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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

CASE MANAGEMENT ORDER NO. 1

Pursuant to the order entered on _____ assigning this case – which had been previously designated as complex – for all purposes to Judge Mark A. McCannon in Department 2 of this Court, IT IS HEREBY ORDERED as follows:

GENERAL MATTERS

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

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

3. The Court expects all counsel to communicate regularly with each other about hearing dates, progress of the case, and settlement possibilities. Meeting and conferring with opposing counsel on procedural and substantive issues is required.

4. Continuances of hearing and trial dates are discouraged. If a continuance is necessary, it must be approved by this Court. Continuances by stipulation are not permitted without prior approval of the Court, and only to a date pre-approved by the Court. Please email the Clerk for Department 2 at both dept2@sanmateocourt.org and complexcivil@sanmateocourt.org for available dates before contacting opposing counsel. If preliminary approval is given, a written stipulation must be provided before the hearing or trial date. Faxed or electronic signatures on stipulations are permitted.

5. If a case settles before a hearing or trial date, the parties must notify the Clerk for Department 2 by telephone and email (dept2@sanmateocourt.org and

1 complexcivil@sanmateocourt.org) as soon as the disposition is agreed upon and must file either a
2 Notice of Settlement, Request for Dismissal, a Stipulation for Entry of Judgment, or a Judgment
3 on Stipulation that is ready for the Court's signature. If the applicable document is not ready,
4 counsel must appear at the time scheduled for hearing and recite the settlement for the record.
5

6 6. The parties and their counsel must provide the Clerk for Department 2 with an
7 email service list. This list will be used by the Court to send any communications to all parties.
8 It is the parties' responsibility to make sure that the email addresses on this list are accurate. At
9 the first case management conference with Department 2, each party must indicate whether
10 he/she/it/they will agree to email service by the Court. If the party agrees to email service on the
11 record, then that party will only receive the Court's orders by email and will not receive any
12 orders by mail.
13

14 **GENERAL -- FILINGS AND CORRESPONDENCE**

15 7. Pursuant to Code of Civil Procedure section 1010.6, subdivision (c), all documents
16 in Complex Civil actions (with the exception of the original documents specified in paragraph 8
17 below) must be filed electronically. The documents (other than exhibits) must be text
18 searchable. Please visit www.sanmateocourt.org for more information on e-filing. Please note
19 that any exhibits to electronically filed briefs, declarations, or other documents must be
20 electronically "bookmarked" as required by CRC Rule 3.1110(f)(4).
21

22 8. Until further order of this Court, the following original documents must still be
23 filed or lodged in hardcopy paper with the Civil Clerk's Office located in the Hall of Justice,
24 First Floor, Room A, 400 County Center, Redwood City, California:
25

26 a. Ex parte motions, oppositions to ex parte motions, and all supporting paper

27 b. Stipulations and proposed orders
28

- 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 2. Department 2 prefers that any such filing be served electronically at the following two email addresses: dept2@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 2 located at Courtroom J, 1050 Mission Road, South San Francisco, CA. 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 2. There is no dedicated fax line for Department 2, and your documents may get lost and never reach the Court.

12. All correspondence to Department 2 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: dept2@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 to these email addresses are not part of the official court files – i.e., they are not “filed” documents – and may be subject to deletion or destruction after 30 days.

13. All email correspondence to Department 2 at dept2@sanmateocourt.org and complexcivil@sanmateocourt.org must include the case name, case number, and judge’s last name – i.e., Smith v. Jones, 18CIV1234, MCCANNON – in the “subject line” header and be copied to all counsel or persons appearing in propria persona.

CASE MANAGEMENT CONFERENCES

14. The Court holds complex case management conferences (“CMC”) on **Thursday morning**.

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

16. After the first CMC, future CMC are scheduled as necessary to monitor the progress of the case and to assist counsel and the parties as the matter progresses. Counsel thoroughly familiar with the case must attend all CMCs.

