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

AMGEN INC.; and AMGEN
MANUFACTURING, LIMITED,

Plaintiffs,

v.

TANVEX BIOPHARMA USA, INC.;
TANVEX BIOPHARMA, INC; and
TANVEX BIOLOGICS CORP.,

Defendants.

Case No.: 19-cv-01374-H-AHG
SCHEDULING ORDER

On July 23, 2019, Plaintiffs Amgen Inc. and Amgen Manufacturing, Ltd. filed a complaint against Defendants Tanvex BioPharma USA, Inc., Tanvex BioPharma, Inc., and Tanvex Biologics Corp., alleging infringement of U.S. Patent No. 9,856,287. (Doc. No. 1, Compl.) On September 23, 2019, Defendants filed an answer to Plaintiffs’ complaint along with counterclaims. (Doc. No. 27.)

On October 28, 2019, the Court issued a tentative scheduling order. (Doc. No. 34.) On November 5, 2019, the parties filed a joint discovery plan pursuant to Federal Rule of Civil Procedure 26(f) and Patent Local Rule 2.1(b). (Doc. No. 36.) The parties’ joint plan included joint proposed changes to the Court’s tentative scheduling order. (Doc. No. 36-3.)

1 On November 13, 2019, the Court held a telephonic case management conference.
2 Nicholas Groombridge, Jennifer H. Wu, Aaron J. Marks, and Marisa Janine-Page appeared
3 for Plaintiffs. Thomas H. Winter and Joseph Rutkowski appeared for Defendants. On
4 November 14, 2019, the parties jointly filed further proposed changes to the Court’s
5 tentative scheduling order. (Doc. No. 41.) Accordingly, the Court issues the following
6 scheduling order:¹

7 1. Prior to the filing of any discovery-related motion, the parties must meet and
8 confer regarding the discovery dispute, and then provide the district judge with a summary
9 of the discovery dispute through a joint phone call or through a one-page joint filing.

10 2. Each party must serve initial disclosure pursuant to Federal Rule of Civil
11 Procedure 26(a)(1) by **December 6, 2019**.

12 3. **Disclosure of Asserted Claims and Infringement Contentions.** On or
13 before **December 20, 2019**, Plaintiffs must serve on Defendants a “Disclosure of Asserted
14 Claims and Infringement Contentions.” The Disclosure of Asserted Claims and
15 Infringement Contentions must contain the following information:

16 a. Each claim of each patent in the suit that is allegedly infringed by
17 Defendants;

18 b. Separately for each asserted claim, each of Defendants’ accused
19 apparatus, product, device, process, method, act, or other instrumentality (“Accused
20 Instrumentality”) of which the party is aware. This identification must be as specific as
21 possible. Each product, device and apparatus must be identified by name or model number,
22 if known. Each method or process must be identified by name, if known, or by any product,
23 device, or apparatus which, when used, allegedly results in the practice of the claimed
24 method or process;

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27 ¹ The parties should specifically note that the Court’s tentative scheduling order sets forth disclosure
28 requirements for damages contentions that are based on the requirements set forth in the Northern District
of California Patent Local Rules 3-1(h), 3-2(f)–(j), 3-4(c)–(e), 3-8, and 3-9.

1 c. A chart identifying specifically where each element of each asserted
2 claim is found within each Accused Instrumentality, including for each element that such
3 party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or
4 material(s) in the Accused Instrumentality that performs the claimed function;

5 d. For each claim which is alleged to have been indirectly infringed, an
6 identification of any direct infringement and a description of the acts of the alleged indirect
7 infringer that contribute to or are inducing that direct infringement. Insofar as alleged
8 direct infringement is based on joint acts of multiple parties, the role of each such party in
9 the direct infringement must be described;

10 e. Whether each element of each asserted claim is claimed to be literally
11 present and/or present under the doctrine of equivalents in the Accused Instrumentality;

12 f. For any patent that claims priority to an earlier application, the priority
13 date to which each asserted claim allegedly is entitled;

14 g. If a party claiming patent infringement asserts or wishes to preserve the
15 right to rely, for any purpose, on the assertion that its own apparatus, product, device,
16 process, method, act, or other instrumentality practices the claimed invention, the party
17 must identify, separately for each asserted claim, each such apparatus, product, device,
18 process, method, act, or other instrumentality that incorporates or reflects that particular
19 claim;

20 h. If a party claiming patent infringement alleges willful infringement, the
21 basis for such allegation; and

22 i. Identify the timing of the point of first infringement, the start of claimed
23 damages, and the end of claimed damages.

