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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

,
Plaintiff,
v.
,
Defendants.

Case No.

Assigned for all purposes to:
Hon. Mark A. McCannon

PRETRIAL ORDER NO. 1

1 To ensure that the Court, the parties, and the witnesses are prepared to begin the trial on the
2 actual date the trial is scheduled, the Court, pursuant to its inherent authority, HEREBY ORDERS
3 THAT:
4

5 **TRIAL, PTC, AND MSC**

6 1. **Trial.** The trial is scheduled for _____ at 9:00 a.m. Trial days are Monday,
7 Tuesday, and Friday. All trial counsel for each party are to appear **in person**.

8 2. **Pretrial Conference.** The Pretrial Conference (“PTC”) is scheduled for
9 _____ at _____ a.m./p.m. Lead trial counsel must appear **in person**.

10 3. **Mandatory Settlement Conference.** The Mandatory Settlement Conference
11 (“MSC”) is scheduled for _____ at 9:00 a.m. before a judge to be determined. The
12 judge assigned to handle the MSC will communicate with the parties to confirm the date and time
13 of the conference.
14

15 4. **Court reporter.** The Court may not be able to provide a court reporter for the
16 Pretrial Conference or Trial. Any party that wishes to have a court reporter for the Pretrial
17 Conference or Trial may bring their own reporter if the Court is unable to provide one. Before a
18 party may bring their own court reporter to a proceeding, that party MUST comply with Local
19 Rule 2.12. Otherwise, a court reporter is WAIVED.
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21 5. **Location.** Please note that the Court is now in Courtroom J of the South San
22 Francisco Courthouse located at 1050 Mission Road, South San Francisco, California. Any
23 hardcopy materials for the Court, including pretrial materials, should be delivered there.
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PRETRIAL DEADLINES AND REQUIREMENTS

6. Parties are ordered to comply with the following deadlines:

EVENT	DEADLINE
Meet and confer regarding pretrial conference, including witness and exhibit lists, exhibits, motions in limine, deposition designations, jury instructions, verdict forms, jury questionnaire (if any), statement of the case.	21 days before PTC
Serve, but NOT file: 1. Motions in limine 2. Witness lists 3. Exhibit lists 4. Deposition designations 5. Jury Instructions 6. Verdict forms	5 days before PTC
File and deliver hard copies to the court: 1. Joint pretrial conference statement 2. One (1) set of binders with the following: a) Statement of the case b) Exhibit list c) Witness list d) List of jury instructions e) Proposed jury instructions f) Proposed verdict form g) Deposition designations with objections and responses 3. Joint binder with deposition designations and objections, and highlighted transcripts (deliver, not file) 4. Binder with motions in limine and oppositions.	3 court days before PTC
Pretrial Conference	14 days before Trial
Deliver three (3) sets of joint trial exhibit binders and thumb drives to the Court.	The day of Trial

7. The parties must make every effort to 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

1 of trial or during trial waste the Court's time and are strongly disfavored. With this understanding,
2 all deadlines and requirements are subject to modification at the discretion of the Court.
3

4 **MEET AND CONFER**

5 8. All parties must meet and confer **in person or videoconference** regarding motions
6 in limine, jury instructions, verdict form(s), jury questionnaire (if any), a statement of the case,
7 witness lists, deposition designations, exhibit lists, exhibits, and a pretrial conference statement,
8 and any other issues that may arise at trial no later than 21 days before the PTC. If the parties
9 wish to meet and confer by telephone, they must obtain permission from the Court. The Court
10 expects meaningful meet and confer in accordance with the following guidelines available at
11 [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)
12 [Revised_Sept-2014.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf).
13

- 14 9. During the meet and confer, the parties must engage in a good faith effort to:
- 15 a. Resolve any issues parties intend to raise in the motions in limine;
 - 16 b. Resolve any disputes over the jury instructions;
 - 17 c. Resolve any disputes over the verdict form(s);
 - 18 d. Agree on a proposed jury questionnaire (if any);
 - 19 e. Agree on a proposed statement of the case to be read to the jury during voir dire;
 - 20 f. Resolve any disagreements over witnesses, including deposition designations, and
21 exhibits to be introduced at trial; and
 - 22 g. Stipulate to any relevant facts that can be incorporated into the record without
23 supporting testimony or exhibits.
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10. Wherever possible, the parties shall stipulate to the admissibility of any exhibits. If a stipulation is not possible, then the parties shall make every effort to stipulate to the authenticity and foundation for an exhibit absent a legitimate objection.

EXHIBITS AND EXHIBIT LIST

11. Each party must prepare a list of all exhibits to be offered at trial, other than those to be used for impeachment or rebuttal, for submission with one extra copy to the courtroom clerk on the first day of trial. The list must identify as separate exhibits each discrete document or item to be offered at trial and must include a brief description of each exhibit sufficient to distinguish it from the other exhibits.

