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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

,)
Plaintiff,)
v.)
,)
Defendants.)

Case No.:
**TENTATIVE RULINGS ON MOTIONS
IN LIMINE AND OTHER MATTERS**
PTC: June 23 & July 10, 2025
Time: 2:00 p.m.
Dept. 4
Trial Date: July 16, 2025
Assigned to Hon. Nancy L. Fineman

1 **MOTIONS IN LIMINE**

2 The court rules on the parties’ motions in limine as follows. These rulings are tentative
3 and can be changed any time before or during trial. (*Scott v. C.R. Bard, Inc.* (2014) 231
4 Cal.App.4th 763, 784; *Cristler v. Express Messenger Systems, Inc.* (2009) 171 Cal.App.4th 72,
5 90, n. 6.)

6 **PLAINTIFF’S MOTIONS IN LIMINE**

7 **No. 1 re Voir Dire**

8 There is no question that the parties have a constitutional right to an impartial jury and
9 that “the trial judge should permit liability and probing examination calculated to discover bias
10 or prejudice. (Code Civ. Proc., § 222.5.)

11 As discussed at the informal conference on June 3, 2025, the court finds juror
12 questionnaire take longer than regular voir dire and do not obtain as much information as
13 simply having the attorneys ask questions. The court understands that after the discussion off
14 the record, plaintiff withdraws his request for a questionnaire. If plaintiff wants a
15 questionnaire, then the court will not allow the extensive questioning in oral voir dire. The
16 purpose of the questionnaire is to make voir dire shorter and provide sufficient information to
17 the parties to intelligently make for cause and preemptory challenges. (*People v. Fuentes*
18 (1991) 54 Cal.3d 707, 720, n. 8; *Cal. Judges Benchbook Civ. Proc. Trial* § 3.66 (July 2024
19 update).)

20 The court is familiar with the Judicial Council approved questionnaire, but is was
21 approved several years ago and the court has concerns regarding some of the questions. In
22 general, questions about date and place of birth, age, sex, religious and political beliefs, and
23 implicitly race/ethnicity are not appropriate. The law does not allow such questions unless
24 there is a specific showing that the question is relevant to an issue in the case, which showing
25 has not been made in this case. (See e.g. *People v. Ramos* (1997) 15 Cal.4th 1133, 1157–1158;
26 *Unzueta v. Akopyan* (2022) 85 Cal.App.5th 67, 83; *In re Malvasi's Estate* (1929) 96 Cal.App.
27 204, 210; *Cal. Prac. Guide Civ. Trials & Ev.* § 5:351 et seq. (TRG Oct. 2024 update);
28 Prejudice—Religion, Jury Selection: The Law, Art and Science of Selecting a Jury § 7:40 et

1 seq. (Nov. 2024 update); Barry Goode, Religion, Politics, Race and Ethnicity: The Range and
2 Limits of Voir Dire, 92 *Ky. L. J.* 601, 610–11 (2003–04). The Judicial Council questionnaire is
3 also long and takes jurors time to fill out. There is no place but the courtroom for the jurors to
4 fill out the questionnaire.

5 For voir dire, the court generally asks the questions in the Standards of Judicial
6 Administration, Standard 3.25(c) and allows the parties to conduct most of the voir dire. Voir
7 dire is not unlimited, the court has broad discretion in how voir dire is conducted, and the court
8 can impose reasonable time limits. (*Cal. Judges Benchbook Civ. Proc. Trial* §§ 3.55, 3.56
9 (July 2024 update).)

10 In voir dire, the law allows questions about whether the parties can award a certain
11 amount in damages. (Wegner, Fairbank and Epstein, *Cal. Prac. Guide Civ. Trials & Ev.* §
12 5:312. (TRG Oct. 2024 update).) However, the parties are not to pre-try their case or
13 precondition the potential jurors in voir dire. There must be a good faith belief that the damage
14 amounts will come into evidence. The court expects the parties to know the bounds of
15 permissible advocacy and stay within those bounds. For example for voir dire, Code of Civil
16 Procedure section 222.5 subsection (b)(3) provides: “For purposes of this section, an
17 ‘improper question’ is any question that, as its dominant purpose, attempts to precondition the
18 prospective jurors to a particular result, indoctrinate the jury, or question the prospective jurors
19 concerning the pleadings or the applicable law.” Also, the parties are not to discuss the law in
20 voir dire, opening statement or witness testimony. The court rather than the attorney or
21 witnesses supply the jury with the law.

