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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO**

Plaintiff(s),
v.
Defendant(s).

Case No.:
Assigned for all purposes to the
Hon. Nicole S. Healy
CASE MANAGEMENT ORDER NO. 1
Dept: 28
Hon. Nicole S. Healy

1 Pursuant to the order assigning this case – which had been previously designated as
2 complex – for all purposes to Judge Nicole S. Healy in Department 28 of this Court, IT IS
3 HEREBY ORDERED as follows:

4 **GENERAL MATTERS**

5 1. All parties are expected to be familiar with the San Mateo County Superior Court
6 Local Rules, the California Rules of Court (CRC), and the Deskbook on the Management of
7 Complex Civil Litigation.

8 2. All counsel are expected to adhere to the provisions of the California Attorney
9 Guidelines of Civility and Professionalism (State Bar of the State of California, adopted July
10 20, 2007, available at [http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-
11 Civility-Guide_Revised_Sept-2014.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide_Revised_Sept-2014.pdf)).

12 3. The Court expects all counsel to communicate regularly with each other about
13 hearing dates, progress of the case, and settlement possibilities. Meeting and conferring with
14 opposing counsel, either in person or by remote video technology, on procedural and
15 substantive issues is required.

16 4. Continuances of hearing and trial dates are discouraged. If a continuance is
17 necessary, it must be approved by this Court. Continuances by stipulation are not permitted
18 without prior approval of the Court, and only to a date pre-approved by the Court. Please email
19 Department 28 at dept28@sanmateocourt.org and complexcivil@sanmateocourt.org for
20 available dates before contacting opposing counsel. If preliminary approval is given, a written
21 stipulation must be provided before the hearing or trial date. Electronic signatures on
22 stipulations are permitted.

23 5. If a case settles before a hearing or trial date the parties must notify Department
24 28 by telephone at (650) 261-5128 and email (dept28@sanmateocourt.org and
25 complexcivil@sanmateocourt.org) as soon as the disposition is agreed upon and must file a
26 Notice of Settlement, Request for Dismissal, Stipulation for Entry of Judgment, or a Judgment
27 on Stipulation, that is ready for the Court's signature. In cases where the Court must approve
28 the settlement, *e.g.*, in matters such as class actions, shareholder derivative actions, or PAGA

1 cases, the parties must notify Department 28 of the settlement; file preliminary and/or final
2 settlement approval papers, and email all settlement papers to dept28@sanmateocourt.org and
3 complexcivil@sanmateocourt.org; and contact the Clerk of Department 28 to request a
4 preliminary and/or final approval hearing, as appropriate.

5 **FILINGS AND CORRESPONDENCE**

6 6. All appearances may be made in person or by Zoom, unless otherwise ordered by
7 the Court. The Zoom credentials can be found on Judge Healy's webpage. Please follow the
8 requirements on the website for Zoom appearances.

9 7. All papers including pleadings, motions, applications, and briefs, except those
10 exempted by statute or rule, shall be filed in compliance with San Mateo County Superior
11 Court Local Rules 2.1.7 and 2.1.8. (*See also* Code Civ. Proc., § 1010.6, subd. (c); Cal. Rules of
12 Court, rules 2.251(c) and 2.253(c).) The submission of proposed orders is governed by
13 paragraph 31 of this Order.

14 8. Except where another method of service is required by statute or rule, all parties
15 and counsel shall serve and shall accept service of all documents electronically, in conformity
16 with Code of Civil Procedure, section 1010.6 and the California Rules of Court. The
17 documents (other than exhibits) must be text searchable. Please visit www.sanmateocourt.org
18 for more information on e-filing. Please note that any exhibits to electronically filed briefs,
19 declarations, or other documents must be electronically "bookmarked" as required by Cal.
20 Rules of Court, rule 3.1110(f)(4). All parties are reminded to bookmark only the first page of
21 each exhibit and not to bookmark every page of each filed document.

22 9. The parties must also email copies of all pleadings, motions, and briefs to
23 complexcivil@sanmateocourt.org and include this email address on their proof of service.

24 10. Correspondence to Department 28 may be submitted electronically, rather than
25 by paper or telephone, by e-mail addressed to dept28@sanmateocourt.org and
26 complexcivil@sanmateocourt.org. Do not fax copies or correspondence to Department 28, as
27 there is no dedicated fax line. All e-mails must be sent in at least 12-point type and copied to
28 all parties or their counsel of record. This email address is to receive correspondence, and is

1 not a venue for back-and-forth communications with the judge. Communications to these
2 email addresses are not part of the official court files – just like a paper letter, they are not
3 “filed” documents – and will be retained for at least 30 days and then be subject to deletion
4 (destruction) thereafter. Department 28 prefers to have communication by email (*copied to all*
5 *parties*) rather than by telephone.