12. Exhibit lists must be exchanged by parties, **at least 5 days** before the PTC.

13. The exhibit list must be in tabular form and contain the following:

- a. Exhibit number;
- b. Brief description of the exhibit (with any bates numbers if they exist);
- c. Sponsoring witness;
- d. Date marked for identification (left blank);
- e. Date admitted into evidence (left blank); and
- f. Whether admissibility is stipulated.

No.	Description	Stipulation	Witness	Date marked	Date admitted
1.	Photo, Honda, bumper, DEF0052	Yes			
2.	Text message from Defendant to Plaintiff, DEF0003	No			

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

16 16. Multi-page exhibits must be paginated or bates numbered.

17 17. To avoid any party claiming "ownership" of an exhibit, all exhibits shall be
18 marked and referred to as "Trial Exhibit No. ____" – and NOT as "Plaintiff's Exhibit" or
19 "Defendant's Exhibit."
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21 18. Each party must provide the Court with three (3) complete set of exhibits the party
22 intends to introduce at trial in both hard copy in tabbed binders and on a thumb drive the day of
23 Trial. Each party will be expected to place the official exhibit stamp on each document; the
24 exhibit tabs may be obtained from the courtroom clerk. The Court may require additional copies
25 of those exhibits for trial, including separate exhibit binders for each witness.
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19. The parties must meet and confer to eliminate duplicate exhibits and stipulate whenever possible to authenticity and admissibility.

20. Any exhibit not identified on a party's exhibit list is subject to exclusion. In exercising this discretion, the Court will consider whether the exhibit is solely being used for impeachment.

21. **Redaction of Exhibits.** If medical, personal, or consumer records are involved, the parties are to delete any information that the parties agree should not come into evidence, including insurance information, so that such information is not received by the jury. The proponent must then prepare clean copies of the records for submission into evidence.

WITNESS LIST

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

23. 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
- d. Estimated length of the direct examination, cross-examination, and rebuttal.

	Witness	Title	Testimony	Time
1.	Allan, Joe	Plaintiff's father	Collision	0.5 hrs
2.	Blake, John, M.D.	Treating neurosurgeon	Past and future treatment; cost	1 hr
3.	Coi, Lawrence	CHP Officer	Collision	0.5 hrs

DEPOSITION DESIGNATIONS

24. If any party wishes to designate deposition testimony in lieu of live testimony for any witness, then that party must provide their proposed designations to the opposing parties at least 5 days before PTC. The parties are encouraged to resolve as many disputes over the designations by stipulation as possible.

25. The parties must file a joint pleading with their proposed deposition designations, any objections to those designations, and any responses to those objections, 3 court days before PTC. Objections or responses may be no longer than one page.

26. The parties must also submit to the Court joint tabbed binder(s) with the proposed deposition designations. Each tab should represent the testimony of a single witness. The proposed deposition designations must be highlighted in yellow with any objections bracketed in red. The binders must include the pleading with the proposed designations and objections.

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

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

JURY INSTRUCTIONS

29. The parties shall file a joint set of proposed jury instructions, arranged in the order the parties propose the Court give the instructions.

30. The 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.

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

32. 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 _____,” with blanks filled in as appropriate. 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.

33. 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 PTC or by any other deadline set by the Court.

VERDICT FORM(S)

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

35. 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 PTC or by any other deadline set by the Court.

VOIR DIRE AND JURY QUESTIONNAIRE (IF ANY)

36. 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.

1 37. If the parties wish to use a jury questionnaire, the parties must file a joint proposed
2 jury questionnaire or, if they disagree, separate proposed jury questionnaires with the Joint
3 Pretrial Conference Statement.
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5 **PROPOSED STATEMENT OF THE CASE**

6 38. The parties must file a joint proposed statement of the case to be read to the jury
7 during voir dire, or, if they disagree, separate proposed statements of the case. Unless the case
8 is very complex, this statement should not exceed one-page double spaced. The statement
9 should be neutral rather than argumentative. The parties shall also include the names of
10 attorneys and witnesses to be read to the jury. See Standards of Judicial Administration §
11 3.25(b).
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13 **MOTIONS IN LIMINE**

14 39. The parties shall meet and confer no later than twenty-one (21) days before the PTC
15 to determine whether any evidentiary issues may be resolved by stipulation. No party may file a
16 motion in limine (“MIL”) without first making a good faith effort to resolve/narrow the
17 evidentiary issue with the opposing party.
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19 40. **MILs not to be filed.** Administrative and other motions not seeking to exclude
20 specific evidence, e.g., excluding witnesses from the courtroom, requesting 24 hours’ notice of
21 calling a witness, a review of demonstrative exhibits to be used at opening or closing, excluding
22 speculative evidence, excluding evidence not produced in discovery (when that is the sole reason
23 offered), precluding “reptile theory” arguments, should not be subject of an MIL. An MIL which
24 argues that “no evidence on an issue should be introduced because there is no evidence on the
25 issue” or because “there is other evidence that conflicts with the evidence sought to be
26 suppressed” are not proper MILs. A “judge generally should not be weighing the evidence on a
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1 motion in limine.” *Kinda v. Carpenter* (2016) 247 Cal. App. 4th 1268, 1282, citing *R & B Auto*
2 *Ctr., Inc. v. Farmers Grp., Inc.* (2006) 140 Cal. App. 4th 327, 371 (MILs “may not be used to
3 resolve factual issues”).