24 4. **Document Production Accompanying Disclosure.** With the Disclosure of
25 Asserted Claims and Infringement Contentions, the party claiming patent infringement
26 must produce to Defendants or make available for inspection and copying, the following
27 documents in the possession, custody or control of that party:
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1 a. Documents (for example, contracts, purchase orders, invoices,
2 advertisements, marketing materials, offer letters, beta site testing agreements, and third
3 party or joint development agreements) sufficient to evidence each discussion with,
4 disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the
5 claimed invention prior to the date of application for the patent in suit. A party's production
6 of a document as required within these rules does not constitute an admission that such
7 document evidences or is prior art under 35 U.S.C. § 102;

8 b. All documents evidencing the conception, reduction to practice, design,
9 and development of each claimed invention, that were created on or before the date of
10 application for the patent in suit or the priority date identified pursuant to Patent Local Rule
11 3.1(f), whichever is earlier;

12 c. A copy of the file history for each patent in suit and each application to
13 which a claim for priority is made under Patent Local Rule 3.1(f);

14 d. Documents sufficient to evidence ownership of the patent rights by the
15 party asserting patent infringement;

16 e. If a party identifies instrumentalities pursuant to Patent Local Rule
17 3.1(g), documents sufficient to show the operation of any aspects or elements of such
18 instrumentalities the patent claimant relies upon as embodying any asserted claims;

19 f. All agreements, including licenses, transferring an interest in any
20 patent-in-suit;

21 g. All agreements that the party asserting infringement contends are
22 comparable to a license that would result from a hypothetical reasonable royalty
23 negotiation;

24 h. All agreements that otherwise may be used to support the party
25 asserting infringement's damages case;

26 i. If a party identifies instrumentalities pursuant to Patent Local Rule
27 3.1(g), documents sufficient to show marking of such embodying accused instrumentalities
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1 and if it wants to preserve the right to recover lost profits based on such products, sales,
2 revenues, costs and profits of such embodying accused instrumentalities; and

3 j. All documents comprising or reflecting a F/RAND commitment or
4 agreement with respect to the asserted patent(s). The producing party must separately
5 identify by production number which documents correspond to each category. If the
6 documents identified above are not in the possession, custody or control of the party
7 charged with production, that party must use its best efforts to obtain all responsive
8 documents and make a timely disclosure.

9 5. An early neutral evaluation conference before the Magistrate Judge is
10 currently scheduled for **January 13, 2020 at 9:30 a.m.** (Doc. No. 37.)

11 6. Any motion to join other parties, to amend the pleadings, or to file additional
12 pleadings must be filed on or before **January 17, 2020.**

13 7. **Invalidity Contentions.** On or before **January 24, 2020**, Defendants must
14 serve on all parties their “Invalidity Contentions,” which must contain the following
15 information:

16 a. The identity of each item of prior art that allegedly anticipates each
17 asserted claim or renders it obvious. This includes information about any alleged
18 knowledge or use of the invention in this country prior to the date of invention of the patent.
19 Each prior art patent must be identified by its number, country of origin, and date of issue.
20 Each prior art publication must be identified by its title, date of publication, and where
21 feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) must be identified by
22 specifying the item offered for sale or publicly used or known, the date the offer or use
23 took place or the information became known, and the identity of the person or entity that
24 made the use or that made and received the offer, or the person or entity that made the
25 information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f)
26 must be identified by providing the name of the person(s) from whom and the
27 circumstances under which the invention or any part of it was derived. Prior art under 35
28 U.S.C. § 102(g) must be identified by providing the identities of the person(s) or entities

1 involved in and the circumstances surrounding the making of the invention before the
2 patent applicant(s);

3 b. Whether each item of prior art anticipates each asserted claim or renders
4 it obvious. If obviousness is alleged, an explanation of why the prior art renders the
5 asserted claim obvious, including an identification of any combinations of prior art
6 showing obviousness;

7 c. A chart identifying where specifically in each alleged item of prior art
8 each element of each asserted claim is found, including for each element that such party
9 contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or
10 material(s) in each item of prior art that performs the claimed function;

11 d. Any grounds of invalidity based on indefiniteness under 35 U.S.C. §
12 112(2) of any of the asserted claims; and

13 e. Any grounds of invalidity based on lack of written description, lack of
14 enabling disclosure, or failure to describe the best mode under 35 U.S.C. § 112(1).

