

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

JUN YU,

Plaintiff,

vs.

IDAHO STATE UNIVERSITY,

and

JOHN/JANE DOES I through X, whose true
identities are presently unknown,

Defendants.

Case No.: 4:15-cv-00430-REB

ORDER SETTING TRIAL

IT IS HEREBY ORDERED that the following deadlines and procedures shall govern the remainder of this litigation:

1. TRIAL DATE: A 6-day jury trial is set for **Tuesday, November 13, 2018, beginning at 9:00 a.m. Mountain Time** in Pocatello, Idaho. Trial on the first day will include two 15-minute breaks, a one-hour lunch, and will end at 5:00 p.m. Beginning on day two, the Court will follow a compressed trial day, which shall begin at 8:30 a.m. and end at 3:00 p.m., with two 20-minute breaks.
2. PRE-TRIAL CONFERENCE DATE: An in-person pre-trial conference is scheduled to take place at **4:00 p.m. on October 23, 2018** in Boise, Idaho, to discuss and resolve insofar as possible (1) the legal issues remaining in the case, (2) evidentiary issues, (3) trial logistics, including exhibits and witness lists, and (4) any other matters pertaining to the trial. On or before **October 12, 2018**, the parties shall communicate and reach agreement on as many items

as possible – including stipulations related to the parties’ proposed exhibits. This should include stipulations on foundation or other evidentiary matters, even if there is disagreement as to whether a document should be admitted into evidence, based upon relevancy issues. The parties shall be prepared to discuss with the Court those items over which counsel disagrees.

3. WITNESS LISTS: The parties shall exchange witness lists on or before **September 28, 2018**. The witness lists shall contain the information listed in FRCP 26(a)(3)(A) & (B) and shall include a full summary, not just the subject, of the witnesses’ expected testimony.
4. TRIAL BRIEF: Trial briefs shall be filed with the Court by **September 28, 2018**. Trial briefs shall follow the guidelines set out in Local Rule 16.3(b) to the extent it is not inconsistent with this Order.
5. EXHIBIT LISTS AND EXHIBITS: All exhibit lists shall be filed with the Court by **September 28, 2018**. No later than that same date, the parties shall exchange all trial exhibits, but shall not provide them to the Court until the day of trial. Counsel shall provide the Court with a set of original, pre-marked exhibits in a binder. An additional copy, either electronic or paper, should be submitted for the Court’s personal use during the trial, with the exception of oversize exhibits or audio/visual materials. The exhibit lists shall follow the guidelines set out in Local Rule 16.3(f) to the extent it is not inconsistent with this Order. The exhibit list shall be prepared on the form provided by the Deputy Clerk, with sufficient copies for the Judge, the Deputy Clerk, and the Staff Attorney.
 - a. Exhibit numbers 1 through 499 shall be reserved for Plaintiff’s exhibits. Exhibit numbers 500–999 shall be reserved for Defendants’ exhibits. Exhibit numbers 1000+ shall be reserved for joint exhibits.

- b. Counsel shall review their exhibits, determine any duplication, and jointly mark and stipulate to the admission of those exhibits that both sides intend to offer and rely upon.
6. JURY INSTRUCTIONS: All proposed jury instructions shall be filed with the Court by **September 28, 2018**. The proposed jury instructions shall follow the guidelines set out in Local Rule 51.1. Additionally, counsel shall email a clean copy of their proposed jury instructions to the Court in Microsoft Word format at reb_orders@id.uscourts.gov.
7. PROPOSED VOIR DIRE: Proposed voir dire shall be filed with the Court by **September 28, 2018**. Proposed voir dire shall follow the guidelines set out in Local Rule 16.3(e).
8. MOTIONS IN LIMINE: Motions in limine shall be filed with the Court by **September 28, 2018**. Responses to any motions in limine shall be filed with the Court by **October 9, 2018**. Replies to any motions in limine shall be filed with the Court by **October 16, 2018**.
9. TRIAL PROCEDURES:
 - a. The Court will generally control voir dire. Counsel's voir dire will be limited to 20–30 minutes per side. Counsel are cautioned not to repeat questions already asked by the Court or other counsel and are advised that the Court will not permit voir dire which appears intended to influence the jury rather than explore appropriate concerns with a juror's ability to be fair and impartial. Ultimately, a jury comprised of seven individuals shall be selected (six jurors and one alternate). All jurors selected will deliberate on the verdict. Each party shall be allowed three peremptory challenges during voir dire.
 - b. Counsel shall exercise good faith in attempting to reach a stipulation on undisputed facts and admission of exhibits.
 - c. During trial, the jury will be in the box hearing testimony the entire trial day.

