

EXHIBIT D

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF WASHINGTON

4 SULEIMAN ABDULLAH SALIM, et al.,

5
6 Plaintiffs,

7 vs.

8
9 JAMES E. MITCHELL and JOHN
10 JESSEN,

11 Defendants.

)
) No. CV-15-0286-JLQ
) SCHEDULING ORDER

12 The court held a telephonic Scheduling Conference on July 8, 2016. Hina Shamsi,
13 Emily Chiang, Steven Watt, and Dror Ladin appeared for Plaintiffs Suleiman Abdullah
14 Salim, Mohamed Ahmed Ben Soud, and Obaid Ullah, with Mr. Ladin taking the lead on
15 argument. James Smith, Brian Paszamant, Henry Schuelke, III, and Christopher
16 Tompkins appeared for Defendants James Mitchell and John Jessen, with Mr. Tompkins
17 taking the lead on argument. Department of Justice attorney Andrew Warden
18 participated in the interest of the United States. This Opinion memorializes and
19 supplements the court’s oral ruling

20 **IT IS HEREBY ORDERED:**

21 **1. Rule 26 provisions regarding discovery, including the initial disclosure**
22 **requirements, shall apply in this matter to include all ongoing discovery, subject to**
23 **the dates specified in this Order. Counsel are reminded that the court views Rule 26**
24 **liberally and the parties have an obligation to disclose the good and the bad and**
25 **observe an 'open file' policy with the exception of privileged materials. Violations of**
26 **Rule 26 and the spirit of open discovery will result in the imposition of appropriate**
27 **sanctions, including, but not limited to, the preclusion of the introduction of**
28 **evidence not timely disclosed.**

1 2. The parties informed the court that Rule 26(a)(1) initial disclosures had already
2 been exchanged.

3 3. Defense counsel expressed some concern that discovery may involve classified
4 information. Plaintiffs' counsel does not anticipate that the discovery process is likely to
5 involve classified information. The court discussed with counsel, including Mr. Warden,
6 how classified information may be handled if present in this case, including possible
7 submission to the court *in camera* and/or the use of a classified information security
8 officer. If discovery issues arise, the parties may bring them promptly to the attention of
9 the court by appropriate motion, and may request expedited hearing pursuant to Local
10 Rule 7.1(h).

11 4. Any motion to amend pleadings or add named parties shall be filed and served
12 no later than **November 1, 2016**.

13 5. Plaintiffs shall file and serve a list of expert witnesses if any, and serve Rule
14 26(a)(2) expert reports, on or before **November 21, 2016**. Defendants shall file and serve
15 a list of expert witnesses if any, and serve Rule 26(a)(2) expert reports, on or before
16 **December 12, 2016**. Any rebuttal experts shall be disclosed, and reports provided, on or
17 before **December 30, 2016**.

18 6. Plaintiffs shall file and serve a final list of trial witnesses on or before
19 **November 21, 2016**. Defendants shall file and serve a final list of trial witnesses on or
20 before **December 12, 2016**. These lists shall contain the name, address and a summary of
21 each witness's direct and foreseeable rebuttal testimony. Only listed witnesses may
22 testify. These lists shall not be supplemented without leave of court to prevent manifest
23 injustice. The party and/or attorney listing a witness who is not called to testify shall pay
24 the discovery costs on the uncalled witnesses, including attorney fees, subject to review
25 by the court to prevent a manifest injustice.

26 7. All discovery shall be completed on or before **February 17, 2017**.
27 Interrogatories, requests for admission/production, etc. must be served sufficiently early
28 that all responses are due before the discovery deadline. Any motion to compel discovery

1 shall be filed, served and heard on or before the discovery deadline.

2 8. All dispositive motions shall be filed and served on or before **March 31, 2017**.
3 Response and reply briefing shall be filed and served in accordance with Local Rule 7.1.
4 Oral argument, if requested, shall be scheduled by contacting the court's Judicial
5 Assistant, Lee Ann Mauk, at 509-458-5280. Counsel are advised that they need not await
6 the deadline to file a dispositive motion and should keep in mind that the date of hearing
7 on a dispositive motion must be at least 50 days after the motion's filing per Local Rule
8 7.1(h)(2)(B).

9 9. The parties shall file no further discovery except those portions necessary to
10 support motions.

11 10. Exhibit lists shall be filed and served and exhibits made available for
12 inspection (or copies provided) on or before **May 1, 2017**. The exhibits shall not be filed.
13 Objections to exhibits shall be filed and served on or before **May 22, 2017**, and shall be
14 heard at the pretrial conference. All exhibits shall be pre-marked: Plaintiffs shall use
15 numbers 1-499; Defendants shall use numbers 500 et seq.

16 11. Designation of substantive, as opposed to impeachment, deposition testimony
17 of witnesses who will be unavailable to give live testimony at trial, shall be by
18 highlighting in blue and served, **not filed**, on or before **May 1, 2017**. Cross-designations
19 by highlighting in yellow shall be served, **not filed**, on or before **May 15, 2017**.
20 Objections to any designated deposition testimony shall be **filed and served** on or before
21 **May 22, 2017**, and shall be heard at the pretrial conference.

22 12. All unresolved substantive or evidentiary issues which may foreseeably arise
23 during trial shall be addressed by motions in limine to be served and filed not later than
24 **May 1, 2017**, and shall be heard and resolved at the pretrial conference.

25 13. Trial briefs, requested jury instructions, and requested jury voir dire shall be
26 filed and served on or before **May 22, 2017**.

27 14. The pretrial conference will be held in Spokane, Washington on **June 9, 2017**
28 **at 10:00 a.m.** All unresolved motions and objections will be heard at the pretrial

1 conference. If an agreed pretrial order has been lodged, counsel need not appear at the
2 pretrial conference unless unresolved motions or objections exist.

3 15. The jury trial shall commence at **9:00 a.m.**, on **June 26, 2017**, in Spokane,
4 Washington.

5 16. The dates set by the court herein were set after consultation with counsel and
6 with counsel's agreement. Scheduled dates will not be changed except after the granting
7 of a motion to prevent manifest injustice.

8 **IT IS SO ORDERED.** The Clerk is hereby directed to enter this Order and
9 furnish copies to counsel.

10 **DATED** this 8th day of July, 2016.

11 s/ Justin L. Quackenbush
12 JUSTIN L. QUACKENBUSH
13 SENIOR UNITED STATES DISTRICT JUDGE
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