15 8. **Document Production Accompanying Invalidity Contentions.** With the
16 Invalidity Contentions, the party opposing a claim of patent infringement must produce or
17 make available for inspection and copying:

18 a. Source code, specifications, schematics, flow charts, artwork, formulas,
19 or other documentation sufficient to show the operation of any aspects or elements of any
20 Accused Instrumentality identified by the patent claimant in its Patent Local Rule 3.1(c)
21 chart;

22 b. A copy of each item of prior art identified pursuant to Patent Local Rule
23 3.3(a) that does not appear in the file history of the patent(s) at issue. To the extent any
24 such item is not in English, the party opposing infringement must produce an English
25 translation of the portion(s) relied upon;

26 c. All agreements that the party opposing infringement contends are
27 comparable to a license that would result from a hypothetical reasonable royalty
28 negotiation;

1 d. Documents sufficient to show the sales, revenue, cost, and profits for
2 accused instrumentalities identified pursuant to Patent Local Rule 3.1(b) for any period of
3 alleged infringement; and

4 e. All agreements that may be used to support the party denying
5 infringement's damages case.

6 9. **Exchange of Preliminary Claim Construction and Extrinsic Evidence.**

7 a. On or before **February 7, 2020**, the parties will simultaneously
8 exchange a preliminary proposed construction of each claim term, phrase, or clause that
9 the parties have identified for claim construction purposes. Each Preliminary Claim
10 Construction will also, for each element that any party contends is governed by 35 U.S.C.
11 § 112(6), identify the structure(s), act(s), or material(s) described in the specification
12 corresponding to that element.

13 b. Simultaneously with exchange of the Preliminary Claim Constructions,
14 the parties must also provide a preliminary identification of extrinsic evidence, including,
15 without limitation, dictionary definitions, citations to learned treatises and prior art, and
16 testimony of percipient and expert witnesses they contend support their respective claim
17 constructions. The parties must identify each such item of extrinsic evidence by production
18 number or produce a copy of any such item not previously produced. With respect to any
19 such witness, percipient or expert, the parties must also provide a brief description of the
20 substance of that witness's proposed testimony.

21 c. On or before **February 21, 2020**, the parties will simultaneously
22 exchange "Responsive Claim Constructions" identifying whether the responding party
23 agrees with the other party's proposed construction, or identifying an alternate construction
24 in the responding party's preliminary construction, or setting forth the responding party's
25 alternate construction.

26 d. Simultaneous with exchange of the Responsive Claim Constructions
27 pursuant to Patent Local Rule 4.1(c), the parties must also provide a preliminary
28 identification of extrinsic evidence, including without limitation, dictionary definitions,

1 citations to learned treatises and prior art, and testimony of percipient and expert witnesses
2 they contend support any responsive claim constructions. The parties must identify each
3 such item of extrinsic evidence by production number or produce a copy of any such item
4 not previously produced. With respect to any such witness, percipient or expert, the parties
5 must also provide a brief description of the substance of that witness's proposed testimony.

6 e. The parties must thereafter meet and confer for the purposes of
7 narrowing the issues and finalizing preparation of a Joint Claim Construction Chart,
8 Worksheet and Hearing Statement.

9 10. **Joint Claim Construction Chart, Worksheet, and Hearing Statement.** On
10 or before **March 6, 2020**, the parties must complete and file a Joint Claim Construction
11 Chart, Joint Claim Construction Worksheet, and Joint Hearing Statement.

