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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

NAME(S),
Plaintiff(s),
v.
NAME(S), and DOES 1-____, inclusive
Defendant(s).

Case No.: _____
Assigned for all purposes to the
Hon. Nicole S. Healy, Department 28
PRETRIAL ORDER NO. 1

MSC Date: _____
Trial Date: _____
Pretrial Conf.: _____
Action Filed: _____

WHEREAS the Court wishes to ensure that the Court, the parties, and the witnesses in all civil cases are prepared to begin the trial on the actual date that the trial is scheduled; and

WHEREAS the Court wishes to establish clear and uniform requirements for pretrial conferences and trials in all civil cases;

Pursuant to the Court's inherent authority, IT IS HEREBY ORDERED THAT:

1 INTRODUCTION

2 1. A summary of the deadlines established by this order is provided below:

3 **SUMMARY TABLE OF DEADLINES**

4 EVENT	5 DEADLINE
6 Serve (but <i>not</i> file): 7 1. Proposed motions in limine; 8 2. Proposed witness lists; and 9 3. Proposed exhibit lists	At least 42 days before the Pretrial Conference
10 Meet and confer regarding pretrial conference – including motions in limine, and witness and exhibit lists	At least 35 days before the Pretrial Conference
11 File and serve motions in limine and oppositions to motions in limine	At least 21 days before the Pretrial Conference
12 Parties must file joint pretrial conference statement, and provide one (<i>I set of binders</i> to the Court with the following: 13 1. Witness lists; 14 2. Exhibit lists, including any disputed 15 exhibits; 16 3. Motions in limine, oppositions, and 17 supporting declarations or requests for judicial notice; and 18 4. Deposition designations and objections	At least 14 days before the Pretrial Conference
19 Pretrial Conference will be held	At least 14 days before the Trial Date
20 Deliver <i>at least three (3) sets</i> of trial exhibits in binders and on thumb drive to the Court	At least 7 days before the Trial Date

21 2. The parties must make every effort to raise and, if possible, resolve pretrial and trial
22 issues early. While the Court understands that trial is not entirely predictable, the parties must
23 frontload all evidentiary and legal disputes to the extent possible. Issues that surface unnecessarily on
24 the eve of trial or during trial waste time and are strongly disfavored. With this understanding, **ALL**
25 **DEADLINES AND REQUIREMENTS IMPOSED BY THIS ORDER ARE SUBJECT TO**
26 **MODIFICATION AT THE DISCRETION OF THE COURT.**
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1 **MOTIONS IN LIMINE**

2 3. The parties are encouraged to resolve trial issues with one another as soon as possible.
3 The parties shall meet and confer no later than thirty-five (35) days before the Pretrial Conference to
4 determine whether any evidentiary issues may be resolved by stipulation. No party may file a motion
5 in limine without first making a good faith effort to resolve the evidentiary issue with the opposing
6 party.

7 4. Motions in limine and their oppositions must be e-filed with the Clerk’ Office no later
8 than twenty-one (21) days before the Pretrial Conference. No replies will be permitted without leave of
9 the Court.

10 5. Each party must submit a tabbed binder with its motions in limine in numerical order
11 with the opposition immediately behind the motion within the same tab. Any declarations or requests
12 for judicial notice submitted by the parties in support of or in opposition to the motions in limine along
13 with any attached exhibits must be submitted in a separate tabbed binder. The binders must be
14 submitted to the Court with the Joint Pretrial Conference Statement.

15 6. Each motion in limine should address a single, separate topic and shall be limited to five
16 (5) pages in length unless otherwise permitted by the Court. Each motion should be clearly identified
17 as “_____’s Motion in Limine No. ____ Re: _____,” with the blanks filled in as
18 appropriate.

19 7. Each opposition is also limited to five (5) pages unless otherwise permitted by the Court.

20 8. Each party shall file only one (1) declaration and/or one (1) request for judicial notice to
21 support all motions in limine, and one (1) declaration and/or one (1) request for judicial notice to
22 support all oppositions to motions in limine. The parties need not include a copy of the operative
23 complaint.

24 9. Each party must also submit a hard copy and a Word version of all proposed orders.
25 Each proposed order must provide enough specificity that a witness will be able to understand what
26 testimony is prohibited.

1 10. The motions will be heard at the Pretrial Conference or at such other time as the Court
2 may direct.

3 **WITNESS LISTS**

4 11. Each party must file a joint list of all the witnesses that the party intends to call at trial
5 with the Joint Pretrial Conference Statement.