6 11. All communications to Department 28 shall include in the header “subject line”
7 the Department Number, Case Name, Case Number, and a brief description of the email (*e.g.*,
8 “Dept. 28 — Smith v. Jones (CIV654321) – Smith’s Request to Set Motion Date”).

9 12. The Court is eager to assist counsel when specific problems arise that may not
10 require a formal motion. To arrange a conference with the Court that all counsel agree is
11 advisable, please contact the Clerk for Department 28 by email at dept28@sanmateocourt.org
12 and complexcivil@sanmateocourt.org to schedule a time for the conference. Informal
13 conferences will be conducted by videoconference unless otherwise indicated by the Court.
14 For these informal conferences, briefs on court pleading paper not to exceed three (3) pages –
15 which must be served – may be submitted by email to the Court at dept28@sanmateocourt.org
16 and complexcivil@sanmateocourt.org.

17 CASE MANAGEMENT CONFERENCES

18 13. The Court, rather than the Civil Commissioner, conducts all case management
19 conferences for its complex cases. The first case management conference is generally
20 scheduled approximately 120 days after the action is filed. Plaintiff is required to give notice
21 of this conference date to all other parties unless otherwise ordered by the Court. Zoom
22 appearances are permitted but not required.

23 14. All discovery is **STAYED** pending the initial Case Management Conference.

24 15. By the date of the initial Case Management Conference, the parties shall provide
25 the Clerk with an email service list as required by this Order and shall be prepared to indicate
26 whether they agree to email service from the Court.

27 16. Plaintiff’s counsel is responsible for maintaining and updating the email service
28 list and the Proof of Service and notifying the Clerk of Department 28 of any changes at

1 dept28@sanmateocourt.org and complexcivil@sanmateocourt.org. Judge Healy suggests that
2 the email list include the attorneys and support staff who the parties wish to obtain
3 communications from the Court and all other parties.

4 17. After the first conference, future case management conferences are scheduled as
5 necessary to monitor the progress of the case and to assist counsel and the parties as the matter
6 progresses. Counsel thoroughly familiar with the case, and with authority to make decisions
7 regarding the case must attend all case management conferences.

8 18. Judicial Council Form CM-110, Civil Case Management Statement (required by
9 Cal. Rules of Court, rule 3.725(c)) is not well-suited for complex cases. Accordingly, the
10 parties shall file a joint case management conference statement no later than six (6) calendar
11 days before the hearing for each conference that includes the following:

- 12 (a) A brief objective summary of the case.
- 13 (b) A summary of any orders from prior case management conferences and the
14 progress of the parties' compliance with those orders.
- 15 (c) A summary of the status of discovery, including a description of all anticipated
16 discovery and incomplete or disputed discovery issues.
- 17 (d) Anticipated motions, including a proposed briefing schedule when applicable.
- 18 (e) A summary of any significant procedural or practical problems that are likely to
19 arise in the case such as (this list is not intended to be exhaustive or applicable to
20 every case):
 - 21 (1) unserved parties and reasons for the failure to serve;
 - 22 (2) unserved or unfiled cross-complaints;
 - 23 (3) related actions pending in any jurisdiction, a brief description of those
24 actions (including their current procedural posture), and the potential for
25 coordination or consolidation;
 - 26 (4) jurisdictional or venue issues that may arise;
 - 27 (5) severance of issues for trial; and

1 (6) calendar conflicts for any attorney, witness, or party, and any other matter
2 which may affect the setting of a trial date.

3 (f) Status of settlement or mediation.

4 (g) Suggestions for efficient management of the case, including a proposed discovery
5 plan and timeline of key events (including proposed dates for future law and
6 motion and trial).

7 (h) Any other matters that the parties believe will assist the Court in determining an
8 effective case management plan.

9 (i) A proposed date for the next CMC.

10 **EX PARTE APPLICATIONS**

11 19. Ex parte appearances are discouraged except in unusual situations. Hearing dates
12 for ex parte applications must be coordinated by email with the Clerk for Department 28 at
13 dept28@sanmateocourt.org and complexcivil@sanmateocourt.org. The Court hears ex parte
14 applications on Mondays and Thursdays at 1:30 p.m. The Court's consideration of an ex parte
15 application will not interfere with or delay any trial in progress. Strict compliance with
16 California Rules of Court, rules 3.1200 – 3.1207 is required.

