

Order by the Court

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

_____,
Plaintiff,
vs.
_____,
Defendants.

Case No. _____

PRE-TRIAL ORDER NO. 1

**ASSIGNED FOR ALL PURPOSES TO
JUDGE MICHAEL L. MAU, DEPT. 20**

ACTION FILED: _ _____

PTC DATE: _ _____

MSC DATE: _____

TRIAL DATE: _____

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, **THE COURT ISSUES THE FOLLOWING AS ITS PRE-TRIAL ORDER** in this case. Note, this Pre-Trial Order applies to cases proceeding as either a Court Trial or Jury Trial.

INTRODUCTION

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

SUMMARY TABLE OF DEADLINES

EVENT	DEADLINE
Serve (but <u>not</u> file): 1. Proposed motions in limine; 2. Proposed jury instructions; 3. Proposed verdict form(s); 4. Proposed witness lists; and 5. Proposed exhibit lists	At least 42 days before the Pretrial Conference
Meet and confer regarding pretrial conference – including motions in limine, proposed jury instructions, proposed jury questionnaire (if any), proposed verdict form(s), and witness and exhibit lists	At least 35 days before the Pretrial Conference
File and serve motions in limine (oppositions due 7 days later, see below).	At least 21 days before the Pretrial Conference
Trial Brief (10-page limit) Parties must also file a joint pretrial conference statement, and provide one (1) binder (no more than 2.5 inches wide) to the Court with the following: 1. Proposed jury instructions; 2. Proposed verdict form(s); 3. Proposed voir dire and jury questionnaire (if any); 4. Proposed statement of the case; 5. Witness lists; 6. Exhibit lists, including any disputed exhibits; 7. Motions in limine, <u>oppositions (if any)</u> , and supporting declarations or requests for judicial notice; and 8. Deposition designations and objections	At least 14 days before the Pretrial Conference
Pretrial Conference will be held	At least 14 days before the Trial Date
Deliver to the Court at least four (4) sets of trial exhibits in binders (no more than 2.5 inches wide) and on a thumb drive.	At least 7 days before the Trial Date

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

7 **UNLAWFUL DETAINERS**

- 8 1. In all Unlawful Detainer cases, all the above Pre-Trial requirements are **DUE AT THE**
9 **DAY AND TIME OF YOUR JOINT PRE-TRIAL CONFERENCE & TRIAL DATE.**
10 Typically, unlawful detainers will be referred from the Civil Commissioner on a Friday,
11 and your Pre-Trial Conference & Trial date is the following Monday so plan accordingly.

12 **MOTIONS IN LIMINE**

- 13 2. The parties are encouraged to resolve trial issues with one another as soon as possible. The
14 parties shall meet and confer no later than thirty-five (35) days before the Pretrial
15 Conference to determine whether any evidentiary issues may be resolved by stipulation. No
16 party may file a motion in limine without first making a good faith effort to resolve the
17 evidentiary issue with the opposing party.
- 18 3. Motions in limine must be e-filed with the Clerk's Office no later than twenty-one (21) days
19 before the Pretrial Conference. Oppositions, if any, must be e-filed with the Clerk's Office
20 no later than fourteen (14) days before the Pretrial Conference. No replies will be permitted
21 without leave of the Court. Late filings may not be accepted by the Court.
- 22 4. Each party must submit a tabbed binder with its motions in limine in numerical order with
23 the opposition immediately behind the motion within the same tab. Any declarations or
24 requests for judicial notice submitted by the parties in support of or in opposition to the
25 motions in limine along with any attached exhibits must be submitted in a separate tabbed
26 binder. The binders must be submitted to the Court with the Joint Pretrial Conference
27 Statement.
- 28 5. Each motion in limine should address a single, separate topic and shall be limited to five

(5) pages in length unless otherwise permitted by the Court. Each motion should be clearly identified as “Plaintiff’s or Defendant’s Motion in Limine No. Re: _____,” with the blanks filled in as appropriate.

6. Each opposition is also limited to five (5) pages unless otherwise permitted by the Court.
7. Each party shall file only one (1) declaration and/or one (1) request for judicial notice to support all motions in limine, and one (1) declaration and/or one (1) request for judicial notice to support all oppositions to motions in limine. The parties need not include a copy of the operative complaint and/or cross-complaint.
8. Each party must also submit a hard copy and a Word version of all proposed orders. Each proposed order must provide enough specificity so that a witness will be able to understand what testimony is prohibited.
9. The motions will be heard at the Pretrial Conference or at such other time as the Court may direct.