22 The court explains its understanding of “for cause” challenges. There is no question that
23 a prospective juror may be challenged for cause when the potential juror has actual bias. (Code
24 Civ. Proc., § 225, subd. (b)(1)(C).) The trial judge is the arbiter of whether a juror will act
25 fairly where there are indications both ways or other ambiguity. (See *People v. Thornton*
26 (2007) 41 Cal.4th 391, 414.) In discussing death penalty cases, our Supreme Court provides
27 useful guidance on how a trial court is to rule upon “for cause” challenges. The key is whether
28 the prospective juror agrees to listen to the evidence and decide the case only upon the

1 evidence and the law and prospective jurors may not be disqualified from service simply
2 because they object to the death penalty as a general matter. As explained for death penalty
3 cases:

4 “[N]ot all who oppose the death penalty are subject to removal for cause in capital cases;
5 those who firmly believe that the death penalty is unjust may nevertheless serve as jurors
6 in capital cases so long as they state clearly that they are willing to temporarily set aside
7 their own beliefs in deference to the rule of law.” (*Lockhart v. McCree* (1986) 476 U.S.
8 162, 176, 106 S.Ct. 1758, 90 L.Ed.2d 137.) Nor may a juror be disqualified from service
9 because he or she might “impose a higher threshold before concluding that the death
10 penalty is appropriate.” (*People v. Stewart* (2004) 33 Cal.4th 425, 447, 15 Cal.Rptr.3d
11 656, 93 P.3d 271.) “The critical issue is whether a life-leaning prospective juror — that
12 is, one generally (but not invariably) favoring life in prison instead of the death penalty
13 as an appropriate punishment — can set aside his or her personal views about capital
14 punishment and follow the law as the trial judge instructs.” (*People v. Thompson* (2016)
15 1 Cal.5th 1043, 1065, 210 Cal.Rptr.3d 667, 384 P.3d 693.) If a juror can obey those
16 instructions and determine whether death is appropriate based on a sincere consideration
17 of aggravating and mitigating circumstances, the juror may not be excused for cause.
18 (*People v. Armstrong, supra*, 6 Cal.5th at p. 750, 243 Cal.Rptr.3d 105, 433 P.3d 987;
19 *Stewart*, at p. 447, 15 Cal.Rptr.3d 656, 93 P.3d 271; *People v. Lewis* (2001) 25 Cal.4th
20 610, 633, 106 Cal.Rptr.2d 629, 22 P.3d 392.)

21 (*People v. Peterson* (2020) 10 Cal.5th 409, 429–430; see also *People v. Kipp* (1998) 18 Cal.4th
22 349, 366 [no abuse of discretion by trial court in rejecting for cause challenge when the trial
23 court could reasonably determine that despite juror’s expressed distaste for defendant's
24 appearance, she would faithfully discharge oath to impartially determine facts and apply law to
25 reach just verdict]; *Graybill v. De Young* (1905) 146 Cal. 421, 422-424 [no abuse of discretion
26 in rejecting challenge for cause in libel action where juror admitted prejudice against such
27 actions but said he would try case “on the evidence and the law”]; *People v. Bivert* (2011) 52
28 Cal.4th 96, 115 (trial court reasonably determined that despite juror's strong pro-death penalty
views, juror would follow law as instructed] A preexisting opinion is not disqualifying if the
juror can set it aside and decide the case solely on the evidence presented in court. (*People v*
Rountree (2013) 56 Cal.4th 823, 842; *Alcazar v Los Angeles Unified Sch. Dist.* (2018) 29
CA5th 86, 99.)