17 20. All papers necessary to the determination of the application, including any
18 proposed pleading, motion, or order, must be submitted to Department 28, preferably by email
19 (to dept28@sanmateocourt.org and complexcivil@sanmateocourt.org), by noon the court day
20 before the scheduled ex parte hearing date.

21 **DISCOVERY**

22 21. All discovery sought pursuant to the Code of Civil Procedure, including but not
23 limited to notices of deposition, special interrogatories, form interrogatories, requests for
24 production of documents, and requests for admission, must be served electronically upon
25 counsel for the parties. All discovery responses by a party in response to discovery
26 propounded by another party must be provided in electronic form, unless the parties agree
27 otherwise in writing. Counsel for the parties must meet and confer regarding the possible
28 establishment of a joint electronic document depository for uploading and downloading

1 electronic document productions. The Court expects the parties to meet and confer regarding
2 the scope, format, and timing of the production of documents, including electronically stored
3 information (ESI), and to consider, among other things, proportionality and expense, in seeking
4 the production of ESI.

5 22. Discovery meet and confer obligations require an in-person or video conference
6 between counsel and, where a party is appearing in propria persona, the parties, unless
7 otherwise ordered by the Court. If a resolution is not reached, the parties must meet with the
8 Court for all discovery-related matters in an informal discovery conference (IDC) before filing
9 any discovery motion unless otherwise authorized by the Court. ***No discovery motion will be***
10 ***heard without an IDC.***

11 23. After the parties have conducted a meaningful meet and confer, requests for an
12 IDC may be made by sending an email copied to all counsel to Department 28 at
13 dept28@sanmateocourt.org and complexcivil@sanmateocourt.org. The Court will provide
14 proposed dates. Parties are to meet and confer as to availability for the proposed dates. If one
15 or more parties are not available on the proposed date(s), additional dates may be requested.
16 The Court will inform the parties whether the IDC will be conducted by videoconference or in
17 person. The Court will also consider requests from depositions in progress. IDCs may not be
18 recorded by any party and may not be reported by any court reporter.

19 24. For the IDC, each side must serve and email to the Court at both
20 dept28@sanmateocourt.org and complexcivil@sanmateocourt.org a short brief limited to no
21 more than five (5) pages, at least three (3) court days before the IDC. If necessary to the
22 resolution of the issues, the requesting party's brief may include an exemplar of the discovery
23 requests and responses (if any) at issue. Do not attach the discovery requests and responses.

24 25. All requests for an IDC must be made well before the expiration of the statutory
25 time to bring a motion to compel or other discovery motion. The parties are strongly
26 encouraged to stipulate to extend the time to file motions to compel or other discovery motions.

1 **LAW AND MOTION**

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

11 27. With respect to motions or other matters requiring a hearing, after the moving
12 party has cleared the proposed hearing date(s) with the other parties, the moving party must
13 contact the Clerk of Department 28 by email at dept28@sanmateocourt.org and
14 complexcivil@sanmateocourt.org to obtain the hearing date. Counsel for the moving party
15 must provide the Court with the case name and number; the type of hearing; the hearing date(s)
16 requested; and the name, telephone number, and email address of the filing attorney.

17 28. So long as any reply is filed at least two (2) weeks before the hearing date, the
18 parties may agree on any briefing schedule and submit a stipulation and proposed order with
19 the agreed-upon schedule for the Court’s signature.

20 29. **For all motions** – the moving party shall provide the Court with one complete set
21 of courtesy copies of all motions and related papers filed by all parties in a binder stamped
22 “Judge’s Copy.” All exhibits must be separated by exhibit tabs. (*See, e.g.*, Cal. Rules of Court,
23 rule 3.1110(f).) The binder must be delivered within two court days of filing directly to
24 Department 28 by hand or overnight mail to Courtroom I, 800 No. Humboldt St., San Mateo,
25 California 94401. Courtesy copies of any electronic exhibits must be submitted on a flash
26 drive in conformity with the requirements of the California Rules of Court, rules 2.256(b) and
27 3.1110(f)(4). The Court cannot receive documents through any type of file sharing. The
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1 requirement to submit courtesy copies is separate from the requirement to email all pleadings to
2 Department 28 at complexcivil@sanmateocourt.org on the date of filing.

3 30. Judge Healy does not need courtesy copies of Case Management Conference
4 Statements or other pleadings or papers that do not relate to a motion.

