

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN MATEO

3
4 ,) Case No.:
5 Plaintiffs,) Assigned for All Purposes to
6 v.) Hon. Susan L. Greenberg
7) **CASE MANAGEMENT ORDER #1**
8 ,)
9 Defendant.)
10)
11)

12 Pursuant to the order entered on _____ assigning this case – which had been
13 previously designated as complex – for all purposes to Judge Susan L. Greenberg in Department 3 of
14 this Court, IT IS HEREBY ORDERED as follows:

15
16 **GENERAL MATTERS**

- 17 1. All parties are expected to be familiar with the San Mateo County Superior Court Local Rules,
18 the California Rules of Court (CRC), and the Deskbook on the Management of Complex Civil
19 Litigation.
- 20 2. All counsel are expected to adhere to the provisions of the California Attorney Guidelines of
21 Civility and Professionalism (State Bar of the State of California, adopted July 20, 2007) –
22 available at [http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-
24 Revised_Sept-2014.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-
23 Revised_Sept-2014.pdf)).
- 25 3. The Court expects all counsel to communicate regularly with each other about hearing dates,
26 progress of the case, and settlement possibilities. Meeting and conferring with opposing counsel
27 on procedural and substantive issues is required.
- 28 4. Continuances of hearing and trial dates are discouraged. But if a continuance is necessary, it
must still be approved by this Court. Continuances by stipulation are not permitted without prior

1 approval of the Court, and only to a date pre-approved by the Court. Please email the Clerk for
2 Department 3 at both dept3@sanmateocourt.org and complexcivil@sanmateocourt.org for
3 available dates before contacting opposing counsel. If preliminary approval is given, a written
4 stipulation must be provided before the hearing or trial date. Faxed or electronic signatures on
5 stipulations are permitted.

- 6 5. If a case settles before a hearing or trial date, the parties must notify the Clerk for Department 3
7 by telephone and email (dept3@sanmateocourt.org and complexcivil@sanmateocourt.org) as soon
8 as the disposition is agreed upon and must file either a Notice of Settlement, Request for
9 Dismissal, a Stipulation for Entry of Judgment, or a Judgment on Stipulation that is ready for the
10 Court's signature. If the applicable document is not ready, counsel must appear at the time
11 scheduled for hearing and recite the settlement for the record.
- 12 6. The parties and their counsel must provide the Clerk for Department 3 with an email service list.
13 This list will be used by the Court to send any communications to all parties. It is the parties'
14 responsibility to make sure that the email addresses on this list are accurate. At the first case
15 management conference with Department 3, each party must indicate whether he/she/it/they will
16 agree to email service by the Court. If the party agrees to email service on the record, then that
17 party will only receive the Court's orders by email and will not receive any orders by mail.

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19 **GENERAL -- FILINGS AND CORRESPONDENCE**

- 20 7. Pursuant to Code of Civil Procedure section 1010.6, subdivision (c), all documents in Complex
21 Civil actions (with the exception of the original documents specified in paragraph 8 below) must
22 be filed electronically. The documents (other than exhibits) must be text searchable. Please visit
23 www.sanmateocourt.org for more information on e-filing. Please note that any exhibits to
24 electronically filed briefs, declarations, or other documents must be electronically "bookmarked"
25 as required by CRC Rule 3.1110(f)(4).
- 26 8. Until further order of this Court, the following original documents must still be filed or lodged in
27 hardcopy paper with the Civil Clerk's Office located in the Hall of Justice, First Floor, Room A,
28 400 County Center, Redwood City, California:

- (a) Ex parte motions, oppositions to ex parte motions, and all supporting papers
- (b) Stipulations and proposed orders
- (c) Proposed judgments
- (d) Abstracts of judgment
- (e) Appellate documents, including notices of appeal
- (f) Administrative records

9. Pursuant to Code of Civil Procedure section 1010.6, subdivision (c) and California Rules of Court, rules 2.253(c) and 2.251(c), all parties and their counsel must serve all documents electronically, and accept service of all documents electronically from all other parties, in conformity with Code of Civil Procedure section 1010.6 and the California Rules of Court, except when personal service is required by statute.

10. One extra copy of each document filed in this action must be served directly on Department 3. Department 3 prefers that any such filing be served electronically at the following two email addresses: dept3@sanmateocourt.org and complexcivil@sanmateocourt.org. Please add these two email addresses to your e-service list for this case as to any papers filed with the Court. If a party is unable to email the filing to those addresses, then that party may deliver the filing by hand or by overnight mail directly to Department 3 located at **Courtroom 2B, 400 County Center, Redwood City, CA 94063**. Please do not leave the Judge's copy of any such filing with the Clerk's office.