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

a. A brief objective summary of the case.

- 1 b. A summary of any orders from prior CMC and the progress of the parties’
2 compliance with those orders.
3
4 c. A summary of the status of discovery, including a description of all anticipated
5 discovery and incomplete or disputed discovery issues.
6
7 d. Anticipated motions, including a proposed briefing schedule when applicable.
8
9 e. A summary of any significant procedural or practical problems that are likely to
10 arise in the case such as (this list is not intended to be exhaustive or applicable to
11 every case):
12 i. unserved parties and reasons for the failure to serve;
13 ii. unserved or unfiled cross-complaints;
14 iii. related actions pending in any jurisdiction, a brief description of those
15 actions (including their current procedural posture), and the potential
16 for coordination or consolidation;
17 iv. jurisdictional or venue issues that may arise;
18 v. severance of issues for trial; and
19 vi. calendar conflicts for any attorney, witness, or party, and any other
20 matter which may affect the setting of a trial date.
21
22 f. Status of settlement or mediation.
23
24 g. Suggestions for efficient management of the case, including a proposed discovery
25 plan and timeline of key events (including proposed dates for future law and motion
26 and trial).
27
28 h. Any other matters that the parties believe will assist the Court in determining an
effective case management plan.

- 1
2 i. A proposed date for the next CMC.

3 **EX PARTE APPLICATIONS**

4 18. Ex parte appearances are discouraged except in unusual situations. Hearing dates
5 for ex parte applications must be coordinated by email with the Clerk for Department 2 at
6 dept2@sanmateocourt.org and complexcivil@sanmateocourt.org. The Court hears ex parte
7 applications on Thursday at 1:30 p.m. or Friday at 1:30 p.m. The Court prefers to have ex parte
8 applications heard on Friday. The Court's consideration of an ex parte application will not
9 interfere with or delay any trial in progress. Strict compliance with California Rules of Court,
10 rules 3.1200-3.1207 is required.
11

12 19. All papers necessary to the determination of the application, including any
13 proposed pleading, motion, or order, must be submitted, preferably by email to both
14 dept2@sanmateocourt.org and complexcivil@sanmateocourt.org, directly to Department 2
15 by noon the court day before the scheduled ex parte hearing date. Counsel may contact the
16 Clerk for Department 2 to inquire if oral argument will be permitted, or if the Court will rule
17 based on the written papers.
18

19 20. The Court is eager to assist counsel when specific problems arise that may not
20 require a formal motion. To arrange a conference with the Court that all counsel agree is
21 advisable, please contact the Clerk for Department 2 by email at dept2@sanmateocourt.org
22 and complexcivil@sanmateocourt.org to schedule a time for the conference. This informal
23 conference will be conducted by videoconference or audioconference unless otherwise indicated
24 by the Court. For these informal conferences, briefs on court pleading paper not to exceed three
25 (3) pages – which must be served – may be submitted by email to the Court at
26 dept2@sanmateocourt.org and complexcivil@sanmateocourt.org.
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DISCOVERY

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

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

23. Requests for an IDC may be made, after meaningful meet and confer, by sending an email to both dept2@sanmateocourt.org and complexcivil@sanmateocourt.org, copied to all counsel. The Court will provide proposed dates. Parties are to meet and confer as to availability for the proposed dates. If one or more parties are not available on the proposed date(s), additional dates may be requested. The Court will inform the parties whether the IDC will be conducted by audioconference or videoconference or in person. The Court will also consider requests from depositions in progress. IDCs may not be recorded by any party and may not be reported by any court reporter.

1 24. For the IDC, each side must serve and email to the Court at both
2
3 dept2@sanmateocourt.org and complexcivil@sanmateocourt.org a short brief on court
4 pleading paper, limited to no more than five (5) pages, at least three (3) court days before the
5 IDC. The requesting party's brief shall include the subject discovery requests and discovery
6 responses (if any) attached as exhibits.