5 31. Proposed Orders must be submitted electronically through the Clerk's office with
6 the information required by California Rule of Court, rule 3.1312. You must also email an
7 editable version of the Proposed Order in Word format (not PDF) to
8 dept28@sanmateocourt.org and complexcivil@sanmateocourt.org so that the judge can modify
9 it prior to signing, if needed.

10 32. Motions or applications to seal must be heard no later than any motion relying on
11 the materials sought to be sealed. Upon denial of a motion or application to seal, the moving
12 party must notify the Court that the materials are to be filed unsealed (Cal. Rules of Court, rule
13 2.551(b)) or refrain from relying on the materials, which will not be part of the record.

14 33. When the Court sustains a demurrer or grants a motion to strike with leave to
15 amend and an amended pleading is filed, the plaintiff or cross-complainant must file with its
16 opposition to any successive demurrer or motion to strike a redline comparing the amended
17 pleadings to the previous version of the pleading unless otherwise ordered by the Court.

18 34. With respect to discovery motions, the parties are relieved of their obligation
19 under rule 3.1345 of the California Rules of Court to file a separate statement. Instead, the
20 parties must (1) attach the discovery request(s) or deposition question(s) at issue and the
21 written response(s), if any, to the declaration submitted in support of the discovery motion; and
22 (2) submit a concise outline of the discovery request and each response in dispute pursuant to
23 Code of Civil Procedure section 2030.300, subdivision (b)(2).

24 35. Counsel for the moving parties must notify Department 28 by telephone and by
25 email at dept28@sanmateocourt.org and complexcivil@sanmateocourt.org as soon as possible
26 regarding any matter to be taken off calendar or continued. Notices of continuance of any
27 hearing must be provided by the moving party.
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1 36. Pursuant to Cal. Rule of Court, rule 3.113(i), Department 28 does not require an
2 appendix of non-California authorities in connection with any memoranda submitted in
3 connection with any motion unless otherwise ordered by the Court with the following
4 exception: Because the Court only has access to non-California authorities via WESTLAW –
5 and NOT via LEXIS – any authorities that are not reported in an official reporter and that are
6 cited must either be: (1) cited using the WESTLAW citation or a citation accessible through
7 WESTLAW; or (2) provided to Department 28 by email at dept28@sanmateocourt.org and
8 complexcivil@sanmateocourt.org.

9 37. The Court strongly believes in the importance of training the next generation of
10 trial lawyers. This training needs to include substantive speaking opportunities in court. The
11 Court therefore encourages the parties and senior attorneys to allow the participation of junior
12 lawyers in all court proceedings, particularly in arguing motions where the junior lawyer
13 drafted or contributed significantly to the motion or opposition.

14 38. The Court typically issues tentative rulings or a list of issues that the Court would
15 like the parties to address at the hearing. The Court will post its tentative ruling or list of issues
16 by 1:30 p.m. at least one court day before the scheduled hearing. If any party intends to contest
17 the tentative ruling at the hearing, that party must notify the other parties and Department 28 by
18 email at both dept28@sanmateocourt.org and complexcivil@sanmateocourt.org by 4:00 p.m. at
19 least one court day before the scheduled hearing. Otherwise, the tentative ruling will become
20 the order of the Court.

21 **SETTLEMENT CONFERENCES AND MEDIATIONS**

22 39. No case will be tried before a good faith effort is made to settle. The Court
23 strongly encourages the parties to engage in discussions to resolve the matter throughout the
24 litigation, including voluntary mediation.

25 **MISCELLANEOUS**

26 40. Any recording of a court proceeding held by video or audio conference, including
27 “screen-shots” or other visual or audio copying of a hearing or conference **IS STRICTLY**
28 **PROHIBITED**. Violation of these prohibitions may result in sanctions, including restricted

1 entry to or denial of entry to future hearings and conferences, removal of Court-issued media
2 credentials, or any other sanctions deemed appropriate by the Court.

3 41. The Court may not be able to provide a court reporter for the Pretrial Conference
4 or Trial. Any party that wishes to have a court reporter for the Pretrial Conference or Trial may
5 bring their own reporter if the Court is unable to provide one. Before a party may bring
6 its/his/her/their own court reporter to a proceeding, however, that party MUST comply with
7 Local Rule 2.12. Otherwise, a court reporter is WAIVED.

8 42. Plaintiff(s) shall serve a copy of this order upon all parties or their designated
9 counsel, who have not yet appeared in this case, including any and all parties added to this
10 action and/or cross-action(s) after the issuance of this order, and shall file a proof of service.

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12 Dated: _____

13 NICOLE S. HEALY
14 Judge of the Superior Court of California
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