12 a. The Joint Hearing Statement must include an identification of the terms
13 whose construction will be most significant to the resolution of the case up to a maximum
14 of ten (10) terms. The parties must also identify any term among the ten (10) whose
15 construction will be case or claim dispositive. If the parties cannot agree on the ten (10)
16 most significant terms, the parties must identify ones which they do agree are most
17 significant and then they may evenly divide the remainder with each party identifying what
18 it believes are the remaining most significant terms. However, the total terms identified by
19 all parties as most significant cannot exceed ten (10). For example, in a case involving two
20 (2) parties if the parties agree upon the identification of five (5) terms as most significant,
21 each may only identify two (2) additional terms as most significant; if the parties agree
22 upon eight (8) such terms, each party may only identify only one (1) additional term as
23 most significant.

24 b. The Joint Claim Construction Chart must have a column listing
25 complete language of disputed claims with the disputed terms in bold type and separate
26 columns for each party's proposed construction of each disputed term. Each party's
27 proposed construction of each disputed claim term, phrase, or clause, must identify all
28 references from the specification or prosecution history that support that construction, and

1 identify any extrinsic evidence known to the party on which it intends to rely either to
2 support its proposed construction of the claim or to oppose any party's proposed
3 construction of the claim, including, but not limited to, as permitted by law, dictionary
4 definitions, citations to learned treatises and prior art, and testimony of percipient and
5 expert witnesses. For every claim with a disputed term, each party must identify with
6 specificity the impact of the proposed constructions on the merits of the case.

7 c. The parties' Joint Claim Construction Worksheet must be in the format
8 set forth in Appendix A of the Patent Local Rules and include any proposed constructions
9 to which the parties agree, as well as those in dispute. The parties must jointly submit the
10 Joint Claim Construction Worksheet to Judge Huff's e-file inbox in both Word and
11 WordPerfect format or in such other format as the Court may direct.

12 d. The Joint Hearing Statement must include:

13 1. The anticipated length of time necessary for the Claim
14 Construction Hearing;

15 2. Whether any party proposes to call one or more witnesses,
16 including experts, at the Claim Construction Hearing, the identity of each such witness,
17 and for each expert, a summary of each opinion to be offered in sufficient detail to permit
18 a meaningful deposition of that expert; and

19 3. The order of presentation at the Claim Construction Hearing.

20 e. At the Court's discretion, within seven (7) days of the submission of
21 the Joint Claim Construction Chart, Joint Claim Construction Worksheet and Joint Hearing
22 Statement, the Court will hold a status conference with the parties, in person or by
23 telephone, to discuss scheduling, witnesses and any other matters regarding the Claim
24 Construction Hearing.

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1 11. Amended and Final Infringement Contentions.²

2 a. As a matter of right, a party asserting infringement may serve Amended
3 Infringement Contentions no later than the filing of the parties’ Joint Claim Construction
4 Chart, **March 6, 2020**. Thereafter, absent undue prejudice to the opposing party, a party
5 asserting infringement may only amend its infringement contentions:

6 1. If, not later than thirty (30) days after service of the Court’s
7 Claim Construction Ruling, the party asserting infringement believes in good faith that
8 amendment is necessitated by a claim construction that differs from that proposed by such
9 party; or

10 2. upon a timely motion showing good cause.

11 b. As a matter of right, a party opposing a claim of patent infringement
12 may serve “Amended Invalidity Contentions” no later than the Completion of Claim
13 Construction Discovery, **April 18, 2020**. Thereafter, absent undue prejudice to the
14 opposing party, a party opposing infringement may only amend its invalidity contentions:

15 1. if a party claiming patent infringement has served Amended
16 Infringement Contentions, and the party opposing a claim of patent infringement believes
17 in good faith that the Amended Infringement Contentions so require;

18 2. if, not later than fifty (50) days after service of the Court’s Claim
19 Construction Ruling, the party opposing infringement believes in good faith that
20 amendment is necessitated by a claim construction that differs from that proposed by such
21 party; or

22 3. upon a timely motion showing good cause.

23 12. Completion of Claim Construction Discovery. On **April 7, 2020**, the parties
24 must complete all discovery, including depositions of any percipient or expert witnesses,
25 that they intend to use in the Claim Construction Hearing. Federal Rule of Civil Procedure
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28 ² This rule does not relieve any party from its obligations under Federal Rule of Civil Procedure 26 to timely supplement disclosures and discovery responses.