6 12. The joint witness list must be in tabular form and contain the following:

- 7 a. Name of the witness;
- 8 b. Title of the witness, if any;
- 9 c. Brief description of the subject matter of the witness’ anticipated testimony; and
- 10 d. Estimated length of the direct examination, cross-examination, and any redirect, and
11 cross-redirect.
- 12 e. The parties shall also submit their deposition designations and objections with the Joint
13 Pretrial Conference Statement. The parties must submit copies of the excerpts of the
14 designated portions of the deposition transcripts, ***NOT*** a list of page and line
15 numbers.
- 16 f. The parties must jointly submit one binder with a joint pleading that has the
17 designations, objections and responses followed by tabs for each witness with the
18 designation highlighted in yellow and any objections bracketed in red. The
19 designating party shall provide the opposing parties the designation(s) and
20 highlighted sections two weeks before the statement is due. The parties shall then
21 meet-and-confer about any objections at least five days before the binder is due.
22 Unless a party can demonstrate good cause, the deposition of each witness shall be
23 introduced only once, *i.e.*, all parties’ designations will be presented together rather
24 than in each party’s case.

25 13. Any witness who is not identified on a party’s witness list is subject to exclusion in the
26 reasonable exercise of the Court’s discretion.

1 **TRIAL EXHIBITS**

2 14. Each trial exhibit must be clearly pre-marked with the trial exhibit number. The back of
3 the last page of each trial exhibit must include the completed Court exhibit tag. (See Appendix A.)
4 The trial exhibit list must begin with the plaintiff’s first exhibit number. Defendant’s exhibit numbers
5 must be sequenced to begin after the plaintiff’s exhibit numbers.

6 15. Exhibits shall be numbered. **NO** letters may be used. The parties must agree on a block
7 of numbers to fit the needs of the case (e.g., the plaintiff has exhibits 1-100; the defendant has exhibits
8 101-200), and make a good faith effort to avoid marking the same exhibit in their respective blocks. If
9 the exact same exhibit is marked by more than one party, then the defendant shall withdraw the
10 duplicative exhibit (but should not renumber its portion of the exhibit list). If there is any dispute over
11 which portions of an overlapping exhibit should be introduced into evidence, the parties shall meet and
12 confer in an attempt to informally resolve the issue. If the parties are unable to informally resolve the
13 dispute, then each party shall submit its disputed exhibit with the Joint Pretrial Conference Statement
14 and explain, in no more than one double-spaced page, why the Court should use its proposed exhibit.

15 16. To avoid any party claiming “ownership” of an exhibit, all exhibits shall be marked and
16 referred to as “Trial Exhibit No. ___” – and **NOT** as “Plaintiff’s Exhibit” or “Defendant’s Exhibit.”

17 17. The parties must file a joint exhibit list identifying all the exhibits that the party intends
18 to introduce at trial with the Joint Pretrial Conference Statement.

19 18. The joint exhibit list must be in tabular form and contain the following:

- 20 a. Exhibit number;
- 21 b. Brief description of the exhibit (with any bates numbers if they exist);
- 22 c. Sponsoring witness;
- 23 d. Date marked for identification (left blank); and
- 24 e. Date admitted into evidence (left blank).

25 19. Each party must provide the Court with **at least three (3) complete sets of exhibits** that
26 the party intends to introduce at trial in hard copy in tabbed binders and one (1) complete set of exhibits
27 on a thumb drive at least seven (7) days before the Trial Date. The binders **MUST NOT** be identified
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1 as “plaintiff’s exhibits” or “defendant’s exhibits.” Each party will be expected to place the official
2 exhibit tag on the back of the last page of each document; the exhibit tags may be obtained from the
3 courtroom clerk, or the parties may copy the template at Appendix A. The Court may require
4 additional copies of those exhibits for trial, including separate exhibit binders for each witness.

5 20. Any exhibit that is not identified on a party’s exhibit list is subject to exclusion in the
6 reasonable exercise of the Court’s discretion.

7 MEET AND CONFER

8 21. At least forty-two (42) days before the Pretrial Conference each party must serve on all
9 other parties (but NOT file) its proposed motions in limine, proposed witness list, and proposed exhibit
10 list. Anything that is not included in these served documents – i.e., motions in limine, witnesses, or
11 exhibits – may be subject to denial or exclusion in the reasonable exercise of the Court’s discretion.