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5 41. MILs seeking to preclude evidence must specify it. “Motions in limine are properly
6 used to determine whether specific evidence should be admitted or precluded.” *R & B Auto Ctr.,*
7 *Inc. v. Farmers Grp., Inc.* (2006) 140 Cal. App. 4th 327, 371; *Ulloa v. McMillin Real Est. &*
8 *Mortg., Inc.* (2007) 149 Cal. App. 4th 333, 338 (“particular items of evidence”); *Schweitzer v.*
9 *Westminster Invs., Inc.* (2007) 157 Cal. App. 4th 1195, 1214 (“specific objection to particular
10 evidence”); see also Evid. C. § 353 (objections must be “specific” to be preserved).

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12 42. MILs must be **served 5 days before the PTC.**

13 43. MILs and their oppositions must be e-filed with the Clerk’ Office **no later three (3)**
14 **court days before the PTC.** No replies will be permitted without leave of the Court.

15 44. Each party must submit a tabbed binder with its MILs in numerical order with the
16 opposition immediately behind the motion within the same tab. The MIL and its opposition must
17 be separated by a colored sheet of paper. The binders must be submitted to the Court with the
18 Joint Pretrial Conference Statement.

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20 45. Each MIL should address a single, separate topic and shall be limited to **five (5)**
21 **pages** in length unless otherwise permitted by the Court. Each motion should be clearly identified
22 as “_____’s MIL No. ____ Re: _____,” with the blanks filled in as appropriate.

23 46. Each opposition is also limited to five (5) pages unless otherwise permitted by the
24 Court.
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1 47. Each party must also submit a hard copy and a Word version of all proposed orders.
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3 Each proposed order must provide enough specificity that a witness will be able to understand
4 what testimony is prohibited.

5 48. **Violations of in limine orders.** Parties must instruct their witnesses on the relevant
6 in limine orders. Where a party “willfully and repeatedly violated the trial court's orders in
7 in limine” to the prejudice of the other side, the action may be dismissed. *Osborne v. Todd Farm*
8 *Serv.* (2016) 247 Cal. App. 4th 43, 54 (“repeatedly attempting to solicit testimony that had been
9 excluded”). See also *Martinez v. Dep't of Transportation* (2015) 238 Cal. App. 4th 559, 561 (the
10 trial court failed to terminate the case, but should have).

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12 49. The motions will be heard at the PTC or at such other time as the Court may direct.

13 **JOINT PRETRIAL CONFERENCE STATEMENT**

14 50. The parties shall file a Joint Pretrial Conference Statement at least 14 days before
15 the PTC that contains:

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

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

- a. Proposed jury instructions
- b. Proposed verdict form(s)
- c. Proposed jury questionnaire (if any)
- d. Proposed statement of the case
- e. Witness list
- f. Deposition designations, with objections, and responses
- g. Exhibit list
- h. Binder(s) containing the parties' deposition designations, with the testimony to be introduced highlighted in yellow and any objections bracketed in red; and
- i. Binder(s) container each party's motions in limine, any oppositions, and any supporting declarations or requests for judicial notice in support of or opposition to the motions.

1 52. The parties shall also email the witness lists, exhibit lists, proposed jury
2 instructions, proposed verdict form(s), proposed jury questionnaire (if any), proposed statement
3 of the case, and proposed orders in Word format to the Court.
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5 **PRETRIAL CONFERENCE**

6 53. A Pretrial Conference will occur at least 14 days before the Trial Date. Lead trial
7 counsel for each party must attend in person.

8 54. At the Pretrial Conference, each party must be prepared to argue and discuss:

- 9 a. Motions in limine;
10 b. Jury instructions;
11 c. Voir dire;
12 d. Jury questionnaire (if any);
13 e. Verdict form(s);
14 f. Proposed statement of the case;
15 g. Witnesses, including proposed deposition designations;
16 h. Exhibits;
17 i. Stipulations; and
18 j. Any other issues relating to the trial.
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22 **IT IS SO ORDERED.**
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25 DATED: _____

HON. MARK A. MCCANNON
JUDGE OF THE SUPERIOR COURT

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