1 30 applies to depositions taken pursuant to Patent Local Rule 4.3 except as to experts. An
2 expert witness identified in a party's Joint Hearing Statement pursuant to Patent Local Rule
3 4.2(d) may be deposed on claim construction issues. The identification of an expert witness
4 in the Joint Hearing Statement may be deemed good cause for a further deposition on all
5 substantive issues.

6 13. **Claim Construction Briefs.**

7 a. On **March 27, 2020**, the parties will simultaneously file and serve
8 opening briefs and any evidence supporting their claim constructions.

9 b. On **April 17, 2020**, the parties will simultaneously file and serve briefs
10 responsive to the opposing party's opening brief and any evidence directly rebutting the
11 supporting evidence contained in the opposing party's opening brief.

12 c. Absent leave of Court, the provisions of Civil Local Rule 7.1.h for
13 length of briefs for supporting and reply memoranda will apply to the length of opening
14 and responsive claim construction briefs. Thus, the parties' opening claim construction
15 briefs must not exceed 25 pages in length, per side, and the parties' responsive claim
16 construction briefs must not exceed 10 pages in length, per side. In addition, the parties'
17 claim construction briefing is limited to a total of ten (10) disputed claim terms, absent
18 further order of the Court upon a showing of good cause.

19 14. **Claim Construction Hearing.** On **Tuesday, April 28, 2020**, at **10:00 a.m.**,
20 the Honorable Marilyn L. Huff will conduct a Claim Construction Hearing in San Diego,
21 California.

22 15. **Damages Contentions.** On **April 10, 2020**, each party asserting infringement
23 shall:

24 a. Identify each of the category(-ies) of damages it is seeking for the
25 asserted infringement, as well as its theories of recovery, factual support for those theories,
26 and computations of damages within each category, including:

- 27 1. lost profits;
- 28 2. price erosion;

- 1 3. convoyed or collateral sales;
- 2 4. reasonable royalty; and
- 3 5. any other form of damages.

4 b. To the extent a party contends it is unable to provide a fulsome response
5 to the disclosures required by this rule, it shall identify the information it requires.

6 16. **Responsive Damages Contentions.** On **May 1, 2020**, each party denying
7 infringement shall identify specifically how and why it disagrees with those contentions.
8 This should include the party's affirmative position on each issue. To the extent a party
9 contends it is unable to provide a fulsome response to the disclosures required by this rule,
10 it shall identify the information it requires.

11 17. **Advice of Counsel.** Not later than thirty (30) days after the filing of the Claim
12 Construction Order, each party relying upon advice of counsel as part of a patent related
13 claim or defense for any reason must:

14 a. Produce or make available for inspection and copying the opinion(s)
15 and any other documentation relating to the opinion(s) as to which that party agrees the
16 attorney-client or work product protection has been waived;

17 b. Provide a written summary of any oral advice and produce or make
18 available for inspection and copying that summary and documents related thereto for which
19 the attorney-client and work product protection have been waived; and

20 c. Serve a privilege log identifying any other documents, except those
21 authored by counsel acting solely as trial counsel, relating to the subject matter of the
22 opinion(s) which the party is withholding on the grounds of attorney-client privilege or
23 work product protection.

24 A party who does not comply with the requirements of Patent Local Rule 3.7 will
25 not be permitted to rely on advice of counsel for any purpose, absent a stipulation of all
26 parties or by order of the court, which will be entered only upon showing of good cause.

27 18. The initial date for the substantial completion of document discovery
28 including electronically stored information ("ESI") is **May 15, 2020**. See Patent L.R.

1 2.1(a)(1).

2 19. All fact discovery must be completed on or before **July 10, 2020**.
3 “Completed” means that all discovery under Rules 30 through 36 of the Federal Rules of
4 Civil Procedure must be initiated a sufficient period of time in advance of the cut-off date
5 so that it can be completed by the cut-off date, taking into account the times for services,
6 notice, and response as set forth in the Federal Rules of Civil Procedure.

7 20. On or before **June 5, 2020**, all parties must exchange with all other parties a
8 list of all expert witnesses expected to be called at trial. The list must include the name,
9 address, and telephone number of the expert and a brief statement identifying the subject
10 areas as to which the expert is expected to testify. The list must also include the normal
11 rates the expert charges for deposition and trial testimony. The list must include non-
12 retained testifying experts. On or before **June 19, 2020**, any party may supplement its
13 designation in response to any other party’s designation so long as that party has not
14 previously retained an expert to testify on that subject.