7 25. Pursuant to Code of Civil Procedure section 2016.080, subdivision (c)(2), the time
8 for bringing any motion to compel or any other discovery motion is tolled on the date a party
9 makes the email request for an IDC to the Court. All requests for an IDC must be made well
10 before the expiration of the statutory time to bring a motion to compel or other discovery
11 motion.
12

13 **LAW AND MOTION**

14 26. Before the hearing of any motion, petition, or application, except applications to
15 appear pro hac vice and motions to withdraw as counsel of record, all counsel and persons
16 appearing in propria persona shall confer in a good faith attempt to eliminate the necessity of
17 the hearing or to resolve as many disputes as possible. Counsel for the moving party shall
18 arrange the conference to meet and confer at least three (3) calendar days before the hearing and
19 shall submit to the Court at least one (1) day before the hearing a declaration establishing that
20 the meet and confer conference occurred and describing any agreements that counsel have
21 reached.
22

23 27. Hearings may be scheduled by contacting the Clerk for Department 2 by email at
24 both dept2@sanmateocourt.org and complexcivil@sanmateocourt.org. The Court hears
25 motions in its complex cases on **Thursday morning**. Counsel must first clear the proposed
26 hearing date(s) with the other parties before contacting the Clerk. Counsel for the moving party
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1 must provide the Court with the name of the case, the case number, the type of hearing, the
2 hearing date(s) requested, and the name and telephone number of the filing attorney.

3
4 28. Any reply must be filed at least two (2) weeks before the hearing date. Although
5 the Court imposes no other deadlines for motions in its complex cases, the Court strongly
6 encourages the parties to agree to a briefing schedule. So long as any reply is filed at least two
7 (2) weeks before the hearing date, the parties may agree on any briefing schedule and submit a
8 stipulation and proposed order with the agreed upon schedule for the Court's signature.

9
10 29. Motions or applications to seal must be heard no later than any motion relying on
11 the materials for which sealing is sought. Upon denial of a motion or application to seal, the
12 moving party must notify the Court that the materials are to be filed unsealed (CRC 2.551(b)) or
13 refrain from relying on the materials, which will not be part of the record.

14 30. 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
19 31. As to discovery motions, the parties are relieved of their obligation under rule
20 3.1345 of the California Rules of Court to file a separate statement. Instead, the parties must (1)
21 attach the discovery request(s) or deposition question(s) at issue and the written response(s), if
22 any, to the declaration submitted in support of the discovery motion; and (2) submit a concise
23 outline of the discovery request and each response in dispute pursuant to Code of Civil
24 Procedure section 2030.300, subdivision (b)(2).

25
26 32. Counsel for the moving parties must notify the Clerk for Department 2 by
27 telephone and by email at both dept2@sanmateocourt.org and complexcivil@sanmateocourt.org

1 as soon as possible regarding any matter to be taken off calendar or continued. Notices of
2 continuance of any hearing must be provided by the moving party.

3
4 33. Pursuant to CRC Rule 3.113(i), Department 2 does not require an appendix of
5 non-California authorities in connection with any memoranda submitted in connection with any
6 motion unless otherwise ordered by the Court with the following exception: Because the Court
7 only has access to non-California authorities via WESTLAW – and NOT via LEXIS – any
8 authorities that are not reported in an official reporter and that are cited must either be: (1) cited
9 using the WESTLAW citation or a citation accessible through WESTLAW; or (2) provided to
10 Department 2 by email at both dept2@sanmateocourt.org and
11 complexcivil@sanmateocourt.org.
12

13 34. The Court believes strongly in the importance of training the next generation of
14 trial lawyers. This training needs to include substantive speaking opportunities in court. The
15 Court therefore strongly encourages the parties and senior attorneys to allow the participation of
16 junior lawyers in all court proceedings, particularly in arguing motions where the junior lawyer
17 drafted or contributed significantly to the motion or opposition.
18