- d. During the time the jury is in the jury box, no argument, beyond one-sentence evidentiary objections, shall be allowed to interrupt the flow of testimony. Almost all objections should be stated in one to three words (“hearsay”, “asked & answered”, “irrelevant”, etc.). Matters that need to be resolved outside the presence of the jury should be brought to the Court’s attention as soon as possible, and preferably prior to the issue arising during trial so that the Court can consider and decide upon such matters during a recess, or before or after the trial day begins or ends. Where the need for such a hearing cannot be anticipated, the Court may direct the examining counsel to avoid the objectionable subject and continue on a different line of questioning so that the objection can be argued and resolved at the next recess. To avoid late-night sessions, counsel are advised to bring up all anticipated evidentiary questions in their pretrial briefs.
- e. Examples of improper objections: “I object to that question, Your Honor, because I am sure that Charlie Witness did not read that document very carefully before he signed it”; or, “I object, Your Honor, because Charlene Witness has already testified that she can’t remember”. These “speaking objections” would suggest an answer.
- f. Counsel shall have enough witnesses ready to ensure a full day of testimony and shall communicate with opposing counsel and the Court a list of the next day’s anticipated witness(es). If witnesses are unavoidably delayed, counsel shall promptly notify the Court and opposing counsel.
- g. When counsel announces the name of a witness called to testify, the Court or the clerk will summon the witness forward to be sworn, the clerk will administer the oath and,

after the witness is seated, ask the witness to state her or his name and spell her or his last name for the record. I will then indicate to counsel that she or he may inquire of the witness.


- h. Please do not address parties or witnesses (including your own) by her or his first name unless such familiarity is clearly appropriate, and is not likely to be offensive to the witness or any juror. In case of doubt, don't.
 - i. Your clients and your witnesses should be instructed that they should always refer to you and opposing counsel by last names.
 - j. You are responsible to advise your client, your witnesses and everyone associated with your client to avoid all contact with the jurors. This prohibition includes seemingly innocuous behavior like riding on an elevator with a juror, saying hello to a juror, or even acknowledging the juror's presence.
10. ON-THE-CLOCK: As of now, Plaintiff is allocated 50% of the trial time and Defendants, together, are allocated 50% of the trial time, which will be determined once jury selection is complete. The Court will keep track of the time each party uses, and will adjust the number of total hours expected for trial, based upon what happens at trial each day. The Court will provide reports to counsel at the end of each trial day, regarding counsel's use of time, and, where applicable, any adjustments to the total and allocated hours. The clock is running on a party conducting open statement, direct, cross, objections that are unsuccessful, and closing argument.
11. ADR: The Court notes that the parties were to engage in a judicially supervised settlement conference, which was canceled because counsel indicated it would not be productive. The

parties are encouraged to revisit the possibility of resolving the action short of trial. To that end, the parties are ordered to notify the Court on or before **October 16, 2018** that the case has either settled or will definitely go to trial.

12. TELEPHONIC STATUS CONFERENCE: A telephonic status conference is scheduled to take place at **1:30 p.m. on August 6, 2018**. Mr. Kelly shall initiate the Conference Call by dialing (208) 334-1495.



Dated: **February 8, 2018**

By: 

HONORABLE RONALD E. BUSH
Chief U.S. Magistrate Judge