15 21. All expert disclosures required by Federal Rule of Civil Procedure 26(a)(2)
16 must be served on all parties on or before **July 24, 2020**. Any contradictory or rebuttal
17 disclosures within the meaning of Rule 26(a)(2)(D)(ii) shall be disclosed on or before
18 **August 18, 2020**. Unless otherwise stipulated by the parties, the required expert
19 disclosures shall include an expert report as required by Rule 26(a)(2)(B). If a written
20 report is not required, the disclosure must provide the information required under Rule
21 26(a)(2)(c). Any party that fails to make these disclosures must not, absent substantial
22 justification, be permitted to use evidence or testimony not disclosed at any hearing or at
23 the time of trial. In addition, the Court may impose sanctions as permitted by Federal Rule
24 of Civil Procedure 37.

25 22. All expert discovery must be completed on or before **September 15, 2020**.
26 “Completed” means that all discovery under Rules 30 through 36 of the Federal Rules of
27 Civil Procedure must be initiated a sufficient period of time in advance of the cut-off date
28 so that it can be completed by the cut-off date, taking into account the times for services,

1 notice, and response as set forth in the Federal Rules of Civil Procedure.

2 23. The parties must conduct a settlement conference in accordance with Patent
3 Local Rule 2.1(c). The parties must contact the magistrate judge assigned to this case by
4 **August 28, 2020** to arrange a date for the settlement conference.

5 24. All motions, including motions addressing Daubert issues, but excluding
6 earlier motions to amend or join parties and later motions in limine, must be filed on or
7 before **October 6, 2020**. Any oppositions must be filed on or before **October 23, 2020**.
8 Any replies must be filed on or before **October 30, 2020**. The Court schedules a motion
9 hearing for **Friday, November 13, 2020, at 10:00 a.m.** The Court reserves the right to
10 vacate the hearing and submit the motions on the filings pursuant to Civil Local Rule
11 7.1(d)(1). The Court reminds the parties that they do not need to wait until the last minute
12 to file their motions. For any motion filed more than two weeks before the motion-filing
13 cut-off date, the moving party must contact chambers to schedule a hearing.

14 All briefing in this action must comply with Civil Local Rule 7.1(h). Briefs or
15 memoranda in support of or in opposition to all motions noticed for the same motion day
16 must not exceed a total of twenty-five (25) pages in length, per party, for all such motions
17 without leave of the judge who will hear the motion. No reply memorandum will exceed
18 ten (10) pages without leave of the judge.³

19 25. The parties must file and submit to the Court's e-file inbox a juror
20 questionnaire, including a question regarding time-screening for trial, on or before
21 **November 13, 2020**.

22 26. Counsel must file their Memoranda of Contentions of Fact and Law in
23 compliance with Civil Local Rule 16.1(f)(2) on or before **November 20, 2020**.

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26 ³ Any motion for leave to file excessive briefing must be filed at least one week in advance of the
27 excessive filing at issue along with a showing of good cause for exceeding the Court's page limits. See
28 Bryan A. Garner, *Interviews with United States Supreme Court Justices*, THE SCRIBES JOURNAL OF LEGAL
WRITING 35 (2010) (Chief Justice John Roberts stating: "I have yet to put down a brief and say, 'I wish
that had been longer.' So while I enjoy [reading briefs], there isn't a judge alive who won't say the same
thing. Almost every brief I've read could be shorter.").

1 27. Counsel must comply with the pretrial disclosure requirements of Federal
2 Rule of Civil Procedure 26(a)(3) on or before **November 20, 2020**. Failure to comply with
3 these disclosure requirements could result in evidence preclusion or other sanctions under
4 Federal Rule of Civil Procedure 37.