11. Please do not fax any documents to Department 3. There is no dedicated fax line for Department 3, and your documents may get lost and never reach the Court.

12. All correspondence to Department 3 regarding this case – including informal discovery conference briefs, requests to take matters off calendar, and requests for scheduling must be submitted by email to the following two addresses: dept3@sanmateocourt.org and complexcivil@sanmateocourt.org. These email addresses are used by the Court in this matter solely for the purpose of receiving correspondence and filings. They are not to be used for the purpose of back-and-forth communications with the judge. Please note that communications sent

1 to these email addresses are not part of the official court files – i.e., they are not “filed”
2 documents – and may be subject to deletion or destruction after 30 days.

3 13. All email correspondence to Department 3 at dept3@sanmateocourt.org and
4 complexcivil@sanmateocourt.org must include the case name, case number, and judge’s last
5 name – i.e., Smith v. Jones, 18CIV1234, Greenberg – in the “subject line” header and should be
6 copied to all counsel or persons appearing in propria persona.

7 8 **CASE MANAGEMENT CONFERENCES**

9 14. The Court holds case management conferences for its complex cases on **Thursday morning**.

10 15. The first case management conference is generally scheduled approximately 120 days after the
11 action is filed. Plaintiff is required to give notice of this conference date to all other parties unless
12 otherwise ordered by the Court.

13 16. After the first conference, future case management conferences are scheduled as necessary to
14 monitor the progress of the case and to assist counsel and the parties as the matter progresses.
15 Counsel thoroughly familiar with the case must attend all case management conferences.

16 17. Judicial Council Form CM-110, Civil Case Management Statement (required by CRC 3.725(c))
17 is not well-suited for complex cases. Accordingly, the parties shall file a joint case management
18 conference statement no later than six (6) calendar days before the hearing for each conference
19 that includes the following:

- 20 (a) A brief objective summary of the case.
- 21 (b) A summary of any orders from prior case management conferences and the progress of
22 the parties’ compliance with those orders.
- 23 (c) A summary of the status of discovery, including a description of all anticipated discovery
24 and incomplete or disputed discovery issues.
- 25 (d) Anticipated motions, including a proposed briefing schedule when applicable.
- 26 (e) A summary of any significant procedural or practical problems that are likely to arise in
27 the case such as (this list is not intended to be exhaustive or applicable to every case):
28 (1) unserved parties and reasons for the failure to serve;

- 1 (2) unserved or unfiled cross-complaints;
- 2 (3) related actions pending in any jurisdiction, a brief description of those actions
- 3 (including their current procedural posture), and the potential for coordination or
- 4 consolidation;
- 5 (4) jurisdictional or venue issues that may arise;
- 6 (5) severance of issues for trial; and
- 7 (6) calendar conflicts for any attorney, witness, or party, and any other matter which
- 8 may affect the setting of a trial date.
- 9 (f) Status of settlement or mediation.
- 10 (g) Suggestions for efficient management of the case, including a proposed discovery plan
- 11 and timeline of key events (including proposed dates for future law and motion and trial).
- 12 (h) Any other matters that the parties believe will assist the Court in determining an effective
- 13 case management plan.
- 14 (i) A proposed date for the next CMC.

EX PARTE APPLICATIONS

- 17 18. Ex parte appearances are discouraged except in unusual situations. Hearing dates for ex parte
- 18 applications must be coordinated by email with the Clerk for Department 3 at
- 19 dept3@sanmateocourt.org and complexcivil@sanmateocourt.org. The Court hears ex parte
- 20 applications on **Thursday at 1:30 p.m.** or **Friday at 1:30 p.m.** **If possible, the Court prefers to**
- 21 **have ex parte applications heard on Friday.** The Court's consideration of an ex parte
- 22 application will not interfere with or delay any trial in progress. Strict compliance with
- 23 California Rules of Court, rules 3.1200-3.1207 is required.
- 24 19. All papers necessary to the determination of the application, including any proposed pleading,
- 25 motion, or order, must be submitted, preferably by email to both dept3@sanmateocourt.org and
- 26 complexcivil@sanmateocourt.org, directly to Department 3 by noon the court day before the
- 27 scheduled ex parte hearing date. Counsel may contact the Clerk for Department 3 to inquire if
- 28 oral argument will be permitted, or if the Court will rule based on the written papers.