19 35. The Court typically issues **tentative rulings** or a list of issues that the Court would
20 like the parties to address at the hearing. The Court will post or email its tentative ruling or list
21 of issues to the parties using the service list provided by the parties **by 1:30 p.m. at least one**
22 **court day before the scheduled hearing**. If any party intends to contest the tentative ruling at
23 the hearing, that party must notify the other parties and the Clerk for Department 2 by email at
24 both dept2@sanmateocourt.org and complexcivil@sanmateocourt.org by 4:00 p.m. at least
25 one court day before the scheduled hearing. Otherwise, the tentative ruling will become the
26 order of the Court.
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SETTLEMENT CONFERENCES AND MEDIATIONS

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

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

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

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

40. Any request for a waiver of the requirement to personally appear at the Mandatory Settlement Conference, whether conducted by a judge or a special master, must be made by written application to the Court.

PRETRIAL DEADLINES AND REQUIREMENTS

41. 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

42. 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 43. Some of the requirements only apply to jury trials – i.e., the requirements for jury
5 instructions, jury questionnaire, proposed verdict form(s), and statement of the case. These
6 requirements obviously do not apply to court trials. But all other requirements – i.e., the
7 requirements for motions in limine, witness lists, trial exhibits, and meet and confer – and
8 corresponding deadlines do apply to court trials.
9

10 44. Any changes to the deadlines established by this order for filings or submissions to
11 the Court REQUIRE an order from the Court. If the parties agree on the proposed change(s), then
12 they may submit a joint stipulation and proposed order explaining the reasons for the proposed
13 change(s). If the parties do not agree, then the party seeking to change the deadline(s) may seek
14 ex parte relief. In seeking to change any deadlines, please keep in mind that the Court needs
15 enough time to review the parties' filings and submissions.
16

17 **MEET AND CONFER**

18 45. All parties must meet and confer **in person or videoconference** regarding motions
19 in limine, jury instructions, verdict form(s), jury questionnaire (if any), a statement of the case,
20 witness lists, deposition designations, exhibit lists, exhibits, and a pretrial conference statement,
21 and any other issues that may arise at trial no later than 21 days before the PTC. If the parties
22 wish to meet and confer by telephone, they must obtain permission from the Court. The Court
23 expects meaningful meet and confer in accordance with the following guidelines available at
24 [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)
25 [Revised_Sept-2014.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf).
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27 46. During the meet and confer, the parties must engage in a good faith effort to:
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- a. Resolve any issues parties intend to raise in the motions in limine;
- b. Resolve any disputes over the jury instructions;
- c. Resolve any disputes over the verdict form(s);
- d. Agree on a proposed jury questionnaire (if any);
- e. Agree on a proposed statement of the case to be read to the jury during voir dire;
- f. Resolve any disagreements over witnesses, including deposition designations, and exhibits to be introduced at trial; and
- g. Stipulate to any relevant facts that can be incorporated into the record without supporting testimony or exhibits.

47. 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

48. 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.

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

50. 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);
- f. Stipulation to admissibility.

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

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

52. Exhibits shall be numbered. NO letters may be used. The parties must agree on a block of numbers to fit the needs of the case (e.g., the plaintiff has exhibits 1-100; the defendant has exhibits 101-200), and make a good faith effort to avoid marking the same exhibit in their respective blocks. If the exact same exhibit is marked by more than one party, then the defendant shall withdraw the duplicative exhibit (but should not renumber its portion of the exhibit list). If there is any dispute over which portions of an overlapping exhibit should be introduced into evidence, the parties shall meet and confer in an attempt to informally resolve the issue. If the 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.

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

54. To avoid any party claiming “ownership” of an exhibit, all exhibits shall be marked and referred to as “Trial Exhibit No. ____” – and NOT as “Plaintiff’s Exhibit” or “Defendant’s Exhibit.”