1 **No. 2 re Exclusion of Evidence Related to Any Injuries Suffered or the Condition of**
2 **Any Other Passenger Involved in the Collision at Issue.**

3 This motion is too general for the court to rule. (*Kelly v. New West Federal Savings*
4 (1996) 49 Cal.App.4th 659.) Plaintiff has not identified any specific evidence he seeks to
5 exclude. Plaintiff can object to any questions he believes are improper. The court states that in
6 general evidence about other injuries could be relevant to the force of the crash. The
7 admissibility will depend on the questions that are asked.

8 **No. 3 re Exclusion of Evidence of Alternative Cause of Injury**

9 This motion is too general for the court to rule. (*Kelly v. New West Federal Savings*
10 (1996) 49 Cal.App.4th 659.) Plaintiff has not identified any specific evidence he seeks to
11 exclude. The court denies the motion to the extent that it seeks to prohibit defendant from
12 arguing apportionment of fault (e.g. comparative liability) and that defendant's negligence did
13 not cause plaintiff's injuries.

14 **No. 4 re Exclusion of Case Specific Hearsay (*Sanchez*)**

15 This motion is too general for the court to rule. (*Kelly v. New West Federal Savings*
16 (1996) 49 Cal.App.4th 659.) Plaintiff has not identified any specific evidence he seeks to
17 exclude. The court must and does follow *People v. Sanchez* (2016) 63 Cal.4th 665 and its
18 progeny. Any party can make appropriate objections to expert testimony.

19 With proper authentication, medical records are business records. (*Ibid.*) Admissions
20 by a party in a medical record can also be admissible. The parties should make sure that all
21 personal information, such as social security numbers are redacted. It is rarely efficient to have
22 substantial portions of the medical records introduced into evidence. The parties are to meet-
23 and-confer to determine which portions of the medical records will be admitted. The parties
24 shall meet-and-confer in person or by Zoom and go through each of the records that they seek
25 to introduce. The court suggests that the parties stipulate to those portions of the medical
26 records that they agree are admissible.

1 **No. 5 re Exclusion of Evidence of Accusation Against Troy Mounts**

2 This motion is too general for the court to rule. (*Kelly v. New West Federal Savings*
3 (1996) 49 Cal.App.4th 659.) In general, if there is just an accusation, the court would exclude
4 the evidence as irrelevant and under Evidence Code section 352. The parties may present
5 further evidence at the pretrial conference if defendant is intending to try to introduce this
6 evidence.

7 **No. 6 re Limiting Expert Testimony of Defendants’ Experts to Those Opinions and**
8 **Conclusions Testified to At Depositions and to Exclude Testimony Based Upon Materials**
9 **Not Reviewed or Provided at Depositions to Exclude Argument that Plaintiff’s Future**
10 **Treatment is Speculative**

11 This motion is too general for the court to rule. (*Kelly v. New West Federal Savings*
12 (1996) 49 Cal.App.4th 659.) Plaintiff fails to identify any specific evidence he seeks to
13 exclude. For both sides, the court follows the law, e.g. *Easterby v. Clark* (2009) 171
14 Cal.App.4th 772, 780; *Jones v. Moore* (2000) 80 Cal.App.4th 557; *Kennemur v. State of*
15 *California* (1982) 133 Cal.App.3d 907 and their progeny, in ruling on motions regarding work
16 experts performed after their depositions. If an expert is going to testify about something that
17 was not testified to at deposition, the best practice is to notify the other side and make the
18 expert available for further deposition.

19 **No. 8 re Excluding Experts’ Disclosed in Defendant’s “Supplemental” Expert**
20 **Disclosure**

21 The court does not see a motion in limine no. 7. This motion is behind the tab entitled
22 “Plaintiff’s MIL #7” so the court assumes there is an inadvertent numbering gap. The court
23 also does not see in the binder or in the court’s Odyssey system an opposition to the motion. If
24 Sarah Malloy’s testimony is to simply rebut the testimony of plaintiff’s life care planner, it
25 would seem as if the expert disclosure is proper. Malloy would not be allowed to testify as to
26 anything (except her background) that does not rebut plaintiff’s expert.

