discovery.

9 6. All other dispositive motions, including those addressing Daubert issues,
10 shall be FILED on or before **August 28, 2020**. Oppositions to such motions shall be
11 FILED on or before **September 17, 2020**. Replies in support of such motions shall be
12 FILED on or before **September 25, 2020**. The **Honorable Cathy A. Bencivengo**,
13 United States District Court Judge, may set a hearing to address the dispositive and
14 Daubert submissions by subsequent order. Motions in Limine are to be filed on or
15 before **November 16, 2020** and responses to Motions in Limine shall be filed on or
16 before **November 23, 2020**.

17 7. Briefs in support of or opposition to motions for summary judgment of a
18 claim or defense, or adjudication of an issue, may not exceed a total of 50 pages,
19 whether filed individually or as one motion. Reply briefs may not exceed a total of 25
20 pages. Motions to exclude or strike expert opinions, and oppositions thereto, may not
21 exceed a total of 25 pages. Reply briefs may not exceed a total of 10 pages.

22 8. The parties shall contact Magistrate Judge Major's chambers no later than
23 **February 14, 2020** to schedule a date for a Mandatory Settlement Conference. All
24 discussions at the Mandatory Settlement Conference will be informal, off the record,
25 privileged, and confidential. Counsel for any non-English speaking party is
26 responsible for arranging for the appearance of an interpreter at the conference.

27 a. **Personal Appearance of Parties Required**: All parties, adjusters for
28 insured defendants, and other representatives of a party having full and complete

1 authority to enter into a binding settlement, as well as the principal attorneys
2 responsible for the litigation, must be present **in person** and legally and factually
3 prepared to discuss settlement of the case. Counsel appearing without their clients
4 (whether or not counsel has been given settlement authority) will be cause for
5 immediate imposition of sanctions and may also result in the immediate termination
6 of the conference.

7 Unless there is good cause, persons required to attend the conference pursuant
8 to this Order shall not be excused from personal attendance. Requests for excuse from
9 attendance for good cause shall be made in writing at least three (3) court days prior
10 to the conference. Failure to appear in person at the Mandatory Settlement Conference
11 will be grounds for sanctions.

12 b. **Full Settlement Authority Required:** In addition to counsel who will try
13 the case, a party or party representative with full settlement authority must be present
14 for the conference. In the case of a corporate entity, an authorized representative of
15 the corporation who is not retained outside counsel must be present and must have
16 discretionary authority to commit the company to pay an amount up to the amount of
17 Plaintiff's prayer (excluding punitive damages prayers). The purpose of this
18 requirement is to have representatives present who can settle the case during the course
19 of the conference without consulting a superior. Counsel for a government entity may
20 be excused from this requirement so long as the government attorney who attends the
21 Mandatory Settlement Conference (1) has primary responsibility for handling the case,
22 and (2) may negotiate settlement offers which the attorney is willing to recommend to
23 the government official having ultimate settlement authority.

24 c. **Confidential Settlement Statements Required:** No later than **seven (7)**
25 **calendar days before the Mandatory Settlement Conference**, the parties shall
26 submit directly to Magistrate Judge Major's chambers (via hand delivery or email
27 address) confidential settlement statements no more than ten (10) pages in length.
28 ~~These confidential statements shall not be filed or served on opposing counsel~~

1 Each party's confidential statement must set forth the party's statement of the case,
2 identify controlling legal issues, concisely set out issues of liability and damages, and
3 shall set forth the party's settlement position, including any previous settlement
4 negotiations, mediation sessions, or mediation efforts, the last offer or demand made
5 by that party, and a separate statement of the offer or demand the party is prepared to
6 make at the settlement conference. If a specific demand or offer for settlement cannot
7 be made at the time the brief is submitted, then the reasons therefore must be stated
8 along with a statement as to when the party will be in a position to state a demand or
9 make an offer.

10 General statements that a party will "negotiate in good faith" is not a specific
11 demand or offer contemplated by this Order. It is assumed that all parties will
12 negotiate in good faith.

13 d. **Requests to Continue a Mandatory Settlement Conference:** Any
14 request to continue the Mandatory Settlement Conference or request for relief from
15 any of the provisions or requirements of this Order must be sought by a **joint motion**,
16 or—if the motion is opposed—a **written ex parte application** filed by the party
17 seeking the continuance in compliance with Chambers rules. The application must (1)
18 be supported by a declaration of counsel setting forth the reasons and justifications for
19 the relief requested, (2) confirm compliance with Civil Local Rule 83.3(g), and (3)
20 report the position of opposing counsel or any unrepresented parties subject to the
21 Order. **Absent good cause, requests for continuances will not be considered unless**
22 **submitted in writing no fewer than (7) days prior to the scheduled conference.**

23 **If the case is settled in its entirety before the scheduled date of the**
24 **conference, counsel and any unrepresented parties must still appear in person,**
25 **unless a written joint notice confirming the complete settlement of the case is filed**
26 **no fewer than twenty-four (24) hours before the scheduled conference.**

27 9. Pursuant to Local Civil Rule 16.3, all party representatives and claims
28 adjusters for insured defendants with full and unlimited authority to negotiate and enter

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