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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

NAME(S),
Plaintiff(s),
v.
NAME(S),
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	DEADLINE
5 Serve (but <i>not</i> file): 6 1. Proposed motions in limine; 7 2. Proposed jury instructions; 8 3. Proposed verdict form(s); 9 4. Proposed witness lists; and 5. Proposed exhibit lists	At least 42 days before the Pretrial Conference
10 Meet and confer regarding pretrial 11 conference – including motions in limine, 12 proposed jury instructions, proposed juror 13 questionnaire (if any), proposed verdict forms, proposed statement of the case, and witness and exhibit lists	At least 35 days before the Pretrial Conference
14 File and serve motions in limine and oppositions to motions in limine	At least 21 days before the Pretrial Conference
15 Parties must file joint pretrial conference 16 statement, and provide one (<i>I</i>) set of binders to the Court with the following: 17 1. Proposed jury instructions; 18 2. Proposed verdict form(s); 19 3. Proposed voir dire and juror questionnaire (if any); 20 4. Proposed statement of the case; 21 5. Witness lists; 22 6. Exhibit lists, including any disputed exhibits; 23 7. Motions in limine, oppositions, and supporting declarations or requests for judicial notice; and 24 8. Deposition designations and objections	At least 14 days before the Pretrial Conference
25 Pretrial Conference will be held	At least 14 days before the Trial Date
26 Deliver at least three (3) sets of trial exhibits 27 in binders and on thumb drive to the Court	At least 7 days before the Trial Date

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1 support all oppositions to motions in limine. The parties need not include a copy of the operative
2 complaint.

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

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

8 **JURY INSTRUCTIONS**

9 11. The parties shall file a *joint* set of proposed jury instructions, arranged in the order the
10 parties propose the Court give the instructions, with the Joint Pretrial Conference Statement. The
11 parties must include copies of the actual instructions and **NOT** merely a list of instruction numbers.

12 12. The parties are invited to use the Judicial Council of California Civil Jury Instructions
13 (CACI). Any modifications made to a form instruction must be plainly identified.

14 13. Instructions upon which the parties agree shall be identified as “Stipulated Instruction
15 No. ___ Re: _____,” with blanks filled in as appropriate.

16 14. If the parties disagree on an instruction, each party’s proposed version of the disputed
17 instruction shall be provided and identified as “Disputed Instruction No. ___ Re: _____ Offered by
18 _____,” with blanks filled in as appropriate. All proposed versions of the same instruction shall
19 bear the same number. Following each disputed instruction, each party shall explain, in no more than
20 one page, why the Court should give that party’s proposed instruction or why the instruction should or
21 should not be given.

22 15. Any changes to the proposed jury instructions ordered by the Court must be made by the
23 parties and submitted to the Court by the deadline set by the Court at the Pretrial Conference or by any
24 other deadline set by the Court.

25 **VERDICT FORM(S)**

26 16. The parties shall file either joint proposed verdict form(s) or, if they disagree, separate
27 proposed verdict forms with the Joint Pretrial Conference Statement.

1 17. Any changes to the proposed verdict form(s) ordered by the Court must be made by the
2 parties and submitted to the Court in Word format by the deadline set at the Pretrial Conference or by
3 any other deadline set by the Court.

4 **VOIR DIRE AND JURY QUESTIONNAIRE (IF ANY)**

5 18. The Court will conduct the initial voir dire guided by the Standards of Judicial
6 Administration, standard 3.25(c). If the parties want the Court to ask any particular questions from
7 those Standards or any additional questions, they should jointly submit those questions (and any
8 objections) with the Joint Pretrial Conference Statement.

9 19. If the parties wish to use a jury questionnaire, the parties must file a joint proposed jury
10 questionnaire or, if they disagree, separate proposed jury questionnaires with the Joint Pretrial
11 Conference Statement. The Court’s preference is not to have a questionnaire.

12 **PROPOSED STATEMENT OF THE CASE**

13 20. The parties must file a joint proposed statement of the case to be read to the jury during
14 voir dire with the Joint Pretrial Conference Statement. Unless the case is very complex, this statement
15 should not exceed one-page double spaced. The statement should be neutral rather than argumentative.
16 The parties shall also include the names of attorneys and witnesses to be read to the jury. (See
17 Standards of Judicial Administration, standard 3.25(b).)

18 **WITNESS LISTS**

19 21. Each party must file a joint list of all the witnesses that the party intends to call at trial
20 with the Joint Pretrial Conference Statement.

21 22. The joint witness list must be in tabular form and contain the following:

- 22 a. Name of the witness;
- 23 b. Title of the witness, if any;
- 24 c. Brief description of the subject matter of the witness’ anticipated testimony; and
- 25 d. Estimated length of the direct examination, cross-examination, and any redirect, and
- 26 cross-redirect.