1 20. The Court is eager to assist counsel when specific problems arise that may not require a formal
2 motion. To arrange a conference with the Court that all counsel agree is advisable, please contact
3 the Clerk for Department 3 by email at dept3@sanmateocourt.org and
4 complexcivil@sanmateocourt.org to schedule a time for the conference. This informal
5 conference will be conducted by videoconference or audioconference unless otherwise indicated
6 by the Court. For these informal conferences, briefs on court pleading paper not to exceed three
7 (3) pages – which must be served – may be submitted by email to the Court at
8 dept3@sanmateocourt.org and complexcivil@sanmateocourt.org.

10 **DISCOVERY**

11 21. All discovery methods under the Code of Civil Procedure, including but not limited to notices of
12 deposition, special interrogatories, form interrogatories, requests for production of documents,
13 and requests for admission, must be served electronically upon counsel for the parties. All
14 discovery responses by a party in response to discovery propounded by another party must be
15 provided in electronic form, unless the parties agree otherwise in writing. Counsel for the parties
16 must meet and confer regarding the possible establishment of a joint electronic document
17 depository for uploading and downloading electronic document productions.

18 22. Discovery meet and confer obligations require an in-person or video conference between counsel
19 and persons appearing in propria persona unless otherwise ordered by the Court. If a resolution is
20 not reached, the parties must meet with the Court for all discovery-related matters in an informal
21 discovery conference (IDC) before filing any discovery motion unless otherwise authorized by
22 the Court. No discovery motion will be heard without in IDC.

23 23. Requests for an IDC may be made, after meaningful meet and confer, by sending an email to
24 both dept3@sanmateocourt.org and complexcivil@sanmateocourt.org, copied to all counsel. The
25 Court will provide proposed dates. Parties are to meet and confer as to availability for the
26 proposed dates. If one or more parties are not available on the proposed date(s), additional dates
27 may be requested. The Court will inform the parties whether the IDC will be conducted by
28 audioconference or videoconference or in person. The Court will also consider requests from

1 depositions in progress. IDCs may not be recorded by any party and may not be reported by any
2 court reporter.

3 24. For the IDC, each side must serve and email to the Court at both dept3@sanmateocourt.org and
4 complexcivil@sanmateocourt.org a short brief on court pleading paper, limited to no more than
5 five (5) pages, at least three (3) court days before the IDC. The requesting party's brief shall
6 include the subject discovery requests and discovery responses (if any) attached as exhibits.

7 25. Pursuant to Code of Civil Procedure section 2016.080, subdivision (c)(2), the time for bringing
8 any motion to compel or any other discovery motion is tolled on the date a party makes the email
9 request for an IDC to the Court. All requests for an IDC must be made well before the expiration
10 of the statutory time to bring a motion to compel or other discovery motion.

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12 **LAW AND MOTION**

13 26. This Court believes that pre-filing conferences between counsel may be useful in avoiding
14 useless or unnecessary motions. Therefore, before the hearing of any motion, petition, or
15 application, except applications to appear pro hac vice and motions to withdraw as counsel of
16 record, all counsel and persons appearing in propria persona shall confer in a good faith attempt
17 to eliminate the necessity of the hearing or to resolve as many disputes as possible. Counsel for
18 the moving party shall arrange the conference to meet and confer at least three (3) calendar days
19 before the hearing and shall submit to the Court at least one (1) day before the hearing a
20 declaration establishing that the meet and confer conference occurred and describing any
21 agreements that counsel have reached.