JURY INSTRUCTIONS (if applicable)

10. The parties shall file a JOINT set of jury instructions, arraigned in the order the parties propose the Court give the instructions, with the Joint Pretrial Conference Statement. The parties must include copies of the actual instructions and NOT merely a list of instruction numbers.
11. Parties are invited to use the Judicial Council of California Civil Jury Instructions (CACI). Any modifications made to a form instruction must be plainly identified.
12. The Court will give copies of the final instructions to the jury to review during deliberations. Therefore, the parties are NOT to include headings indicating which party requested the instruction, or whether the instruction was given as proposed, modified, rejected, etc. Rather, the top of the first page should include only the CACI number and title. The footer may include the case name and number, and page number.
13. Instructions upon which the parties agree shall be identified as “Stipulated Instruction No. ____ Re: _____” with the blanks filled in as appropriate.
14. If the parties disagree on an instruction, each party’s proposed version of the disputed

instruction shall be provided and identified as “Disputed Instruction No. ____ Re:
_____. Offered by _____.” All proposed versions of the same instruction
shall bear the same number. Following each disputed instruction, each party shall explain,
in no more than one page, why the Court should give that party’s proposed instruction or
why the instruction should or should not be given.

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

VERDICT FORM (if applicable)

16. The parties shall file either joint proposed verdict form(s) or, if they disagree, separate
proposed verdict forms with the Joint Pretrial Conference Statement.
17. 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.

VOIR DIRE and JURY QUESTIONNAIRE (if applicable)

18. The Court will conduct the initial voir dire guided by the Standards of Judicial
Administration, standard 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.
19. 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. The Court’s preference is not to have a questionnaire.

PROPOSED STATEMENT OF THE CASE FOR THE JURY (if applicable)

20. 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. Unless the case is complex, this
statement should not exceed one-page double spaced. The statement should be neutral
rather than argumentative. The parties shall include the names of attorneys and witnesses
to be read to the jury. *See*, Standards of Judicial Administration, standard 3.25(b).

WITNESS LISTS

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

The joint 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
 - d. Estimated length of the direct examination, cross-examination, and any redirect, and cross-redirect.
 - e. The parties shall also submit their deposition designations and objections with the Joint Pretrial Conference Statement. The parties must submit copies of the excerpts of the designated portions of the deposition transcripts, NOT a list of page and line numbers.
22. The parties must jointly submit one binder with a joint pleading that has the designations, objections and responses followed by tabs for each witness with the designation highlighted in yellow and any objections bracketed in red. The designating party shall provide the opposing parties with the designation(s) and highlighted sections two weeks before the statement is due. The parties shall then meet-and-confer about any objections at least five days before the binder is due.
23. Unless a party can demonstrate good cause, the deposition of each witness shall be introduced only once, i.e., all parties' designations will be presented together rather than in each party's case.
24. Any witness who is not identified on a party's witness list is subject to exclusion in the reasonable exercise of the Court's discretion.

TRIAL EXHIBITS

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

- 1 26. Exhibits shall be numbered. No letters may be used. The parties must agree on a block of
2 numbers to fit the needs of the case (e.g., the plaintiff has exhibits 1-100; the defendant has
3 exhibits 101-200) and make a good faith effort to avoid marking the same exhibit in their
4 respective blocks. If the exact same exhibit is marked by more than one party, then the
5 defendant shall withdraw the duplicative exhibit (but should not renumber its portion of the
6 exhibit list).
- 7 27. If there is any dispute over which portions of an overlapping exhibit should be introduced
8 into evidence, the parties shall meet and confer in an attempt to informally resolve the issue.
9 If the parties are unable to informally resolve the dispute, then each party shall submit its
10 disputed exhibit with the Joint Pretrial Conference Statement and explain, in no more than
11 one double-spaced page, why the Court should use its proposed exhibit.
- 12 28. To avoid any party claiming “ownership” of an exhibit, all exhibits shall be marked and
13 referred to as “Exhibit No. _____” – and NOT as “Plaintiff’s Exhibit” or “Defendant’s
14 Exhibit.”
- 15 29. The parties must file a joint exhibit list identifying all the exhibits that the party intends to
16 introduce at trial with the Joint Pretrial Conference Statement. The joint exhibit list must be
17 in tabular form and contain the following:
- 18 a. Exhibit number;
 - 19 b. Brief description of the exhibit (with any bates numbers if they exist);
 - 20 c. Sponsoring witness;
 - 21 d. Date marked for identification (left blank); and
 - 22 e. Date admitted into evidence (left blank).
- 23 30. Each party must provide the Court with at least four (4) complete sets of exhibits that the
24 party intends to introduce at trial in hard copy in tabbed binders and one (1) complete set of
25 exhibits on a thumb drive at least seven (7) days before the Trial Date. The binders MUST
26 NOT be identified as “plaintiff’s exhibits” or “defendant’s exhibits.” Each party will be
27 expected to place the official exhibit tag on the back of the last page of each document; the
28 exhibit tags may be obtained from the courtroom clerk, or the parties may copy the template

1 at **Appendix A**. The four (4) copies needed are one for the Court, one for the witness stand,
2 and one for each side (if there are multiple other parties, then add a copy per party). The
3 Court may require additional copies of those exhibits for trial, including separate exhibit
4 binders for each witness.

- 5 31. 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 32. 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
10 proposed exhibit list. Anything that is not included in these served documents – i.e., motions
11 in limine, witnesses, or exhibits – may be subject to denial or exclusion in the reasonable
12 exercise of the Court's discretion.