1 e. The parties shall also submit their deposition designations and objections with the Joint
2 Pretrial Conference Statement. The parties must submit copies of the excerpts of the
3 designated portions of the deposition transcripts, **NOT** a list of page and line
4 numbers.

5 f. The parties must jointly submit one binder with a joint pleading that has the
6 designations, objections and responses followed by tabs for each witness with the
7 designation highlighted in yellow and any objections bracketed in red. The
8 designating party shall provide the opposing parties the designation(s) and
9 highlighted sections two weeks before the statement is due. The parties shall then
10 meet-and-confer about any objections at least five days before the binder is due.
11 Unless a party can demonstrate good cause, the deposition of each witness shall be
12 introduced only once, *i.e.*, all parties' designations will be presented together rather
13 than in each party's case.

14 23. Any witness who is not identified on a party's witness list is subject to exclusion in the
15 reasonable exercise of the Court's discretion.

16 **TRIAL EXHIBITS**

17 24. Each trial exhibit must be clearly pre-marked with the trial exhibit number. The back of
18 the last page of each trial exhibit must include the completed Court exhibit tag. (See Appendix A.)
19 The trial exhibit list must begin with the plaintiff's first exhibit number. Defendant's exhibit numbers
20 must be sequenced to begin after the plaintiff's exhibit numbers.

21 25. Exhibits shall be numbered. **NO** letters may be used. The parties must agree on a block
22 of numbers to fit the needs of the case (*e.g.*, the plaintiff has exhibits 1-100; the defendant has exhibits
23 101-200), and make a good faith effort to avoid marking the same exhibit in their respective blocks. If
24 the exact same exhibit is marked by more than one party, then the defendant shall withdraw the
25 duplicative exhibit (but should not renumber its portion of the exhibit list). If there is any dispute over
26 which portions of an overlapping exhibit should be introduced into evidence, the parties shall meet and
27 confer in an attempt to informally resolve the issue. If the parties are unable to informally resolve the
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1 dispute, then each party shall submit its disputed exhibit with the Joint Pretrial Conference Statement
2 and explain, in no more than one double-spaced page, why the Court should use its proposed exhibit.

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

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

7 28. The joint exhibit list must be in tabular form and contain the following:

- 8 a. Exhibit number;
- 9 b. Brief description of the exhibit (with any bates numbers if they exist);
- 10 c. Sponsoring witness;
- 11 d. Date marked for identification (left blank); and
- 12 e. Date admitted into evidence (left blank).

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

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

22 MEET AND CONFER

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

1 32. All parties must meet and confer regarding motions in limine, jury instructions, verdict
2 form(s), jury questionnaire (if any), a statement of the case, witness and exhibit lists, a pretrial
3 conference statement (if required), and any other issues that may arise at trial no later than thirty-five
4 (35) days before the Pretrial Conference. ***The meet and confer must take place in person or by***
5 ***videoconference***. If the parties wish to meet and confer by telephone, they must obtain permission
6 from the Court. The Court expects meaningful meet and confer in accordance with the following
7 guidelines available at [http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-
9 Guide-Revised_Sept-2014.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-
8 Guide-Revised_Sept-2014.pdf).

- 9 33. During the meet and confer, the parties must engage in a good faith effort to:
- 10 a. Resolve any issues raised in the motions in limine;
 - 11 b. Resolve any disputes over the jury instructions;
 - 12 c. Resolve any disputes over the verdict form(s);
 - 13 d. Agree on a proposed jury questionnaire (if any);
 - 14 e. Agree on a proposed statement of the case to be read to the jury during voir dire;
 - 15 f. Resolve any disagreements re witnesses and exhibits to be introduced at trial; and
 - 16 g. Stipulate to any relevant facts that can be incorporated into the record without
17 supporting testimony or exhibits.

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

21 **PRETRIAL CONFERENCE STATEMENT**

- 22 35. The parties shall e-file with the Court a Joint Pretrial Conference Statement at least
23 fourteen (14) days before the Pretrial Conference that contains the following:
- 24 a. Substance of the Action: A brief description of the parties, the claims and defenses
25 that remain to be decided (including whether any issues are for the Court to decide
26 rather than the jury), and the operative pleading, including the date of filing, that
27 raises these claims and defenses.

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

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

- 18 a. Proposed jury instructions;
- 19 b. Proposed verdict form(s);
- 20 c. Proposed jury questionnaire (if any);
- 21 d. Proposed statement of the case;
- 22 e. Joint witness list;
- 23 f. Joint deposition designation binders (see paragraph 22(e), above);
- 24 g. Joint exhibit list, including any disputed exhibits; and
- 25 h. Binders containing the party's motions in limine, any oppositions, and any
26 supporting declarations or requests for judicial notice in support of or in opposition
27 to the motions.
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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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