22 27. Hearings may be scheduled by contacting the Clerk for Department 3 by email at both
23 dept3@sanmateocourt.org and complexcivil@sanmateocourt.org. The Court hears motions in its
24 complex cases on **Thursday morning**. Counsel must first clear the proposed hearing date(s)
25 with the other parties before contacting the Clerk. Counsel for the moving party must provide the
26 Court with the name of the case, the case number, the type of hearing, the hearing date(s)
27 requested, and the name and telephone number of the filing attorney.
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- 1 28. Any reply must be filed at least two (2) weeks before the hearing date. Although the Court
2 imposes no other deadlines for motions in its complex cases, the Court strongly encourages the
3 parties to agree to a briefing schedule. So long as any reply is filed at least two (2) weeks before
4 the hearing date, the parties may agree on any briefing schedule and submit a stipulation and
5 proposed order with the agreed upon schedule for the Court's signature.
- 6 29. Motions or applications to seal must be heard no later than any motion relying on the materials
7 for which sealing is sought. Upon denial of a motion or application to seal, the moving party
8 must notify the Court that the materials are to be filed unsealed (CRC 2.551(b)) or refrain from
9 relying on the materials, which will not be part of the record.
- 10 30. When the Court sustains a demurrer or grants a motion to strike with leave to amend and an
11 amended pleading is filed, the plaintiff or cross-complainant must file with its opposition to any
12 successive demurrer or motion to strike a redline comparing the amended pleadings to the
13 previous version of the pleading unless otherwise ordered by the Court.
- 14 31. As to discovery motions, the parties are relieved of their obligation under rule 3.1345 of the
15 California Rules of Court to file a separate statement. Instead, the parties must (1) attach the
16 discovery request(s) or deposition question(s) at issue and the written response(s), if any, to the
17 declaration submitted in support of the discovery motion; and (2) submit a concise outline of the
18 discovery request and each response in dispute pursuant to Code of Civil Procedure section
19 2030.300, subdivision (b)(2).
- 20 32. Counsel for the moving parties must notify the Clerk for Department 3 by telephone and by
21 email at both dept3@sanmateocourt.org and complexcivil@sanmateocourt.org as soon as possible
22 regarding any matter to be taken off calendar or continued. Notices of continuance of any
23 hearing must be provided by the moving party.
- 24 33. Pursuant to CRC Rule 3.113(i), Department 3 does not require an appendix of non-California
25 authorities in connection with any memoranda submitted in connection with any motion unless
26 otherwise ordered by the Court with the following exception: Because the Court only has access
27 to non-California authorities via WESTLAW – and NOT via LEXIS – any authorities that are
28 not reported in an official reporter and that are cited must either be: (1) cited using the

1 WESTLAW citation or a citation accessible through WESTLAW; or (2) provided to Department
2 3 by email at both dept3@sanmateocourt.org and complexcivil@sanmateocourt.org.

3 34. The Court believes strongly in the importance of training the next generation of trial lawyers.

4 This training needs to include substantive speaking opportunities in court. The Court therefore
5 strongly encourages the parties and senior attorneys to allow the participation of junior lawyers
6 in all court proceedings, particularly in arguing motions where the junior lawyer drafted or
7 contributed significantly to the motion or opposition.

8 35. The Court typically issues tentative rulings or a list of issues that the Court would like the parties
9 to address at the hearing. The Court will post or email its tentative ruling or list of issues to the
10 parties using the service list provided by the parties by 1:30 p.m. at least one court day before the
11 scheduled hearing. If any party intends to contest the tentative ruling at the hearing, that party
12 must notify the other parties and the Clerk for Department 3 by email at both
13 dept3@sanmateocourt.org and complexcivil@sanmateocourt.org by 4:00 p.m. at least one court
14 day before the scheduled hearing. Otherwise, the tentative ruling will become the order of the
15 Court.

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17 **SETTLEMENT CONFERENCES AND MEDIATIONS**

18 36. No case will be tried before a good faith effort is made to settle. The Court strongly encourages
19 the parties to engage in discussions to resolve the matter throughout the litigation, including
20 voluntary mediations.

21 37. The Court may also order mandatory settlement conferences before a judge or a special master.
22 The mandatory settlement conference will not be conducted by the trial judge unless the parties
23 agree.

24 38. Trial counsel, parties, and persons with full authority to settle the case must personally attend
25 any mandatory settlement conferences unless excused by the Court. Failure to appear will result
26 in the imposition of sanctions.

27 39. Settlement Conference Statements must be filed at least five (5) court days before the scheduled
28 conference.