12 22. All parties must meet and confer regarding motions in limine, witness and exhibit lists, a
13 pretrial conference statement (if required), and any other issues that may arise at trial no later than
14 thirty-five (35) days before the Pretrial Conference. ***The meet and confer must take place in person or***
15 ***by videoconference.*** If the parties wish to meet and confer by telephone, they must obtain permission
16 from the Court. The Court expects meaningful meet and confer in accordance with the following
17 guidelines available at [http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf)
18 [Guide-Revised_Sept-2014.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf).

- 19 23. During the meet and confer, the parties must engage in a good faith effort to:
- 20 a. Resolve any issues raised in the motions in limine;
 - 21 b. Resolve any disagreements re witnesses and exhibits to be introduced at trial; and
 - 22 c. Stipulate to any relevant facts that can be incorporated into the record without
23 supporting testimony or exhibits.

24 24. Wherever possible, the parties shall stipulate to the admissibility of any exhibits. If a
25 stipulation is not possible, then the parties shall make every effort to stipulate to the authenticity and
26 foundation for an exhibit absent a legitimate objection.

1 **PRETRIAL CONFERENCE STATEMENT**

2 25. The parties shall e-file with the Court a Joint Pretrial Conference Statement at least
3 fourteen (14) days before the Pretrial Conference that contains the following:

- 4 a. Substance of the Action: A brief description of the parties, the claims and defenses
5 that remain to be decided, and the operative pleading, including the date of filing,
6 that raises these claims and defenses.
- 7 b. Relief Requested: A detailed statement of all requested relief that itemizes all
8 elements of damages that are claimed.
- 9 c. Undisputed Facts: A plain and concise statement of all relevant facts to which the
10 parties will stipulate for incorporation into the record without supporting testimony
11 or exhibits or that are undisputed.
- 12 d. Settlement Discussions: A brief description of the efforts the parties have made to
13 settle the case and a brief statement about whether the parties believe that further
14 negotiations are likely to be productive and what, if anything, would facilitate
15 settlement.
- 16 e. Estimate of Trial Length: An estimate of the number hours needed for the
17 presentation of each party's case.
- 18 f. Miscellaneous: Any other matters that will facilitate the just, speedy, and efficient
19 resolution of the case.

20 26. The parties shall include the following documents in accordance with this order with
21 their Joint Pretrial Conference Statement and provide courtesy copies to the Court delivered between
22 the hours of 9:00 a.m. and 4:00 p.m. to the Central Courthouse, Department 28, Courtroom I, 800 North
23 Humboldt St., San Mateo, California 94401:

- 24 a. Joint witness list;
- 25 b. Joint deposition designation binders (see paragraph 12(e), above);
- 26 c. Joint exhibit list, including any disputed exhibits; and
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- 1 d. Binders containing the party's motions in limine, any oppositions, and any
2 supporting declarations or requests for judicial notice in support of or in opposition
3 to the motions.

4 27. The parties must also email the proposed orders in **Word format** to the Court at
5 dept28@sanmateocourt.org.

6 PRETRIAL CONFERENCE

7 **28.** A Pretrial Conference is scheduled for _____, **2024 at 10:00 a.m. Lead trial**
8 **counsel for each party must attend in person.**

9 **29. The Pretrial Conference is deemed to be the commencement of trial for all**
10 **purposes**, including but not limited to discovery and motion cutoff, disclosure of witnesses and expert
11 witnesses, and commencement of all trial-related fees, such as court reporter fees.

12 30. At the Pretrial Conference, each party should be prepared to argue and discuss:

- 13 a. Motions in limine;
14 b. Witnesses, including objections to deposition designations;
15 c. Exhibits;
16 d. Stipulations; and
17 e. Any other issues relating to the trial.

18 TRIAL

19 31. An in-person non-jury trial is set for _____, **2024 at 9:00 a.m.** and will occur on
20 Mondays, Thursdays, and Fridays, and such other days as set by the Court.

21 32. A Mandatory Settlement Conference is set for _____, **2024** with a judge to be
22 determined. (See attached instructions, which are incorporated by reference.) Check the Court's
23 website 3-5 days before the scheduled conference for updates re mandatory settlement conferences.

24 33. Once the trial begins, each party shall inform the other parties by 4:00 p.m. *the prior*
25 *business day* of the identity of witnesses that the party anticipates presenting at trial the next court day,
26 regardless of whether the witness will be presented live (including by remote technology), by video
27 deposition, or through a deposition transcript.

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APPENDIX A

The tag must be attached to the back of the last page of each exhibit

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