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

IN RE: AMERANTH
CASES,

CASE NOS.

11cv1810 DMS (WVG)	12cv1643 DMS (WVG)
12cv0729 DMS (WVG)	12cv1644 DMS (WVG)
12cv0731 DMS (WVG)	12cv1646 DMS (WVG)
12cv0732 DMS (WVG)	12cv1648 DMS (WVG)
12cv0733 DMS (WVG)	12cv1649 DMS (WVG)
12cv0737 DMS (WVG)	12cv1650 DMS (WVG)
12cv0739 DMS (WVG)	12cv1651 DMS (WVG)
12cv0742 DMS (WVG)	17cv1093 DMS (WVG)
12cv0858 DMS (WVG)	12cv1653 DMS (WVG)
12cv1627 DMS (WVG)	12cv1654 DMS (WVG)
12cv1629 DMS (WVG)	12cv1655 DMS (WVG)
12cv1630 DMS (WVG)	12cv1656 DMS (WVG)
12cv1631 DMS (WVG)	13cv0350 DMS (WVG)
12cv1633 DMS (WVG)	13cv0352 DMS (WVG)
12cv1634 DMS (WVG)	13cv0353 DMS (WVG)
12cv1636 DMS (WVG)	13cv1072 DMS (WVG)
12cv1640 DMS (WVG)	14cv1303 DMS (WVG)
12cv1642 DMS (WVG)	12cv2350 DMS (WVG)

**ORDER RE: TRIAL (PIZZA HUT AND
QUIKORDER)**

On August 3, 2018, this matter came on regularly for a pretrial conference. After consulting with counsel, and for good cause appearing, **IT IS HEREBY ORDERED:**

1. **Trial Date.** A jury trial in this action shall commence on **September 4, 2018, at 9:00 a.m.**, in Courtroom 13A as to Defendants Pizza Hut and QuikOrder.

2. **Time Limits.** To promote the efficient administration of justice, provide for an orderly presentation of the evidence, and accommodate the parties' time

1 estimates and Court's schedule, the Court orders reasonable time limits of thirteen (13)
2 hours per side. In making these time limits, the Court is familiar with the issues in the
3 case and the parties' estimates for trial. The time limits include opening statements,
4 presentation of evidence, side-bar conferences, and closing argument. The time limits
5 are subject to revision for good cause shown, but the parties should exercise diligence
6 in efficiently presenting the case. The Courtroom Deputy Clerk will provide a summary
7 of the time used at the conclusion of each trial day.

8 3. **Motions *In Limine*.** The parties shall file and serve their motions *in*
9 *limine* on or before **August 17, 2018**. Each side shall be limited to five (5) motions, and
10 each motion shall be no more than five (5) pages. The parties are admonished,
11 however, to meet and confer to try and resolve their disputes before filing motions *in*
12 *limine*. Oppositions to motions *in limine* shall be filed on or before **August 24, 2018**,
13 and shall also be no more than five (5) pages. Reply briefs are not necessary and will
14 not be accepted for filing. A hearing on the parties' motions *in limine* shall be held on
15 **August 31, 2018, at 1:30 p.m.**

16 4. **Jury Instructions.** On or before **August 27, 2018**, jury instructions must
17 be submitted to the Court in the following format:

18 a. The parties are required **jointly** to submit one set of agreed upon
19 instructions. To this end, the parties are required to serve their proposed instructions
20 upon each other at least ten days before August 27, 2018. The parties then should meet,
21 confer, and submit to the Court one complete set of agreed upon instructions. The
22 Court prefers to use standard pattern instructions, such as the Ninth Circuit Model Jury
23 Instructions, Civil, the Judicial Council of California Civil Jury Instructions, or other
24 pattern instructions from other states, if applicable.

25 b. If the parties cannot agree upon one complete set of instructions,
26 they are required to submit one set of instructions to which they have agreed, and two
27 sets (one for each party) of supplemental instructions to which they have not agreed.

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1 c. The joint instructions and supplemental instructions must be
2 presented to the Court on August 27, 2018, along with any objections to the
3 supplemental instructions. All objections shall be in writing, set forth the challenged
4 jury instruction in its entirety, identify the objectionable language, and contain citation
5 to authority explaining why the instruction is improper. Where applicable, the objecting
6 party shall submit an alternative instruction.

7 d. The parties are required to submit the proposed joint set of
8 instructions and proposed supplemental instructions in the following format:

9 i. Two copies of each instruction should be provided.

10 ii. The first copy should indicate the number of the proposed
11 instruction, the instruction, and the authority supporting the instruction.