1 40. Any request for a waiver of the requirement to personally appear at the Mandatory Settlement
 2 Conference, whether conducted by a judge or a special master, must be made by written
 3 application to the Court.
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5 **SUMMARY TABLE OF PRETRIAL DEADLINES**

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

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INTRODUCTION TO PRETRIAL REQUIREMENTS

41. The parties must make every effort to raise and, if possible, resolve pretrial and trial issues early. While the Court understands that trial is not entirely predictable, the parties must frontload all evidentiary and legal disputes to the extent possible. Issues that surface unnecessarily on the eve of trial or during trial waste the jury’s time and are strongly disfavored. With this understanding, **ALL DEADLINES AND REQUIREMENTS IMPOSED BY THIS ORDER ARE SUBJECT TO MODIFICATION AT THE DISCRETION OF THE COURT.**
42. Some of the requirements only apply to jury trials – i.e., the requirements for jury instructions, jury questionnaire, proposed verdict form(s), and statement of the case. These requirements obviously do not apply to court trials. But all other requirements – i.e., the requirements for motions in limine, witness lists, trial exhibits, and meet and confer – and corresponding deadlines do apply to court trials.
43. Any changes to the deadlines established by this order for filings or submissions to the Court REQUIRE an order from the Court. If the parties agree on the proposed change(s), then they may submit a joint stipulation and proposed order explaining the reasons for the proposed change(s). If the parties do not agree, then the party seeking to change the deadline(s) may seek ex parte relief. In seeking to change any deadlines, please keep in mind that the Court needs enough time to review the parties’ filings and submissions.

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MOTIONS IN LIMINE

44. The parties are encouraged to resolve as many trial issues by stipulation as possible. The parties shall meet and confer no later than 35 days before the Pretrial Conference to determine whether any evidentiary issues may be resolved by stipulation. No party may file a motion in limine without first making a good faith effort to resolve the evidentiary issue with the opposing party.
45. Motions in limine and their oppositions must be filed no later than 21 days before the Pretrial Conference. No replies will be permitted without leave of the Court.
46. Each party must submit a tabbed binder with its motions in limine in numerical order with the opposition immediately behind the motion within the same tab. Any declarations or requests for judicial notice submitted by the parties in support of or in opposition to the motions in limine along with any attached exhibits must be submitted in a separate tabbed binder. The binders must be submitted to the Court with the Joint Pretrial Conference Statement.

1 47. Each motion in limine should address a single, separate topic and shall be limited to five (5)
2 pages in length unless otherwise permitted by the Court. Each motion should be clearly
3 identified as “ _____’s Motion in Limine No. ___ Re: _____.”

4 48. Each opposition is also limited to five (5) pages in length unless otherwise permitted by the
5 Court.

6 49. Each party shall file only one (1) declaration and/or one (1) request for judicial notice to support
7 all motions in limine and one (1) declaration and/or one (1) request for judicial notice to support
8 all oppositions to motions in limine. The parties do not have to include a copy of the operative
9 complaint.

10 50. Each party shall also submit a hard copy and a Word version of all proposed orders. Each
11 proposed order must provide enough specificity so that a witness will be able to understand what
12 testimony is prohibited.

13 51. The motions shall be heard at the Pretrial Conference or at such other time as the Court may
14 direct.

15 **JURY INSTRUCTIONS**

16 52. The parties shall file a joint set of proposed jury instructions, arranged in the order the parties
17 propose the Court give the instructions, with the Joint Pretrial Conference Statement.

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

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

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

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

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VERDICT FORM(S)

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57. The parties shall file either joint proposed verdict form(s) or, if they disagree, separate proposed verdict forms with the Joint Pretrial Conference Statement.
58. Any changes to the proposed verdict form(s) ordered by the Court must be made by the parties and submitted to the Court in Word format by the deadline set at the Pretrial Conference or by any other deadline set by the Court.

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VOIR DIRE AND JURY QUESTIONNAIRE (IF ANY)

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59. The Court will conduct the initial voir dire guided by the Standards of Judicial Administration § 3.25(c). If the parties want the Court to ask any particular questions from those Standards or any additional questions, they should jointly submit those questions (and any objections) with the Joint Pretrial Conference Statement.
60. If the parties wish to use a jury questionnaire, the parties must file a joint proposed jury questionnaire or, if they disagree, separate proposed jury questionnaires with the Joint Pretrial Conference Statement.

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PROPOSED STATEMENT OF THE CASE

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61. The parties must file a joint proposed statement of the case to be read to the jury during voir dire with the Joint Pretrial Conference Statement. This statement should not exceed one-page double spaced if possible. The statement should also be neutral rather than argumentative. The parties shall also include the names of attorneys and witnesses to be read to the jury. See Standards of Judicial Administration § 3.25(b).

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WITNESS LISTS

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62. Each party must file a list of all the witness that the party intends to call at trial with the Joint Pretrial Conference Statement.
63. The witness list must be in tabular form and contain the following:
- a. Name of the witness;
 - b. Title of the witness, if any;
 - c. Brief description of the subject matter of the witness' anticipated testimony; and

1 d. Estimated length of the direct examination, cross-examination, and rebuttal.