1 **DEFENDANTS’ MOTIONS IN LIMINE**

2 **No. 1 re Traffic Collision Report**

3 The court grants the motion to exclude the entire police report. Although the court does
4 not have the police report, generally police reports contain some inadmissible evidence.
5 However, with a proper foundation and demonstrations that all levels of hearsay have an
6 exception, portions of the police report, such as defendant’s admissions and a police officer’s
7 personal observations are admissible. (*Jane IL Doe v. Brightstar Residential Inc.* (2022) 76
8 Cal.App.5th 171, 178–179, reh'g denied (Mar. 29, 2022), review denied (June 1, 2022); *Simons*
9 *California Evidence Manual* § 2:67 (Jan. 2025 update).) The parties are to meaningfully meet-
10 and-confer and provide the court at the pretrial conference with either an agreed upon exhibit or
11 each party shall submit their proposed version of a redacted police report.

12 **By 8:00 a.m. on June 20, 2025, the parties shall email Department 4 and each other**
13 **as to any tentative rulings that they wish to contest. If the court and the opposing party**
14 **do not receive notice by that time, the tentative rulings will be adopted at the pretrial**
15 **conference.**

16 **JURY INSTRUCTIONS AND VERDICT FORMS**

17 As stated at the informal conference, the court needs the CACI 100 series completely
18 filled out so that it can be read to the jury. If there are certain jury instructions or language of
19 the verdict form that the parties wish to discuss at the pretrial conference, they should email the
20 instructions or forms in dispute in the format set out in the pretrial order to Department 4 at
21 Dept4@sanmateocourt.org and the other side by 10:00 a.m. on Monday, June 23, 2025.
22 Otherwise, the court will wait to see how the evidence comes in before making determinations
23 about the jury instructions and verdict form.

24 **STATEMENT OF THE CASE**

25 The court has defendants’ statement of the case which appears appropriate to the court.
26 The court does not have a statement from plaintiff. If plaintiff disagrees with defendants’
27 proposed statement, the parties shall meet-and-confer and if they are unable to agree, they shall
28 bring copies of their proposed statements to the pretrial conference.

1 **WITNESSES**

2 The court has defendants' proposed witness list but not one from plaintiff. The court
3 needs a joint witness list in the format set forth in the pretrial order. (Pretrial Order, ¶¶ 27-30.)
4 The joint list shall be filed and also emailed to Department 4 by 10:00 a.m. on Monday, June
5 23, 2025.

6 The court has plaintiff's deposition designations but does not see any counter-
7 designations or objections filed. The parties shall meet-and-confer about deposition
8 designations. If there are any objections, they shall file the objections and provide a binder
9 with the disputed testimony bolded with the objection written next to the designation by July 8,
10 2025.

11 If any witness will be testifying by Zoom, the parties shall so indicate at the pretrial
12 conference and if any party objects to the witness testifying by Zoom, the party shall indicate
13 the reason for the objection.

14 The parties are to notify the other side no later than 4:30 p.m. the court day before the
15 next court day of the witnesses who will be called the next court day.

16 If a party does not have a witness ready to testify, the court, in its discretion, may find
17 that the party has rested.

18 **EXHIBITS**

19 The court does not have an exhibit list from plaintiff. Please file, serve and email it to
20 Department 4 by 10:00 a.m. on June 23, 2025. The court encourages the parties to stipulate to
21 the admissibility of documents for which there is no objection.

22 The court has the following comments:

23 The court will not admit all medical records. The descriptions for defendants' exhibits
24 are too broad. Personal identifying information must be redacted from all records.

25 Expert files and CVs are generally are not admitted into evidence.

26 For the discovery responses, only the relevant questions and answers (with objections
27 redacted) which are used will be admitted into evidence.

1 If any attorney, party or witness needs any accommodations, they are to follow the
2 court's procedures for making their request.

3 **PRETRIAL CONFERENCE**

4 The parties are reminded that the first pretrial conference is in person and will be held at
5 the Hall of Justice, 400 County Center, Courtroom 4C, Redwood City, CA 94063. The court
6 will discuss whether the second pretrial conference will be in person or whether the parties may
7 attend by Zoom.

8 Dated: June 17, 2025

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10 NANCY L. FINEMAN
11 Judge of the Superior Court
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