12 iii. The second copy should contain **only** the proposed
13 instructions on plain paper, that is, not on pleading paper. No other marks or writings
14 should be present. This copy also should be presented via email in Word or
15 WordPerfect format (any version).

16 e. All instructions should be short, concise, and neutral statements of
17 law. Avoid argumentative instructions as they will not be given.

18 f. Any modification to a standard instruction must be identified by
19 specifying the modification to the original instruction and the authority supporting the
20 modification.

21 5. **Voir Dire.** The parties shall submit proposed voir dire questions on or
22 before **August 27, 2018**. The Court will conduct the initial voir dire of the panel. In
23 addition, the Court will allow each party twenty (20) minutes for attorney voir dire.

24 6. **Joint Statement, Witness and Exhibit Lists.** On or before **August 27,**
25 **2018**, the parties shall submit a final list of witnesses and exhibits and a joint
26 description of the case to be read to the jury. The parties shall submit an extra copy of
27 the witness and exhibit lists for the court reporter.

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1 7. **Trial Briefs.** On or before **August 27, 2018**, the parties shall file and
2 serve on each other a trial brief that summarizes their theories of the case and what they
3 expect the evidence to show.

4 8. **Electronic Equipment.** The parties must notify the Court in writing of
5 any electronic equipment they seek to use during the trial, and contact at least one week
6 before trial the Courtroom Deputy Clerk to arrange a time and date to set up any
7 electronic equipment.

8 9. **Trial Procedures – Jury Selection.** The Court’s Civil Pretrial and Trial
9 Procedures, including jury selection practices, are attached. The parties also may view
10 these procedures on the Court’s website at www.casd.uscourts.gov. (See “Rules,” then
11 click on “Chamber’s Rules”).

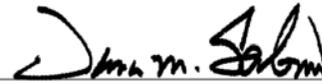
12 10. A Mandatory Settlement Conference shall be conducted on **August 17,**
13 **2018, at 1:00 p.m.** in the chambers of Magistrate Judge William V. Gallo. Counsel
14 shall submit settlement statements directly to chambers no later than **August 9, 2018.**
15 Plaintiff’s statement shall be limited to 7 pages of substance and 23 pages of exhibits-30
16 pages total. Defendants Pizza Hut and QuikOrder shall be limited to a joint statement
17 no greater than 12 pages of substance and 23 pages of exhibits-35 pages total. Each
18 side’s settlement statement shall set forth the side’s statement of the case, identify
19 controlling legal issues, concisely set out issues of liability and damages, and shall set
20 forth the side’s settlement position, including the last offer or demand made by that
21 party, and a separate statement of the offer or demand the party is prepared to make at
22 the settlement conference. Settlement conference briefs shall not be filed with the Clerk
23 of the Court, but may be served on opposing counsel at the party’s discretion.
24 Settlement conference briefs shall comply with the undersigned’s Chambers Rules. The
25 parties shall meet and confer in good faith prior to the Mandatory Settlement
26 Conference, and verify that they have done so in their respective Mandatory Settlement
27 Conference statements, outlining the substance of their discussions and negotiations.

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1 Pursuant to Federal Rule of Civil Procedure 16 and Local Civil Rule 16.3, all
2 named Plaintiffs, named Defendants, claims adjusters for insured defendants, and if a
3 named Plaintiff or Defendant is a corporation, partnership, or other entity, a
4 representative of that entity, with full and unlimited authority to negotiate and enter
5 into a binding settlement, as well as the principal attorney(s) responsible for the
6 litigation, must be present and must be prepared to discuss in good faith, the facts of the
7 case, the law that governs the legal issues in the case, and to resolve the case at the
8 Settlement Conference. Sanctions may issue against a party and/or attorney who does
9 not proceed as noted above. Retained outside corporate counsel shall not appear on
10 behalf of a corporation as the party who has the authority to negotiate and enter into a
11 settlement. For good cause, and on *ex parte* application at least one week before the
12 scheduled settlement conference, Magistrate Judge Gallo may excuse a party or
13 representative from personal attendance provided such party or parties will be available
14 by telephone during the conference. Failure to attend the conference or participate in
15 good faith or obtain proper excuse will be considered grounds for sanctions. Counsel
16 seeking to reschedule a Settlement Conference must first confer with opposing counsel.
17 The Court will consider formal, written *ex parte* requests to continue a Settlement
18 Conference when extraordinary circumstances exist that make a continuance
19 appropriate. In and of itself, having to travel a long distance to appear at the Settlement
20 Conference is not an extraordinary circumstance.

21 **IT IS SO ORDERED.**

22 DATED: August 3, 2018

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24 HON. DANA M. SABRAW
25 United States District Judge
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