2 64. If any party wishes to designate deposition testimony in lieu of live testimony for any witness,
3 then that party must provide its/his/her/their proposed designations to the opposing parties at
4 least 42 days before the Pretrial Conference. The parties are encouraged to resolve as many
5 disputes over the designations by stipulation as possible.

6 65. The parties must file a joint pleading with their proposed deposition designations, any objections
7 to those designations, and any responses to those objections, at the same time as their Joint
8 Pretrial Conference Statement. Objections or responses may be no longer than one page.

9 66. The parties must also submit to the Court tabbed binder(s) with the proposed deposition
10 designations. Each tab should represent the testimony of a single witness. The proposed
11 deposition designations must be highlighted in yellow with any objections bracketed in red.

12 67. Absent good cause, the deposition testimony of each witness shall be introduced only once. In
13 other words, all deposition designations shall be presented together all at once rather than as part
14 of each party's case.

15 68. Any witness who is not identified on a party's witness list or any deposition testimony that has
16 not been submitted to the Court is subject to exclusion in the reasonable exercise of the Court's
17 discretion.

18 TRIAL EXHIBITS

19 69. Each trial exhibit shall be clearly pre-marked with the trial exhibit number. The defendant's
20 exhibit numbers shall be sequenced to begin after the plaintiff's exhibit numbers.

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

- 1 71. To avoid any party claiming “ownership” of an exhibit, all exhibits shall be marked and referred
2 to as “Trial Exhibit No. ___” – and not as “Plaintiff’s Exhibit” or “Defendant’s Exhibit.”
- 3 72. Each party must file an exhibit list identifying all the exhibits that the party intends to introduce
4 at trial with the Joint Pretrial Conference Statement.
- 5 73. The exhibit list must be in tabular form and contain the following:
- 6 a. Exhibit number;
 - 7 b. Brief description of the exhibit (with any bates numbers if they exist);
 - 8 c. Sponsoring witness;
 - 9 d. Date marked for identification (left blank); and
 - 10 e. Date admitted into evidence (left blank).
- 11 74. Each party must provide the Court with a complete set of exhibits that the party intends to
12 introduce at trial in both hardcopy in tabbed binders and on a thumb drive at least seven (7) days
13 before the Trial Date. Each party will be expected to place the official exhibit stamp on each
14 document; the exhibit tabs may be obtained from the courtroom clerk. The Court may require
15 additional copies of those exhibits for trial, including separate exhibit binders for each witness.
- 16 75. Any exhibit that is not identified on a party’s exhibit list is subject to exclusion in the reasonable
17 exercise of the Court’s discretion. In exercising this discretion, the Court will consider whether
18 the exhibit is solely being used for impeachment.

19 **MEET AND CONFER RE: PRETRIAL ISSUES**

- 20 76. At least 42 days before the Pretrial Conference, each party must serve (but NOT file) its
21 proposed motions in limine, proposed jury instructions, proposed verdict form(s), proposed
22 witness lists, including proposed deposition designations, and proposed exhibit lists. Anything
23 that is not included in these served documents – i.e., motions in limine, witnesses, deposition
24 designations, or exhibits – may be subject to denial or exclusion in the reasonable exercise of the
25 Court’s discretion.
- 26 77. All parties must meet and confer regarding motions in limine, jury instructions, verdict form(s),
27 jury questionnaire (if any), a statement of the case, witness lists, including deposition
28 designations, exhibit lists, a joint pretrial conference statement, and any other issues that may
arise at trial no later than 35 days before the Pretrial Conference. The meet and confer must

1 include discussions in person or by videoconference. If the parties wish to meet and confer by
2 telephone, they must obtain permission from the Court.

3 78. During the meet and confer, the parties must engage in a good faith effort to:

- 4 a. Resolve any issues raised in the motions in limine;
- 5 b. Resolve any disputes over the jury instructions;
- 6 c. Resolve any disputes over the verdict forms;
- 7 d. Agree on a proposed jury questionnaire (if any);
- 8 e. Agree on a proposed statement of the case to be read to the jury during voir dire;
- 9 f. Resolve any disagreements over witnesses, including deposition designations, and

10 exhibits to be introduced at trial; and

- 11 g. Stipulate to any relevant facts that can be incorporated into the record without supporting
12 testimony or exhibits.