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

- 21 34. During the meet and confer, the parties must engage in a good faith effort to:
22 a. Resolve any issues raised in the motions in limine;
23 b. Resolve any disagreements re witnesses and exhibits to be introduced at trial; and
24 c. Stipulate to any relevant facts that can be incorporated into the record without supporting
25 testimony or exhibits. Wherever possible, the parties shall stipulate to the admissibility of
26 any exhibits. If a stipulation is not possible, then the parties shall make every effort to
27 stipulate to the authenticity and foundation for an exhibit absent a legitimate objection.
28

PRETRIAL CONFERENCE STATEMENT

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

a. Substance of the Action: A brief description of the parties, the claims and defenses that remain to be decided, and the operative pleading, including the date of filing, that raises these claims and defenses.

b. Relief Requested: A detailed statement of all requested relief that itemizes all elements of damages that are claimed.

c. Undisputed Facts: A plain and concise statement of all relevant facts to which the parties will stipulate for incorporation into the record without supporting testimony or exhibits or that are undisputed.

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.

e. Estimate of Trial Length: An estimate of the number hours needed for the presentation of each party's case.

f. Miscellaneous: Any other matters that will facilitate the just, speedy, and efficient resolution of the case.

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

a. Joint witness list;

b. Joint deposition designation binders (see paragraph 12(e), above);

c. Joint exhibit list, including any disputed exhibits; and

d. Binders containing the party's motions in limine, any opposition(s), and any supporting declarations or requests for judicial notice in support of or in opposition to the motions. The parties must also email the proposed orders in Word format to the Court at

dept20@sanmateocourt.org.

PRETRIAL CONFERENCE

37. A Pretrial Conference is scheduled for _____, _____ at _____ a.m./p.m. Lead trial counsel for each party must attend in person.
38. The Pretrial Conference is deemed to be the commencement of trial for all purposes, including but not limited to discovery and motion cutoff, disclosure of witnesses and expert witnesses, and commencement of all trial-related fees, such as court reporter fees.
39. At the Pretrial Conference, each party should be prepared to argue and discuss:
- a. Motions in limine;
 - b. Witnesses, including objections to deposition designations;
 - c. Exhibits, including A/V needs and protocols.
 - d. Stipulations;
 - e. Trial schedule; and any other issues relating to the trial.
 - f. Scheduling issues for all witnesses and counsel (the Court will generally not allow witness testimony via Zoom absent exceptional circumstances and without express authorization from this department). If any witness requires the use of an Interpreter, that witness and any Interpreter will be required to be present in-person, no exceptions.

TRIAL

40. An in-person trial is set for _____, _____ at 9:00 a.m. and trial will occur on Tuesdays, Wednesdays and Thursdays, and other days as set by the Court.
41. A Mandatory Settlement Conference is set for _____, _____ with a Judge to be determined. Check the Court's website 3-5 days before the scheduled conference for updates re: mandatory settlement conferences.
42. Once the trial begins, each party shall inform the other parties by 4:00 p.m. the prior business day of the identity of witnesses that the party anticipates presenting at trial the next court day, regardless of whether the witness will be presented live (including by remote technology), by video deposition, or through a deposition transcript.
43. The purpose of this Order is to have the case ready for trial so trial can proceed as efficiently

1 as possible. If the parties wish to modify the schedule because of the specific facts of their
2 case, they may do so by stipulation and order. If they wish to change any of the dates that
3 documents are due to the Court, they should submit a stipulation and proposed order
4 specifying the reasons why they want to change the deadlines. The Court needs sufficient
5 time to review the submissions. Therefore, the Court suggests that if the parties seek to
6 change a deadline of when documents are submitted to the Court, they should only seek to
7 extend the deadlines for specific documents. For example, if there is an issue regarding
8 certain expert(s), the parties should seek to only seek to extend the deadline to file and
9 oppose the specific expert motion(s) in limine but still file all other motions in limine based
10 on the deadlines set in this Order.

11 44. For further information about the procedures in Judge Mau's courtroom, please review his
12 webpage. If counsel or any staff members have questions about these procedures, please
13 email Department 20 at dept20@sanmateocourt.org and include counsel for all represented
14 parties and self-represented parties in the email.

15 **COURT REPORTERS**

16 45. The Court has changed its policy regarding providing court reporters for Pretrial
17 Conferences and Trials. Check the Superior Court webpage for further information.

18 **INTERPRETERS**

19 46. Please review and comply with the Court's requirements on requesting the services of a
20 Court Interpreter. The Court can allow the use of a privately retained, but still Court
21 certified interpreter, when the Court is unable to provide one.

22
23 IT IS SO ORDERED.

24 Dated: _____

By: _____

25 JUDGE MICHAEL L. MAU

26 SAN MATEO COUNTY SUPERIOR COURT
27
28

1
2 **APPENDIX A**

3 **This tag must be attached to the back of the last page of each exhibit:**
4
5
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7

8
9 **EXHIBIT:**

10 -----

11 **Case Number:**

12 -----

13 ☐ Marked

14 ☐ Identified

15 ☐ Admitted

16
17 **BY:**

18 Clerk of the Superior Court
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