5 28. Counsel must meet together and take the action required by Civil Local Rule
6 16.1(f)(4) on or before **December 4, 2020**. At this meeting, counsel must discuss and
7 attempt to enter into stipulations and agreements resulting in simplification of the triable
8 issues. Counsel must exchange copies and/or display all exhibits other than those to be
9 used for impeachment. The exhibits must be prepared in accordance with Civil Local Rule
10 16.1(f)(4)(c). Counsel will note any objections they have to any other party's Pretrial
11 Disclosures under Federal Rule of Civil Procedure 26(a)(3). Counsel will cooperate in the
12 preparation of the proposed pretrial conference order.

13 29. Counsel for Plaintiffs will be responsible for preparing the proposed pretrial
14 order in accordance with Civil Local Rule 16.1(f)(6)(a). On or before **December 11, 2020**,
15 Plaintiffs' counsel must provide opposing counsel with the proposed pretrial order for
16 review and approval. Opposing counsel must communicate promptly with Plaintiffs'
17 attorney concerning any objections to form or content of the pretrial order, and both parties
18 must attempt promptly to resolve their differences, if any, concerning the order.

19 30. The Proposed Final Pretrial Conference Order, including objections to any
20 other party's Federal Rule of Civil Procedure 26(a)(3) Pretrial Disclosures, must be served
21 and e-mailed to the District Judge's e-file inbox on or before **December 18, 2020**, in
22 accordance with Civil Local Rule 16.1(f)(6).

23 31. The final pretrial conference, status conference, and hearing on motions in
24 limine will be held before the Honorable Marilyn L. Huff on **Friday, January 15, 2021**,
25 at **10:00 a.m.** Lead trial counsel must appear in person absent further order of the Court.
26 All motions in limine must be filed on or before **November 20, 2020**. Any oppositions to
27 motions in limine must be filed on or before **December 11, 2020**. Any replies must be
28 filed on or before **December 18, 2020**. Absent further order of the Court, each side may

1 file no more than five motions in limine.

2 32. If a party wishes to use deposition testimony in lieu of a live witness, if
3 authorized under the rules, the party must submit the designations to opposing counsel by
4 **November 20, 2020**. The parties must exchange counter-designations by **December 11,**
5 **2020**. If deposition testimony is used at trial in lieu of a live witness, the Court will
6 determine the allocation of time against each party, but the time is assessed against the time
7 limits authorized for trial.

8 33. The parties must submit proposed verdict forms by **January 25, 2021**.

9 34. The parties must submit proposed questions for the jury on or before **January**
10 **25, 2021**. The jury will consist of eight (8) jurors. Each party will have three challenges.
11 The Court uses the Arizona blind strike method.

12 35. The Court orders the parties to file proposed jury instructions on or before
13 **January 25, 2021**. Copies of the jury instructions are to be filed with the Court's Case
14 Management/Electronic Case Filing ("CM/ECF") system. **Additionally**, the Court orders
15 the parties to send to chambers via the Court's e-file e-mail address a clean copy of the
16 requested jury instructions with "Court's Instruction No. ____" behind each annotated
17 instruction. The clean instructions must be sent to chambers by **January 25, 2021**. The
18 clean instructions must be on pleading paper in Times New Roman, 14-point font, must be
19 double-spaced, and must not have any header, footer, or page numbers. Further, the clean
20 instructions must be fully completed and in a format that could be read to the jury if adopted
21 by the Court. The parties must remove any brackets, fill in blanks, and make the necessary
22 selections where applicable to any model instructions.

23 36. The Court orders the parties to provide separate exhibit lists to the Courtroom
24 Deputy at the status conference on **January 25, 2021**. The exhibits must be premarked
25 with Plaintiffs using numbers and Defendants using letters in accordance with the Civil
26 Local Rules. Exhibit stickers are available in the Clerk's office. If a party wishes to use
27 electronic or demonstrative equipment during trial, the Court directs the party to contact
28 the Courtroom Deputy to schedule an appropriate time to setup the equipment before the

1 trial begins and submit a proposed order by **January 19, 2021**, to allow the equipment to
2 proceed through security.

3 37. The Court schedules trial for **Tuesday, January 26, 2021, at 9:00 a.m.**

4 38. The Court will not modify the dates and times set forth in this order except
5 for good cause shown.

6 **IT IS SO ORDERED.**

7 DATED: November 15, 2019

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9 MARILYN L. HUFF, District Judge
10 UNITED STATES DISTRICT COURT
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