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

16 **PRETRIAL CONFERENCE STATEMENT**

17 80. The parties must file a Joint Pretrial Conference Statement at least 14 days before the Pretrial
18 Conference. The Statement must include the following:

- 19 a. Substance of the Action: A brief description of the parties, the claims and defenses that
20 remain to be decided (including whether any issues are for the Court to decide rather than
21 the jury), and the operative pleading, including the date of filing, that raises these claims
22 and defenses.
- 23 b. Relief Requested: A detailed statement of all requested relief that itemizes all elements of
24 damages that are claimed.
- 25 c. Undisputed Facts: A plain and concise statement of all relevant facts to which the parties
26 will stipulate for incorporation into the record without supporting testimony or exhibits or
27 that are undisputed.
- 28 d. Settlement Discussions: A brief description of the efforts the parties have made to settle
the case and a brief statement about whether the parties believe that further negotiations
are likely to be productive and what, if anything, would facilitate settlement.

- 1 e. Estimate of Trial Length: An estimate of the number hours needed for the presentation of
2 each party's case.
3 d. Miscellaneous: Any other matters that will facilitate the just, speedy, and efficient
4 resolution of the case.

5 81. The parties shall include the following documents in accordance with this order with their Joint
6 Pretrial Conference Statement:

- 7 a. Proposed jury instructions;
8 b. Proposed verdict form(s);
9 c. Proposed voir dire and jury questionnaire (if any);
10 d. Proposed statement of the case;
11 e. Each party's witness list, including proposed deposition designations;
12 f. Each party's exhibit list, including any disputed exhibits;
13 g. Binder(s) containing the parties' deposition designations, with the testimony to be

14 introduced highlighted in yellow and any objections bracketed in red; and

- 15 h. Binders containing the party's motions in limine, any oppositions, and any declarations or
16 requests for judicial notice in support thereof.

17 82. The parties shall also email the proposed witness lists, exhibits lists, jury instructions, proposed
18 verdict form(s), proposed jury questionnaire (if any), proposed statement of the case, and
19 proposed orders in Word format to the Court.

20 **PRETRIAL CONFERENCE**

21 83. A Pretrial Conference will occur at least 14 days before the Trial Date. Lead trial counsel for
22 each party must attend.

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

- 24 a. Motions in limine;
25 b. Jury instructions;
26 c. Voir dire;
27 d. Jury questionnaires (if any);
28 e. Verdict form(s);
f. Proposed statement of the case;
g. Witnesses, including proposed deposition designations;

- 1 h. Exhibits;
- 2 i. Stipulation(s); and
- 3 j. Any other issues relating to the trial.

4 **MISCELLANEOUS**

- 5 85. The initial Case Management Conference scheduled for _____ is VACATED.
- 6 86. The initial Case Management Conference is reset for _____ at **9:00 a.m.** Zoom
- 7 appearances are permitted but not required.
- 8 87. All discovery is STAYED pending the initial Case Management Conference.
- 9 88. By the date of the Conference, the parties shall provide the Clerk with an email service list as
- 10 required by this Order and shall be prepared to indicate whether they agree to email service from
- 11 the Court.
- 12 89. Any recording of a court proceeding held by video or audio conference, including “screen-shots”
- 13 or other visual or audio copying of a hearing or conference IS PROHIBITED unless otherwise
- 14 permitted by the Court. Violation of these prohibitions may result in sanctions, including
- 15 restricted entry to future hearings and conferences, denial of entry to future hearings and
- 16 conferences, removal of Court-issued media credentials, or any other sanctions deemed
- 17 appropriate by the Court.
- 18 90. The Court may not be able to provide a court reporter for the Pretrial Conference or Trial. Any
- 19 party that wishes to have a court reporter for the Pretrial Conference or Trial may bring their own
- 20 reporter if the Court is unable to provide one. Before a party may bring its/his/her/their own
- 21 court reporter to a proceeding, however, that party MUST comply with Local Rule 2.12.
- 22 Otherwise, a court reporter is WAIVED.
- 23 91. Plaintiff(s) shall serve a copy of this order upon all parties, or their designated counsel, who have
- 24 not yet appeared in this case, including any and all parties added to this action and/or cross-
- 25 action(s) after the issuance of this order, and file a proof of service.
- 26

27 Dated: _____

28 _____
Susan L. Greenberg
Judge of the Superior Court