55. Each party must provide the Court with three (3) complete set of exhibits the party intends to introduce at trial in both hard copy in tabbed binders and on a thumb drive the day of Trial. Each party will be expected to place the official exhibit stamp on each document; the exhibit tabs may be obtained from the courtroom clerk. The Court may require additional copies of those exhibits for trial, including separate exhibit binders for each witness.

56. The parties must meet and confer to eliminate duplicate exhibits and stipulate whenever possible to authenticity and admissibility.

57. 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.

58. **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

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

60. 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

61. 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.

62. 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.

63. 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.

64. 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.

65. 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

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

67. 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.

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

69. 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.

70. 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.

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VERDICT FORM(S)

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

72. 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)

73. 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.

74. 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

75. The parties must file a joint proposed statement of the case to be read to the jury during voir dire, or, if they disagree, separate proposed statements of the case. Unless the case is very complex, this statement should not exceed one-page double spaced. The statement should 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).

MOTIONS IN LIMINE

76. The parties shall meet and confer no later than twenty-one (21) days before the PTC to determine whether any evidentiary issues may be resolved by stipulation. No party may file a motion in limine (“MIL”) without first making a good faith effort to resolve/narrow the evidentiary issue with the opposing party.

77. **MILs not to be filed.** Administrative and other motions not seeking to exclude specific evidence, e.g., excluding witnesses from the courtroom, requesting 24 hours’ notice of calling a witness, a review of demonstrative exhibits to be used at opening or closing, excluding speculative evidence, excluding evidence not produced in discovery (when that is the sole reason offered), precluding “reptile theory” arguments, should not be subject of an MIL. An MIL which argues that “no evidence on an issue should be introduced because there is no evidence on the issue” or because “there is other evidence that conflicts with the evidence sought to be suppressed” are not proper MILs. A “judge generally should not be weighing the evidence on a motion in limine.” *Kinda v. Carpenter* (2016) 247 Cal. App. 4th 1268, 1282, citing *R & B Auto Ctr., Inc. v. Farmers Grp., Inc.* (2006) 140 Cal. App. 4th 327, 371 (MILs “may not be used to resolve factual issues”).

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

8 79. MILs must be **served 5 days before the PTC.**

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

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

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

18 83. Each opposition is also limited to five (5) pages unless otherwise permitted by the
19 Court.

20 84. Each party must also submit a hard copy and a Word version of all proposed orders.
21 Each proposed order must provide enough specificity that a witness will be able to understand
22 what testimony is prohibited.

23 85. **Violations of in limine orders.** Parties must instruct their witnesses on the relevant
24 in limine orders. Where a party “willfully and repeatedly violated the trial court's orders in
25

1 limine” to the prejudice of the other side, the action may be dismissed. *Osborne v. Todd Farm*
2 *Serv.* (2016) 247 Cal. App. 4th 43, 54 (“repeatedly attempting to solicit testimony that had been
3 excluded”). See also *Martinez v. Dep’t of Transportation* (2015) 238 Cal. App. 4th 559, 561 (the
4 trial court failed to terminate the case, but should have).

5
6 86. The motions will be heard at the PTC or at such other time as the Court may direct.

7 **PRETRIAL CONFERENCE**

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

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

- 11 a. Motions in limine;
12 b. Jury instructions;
13 c. Voir dire;
14 d. Jury questionnaire (if any);
15 e. Verdict form(s);
16 f. Proposed statement of the case;
17 g. Witnesses, including proposed deposition designations;
18 h. Exhibits;
19 i. Stipulations; and
20 j. Any other issues relating to the trial.
21
22

23 **JOINT PRETRIAL CONFERENCE STATEMENT**

24 89. The parties shall file a Joint Pretrial Conference Statement at least 14 days before
25 the PTC that contains:
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27
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- a. Substance of the Action: A brief description of the parties, the claims and defenses that remain to be decided (including whether any issues are for the Court to decide rather than the jury), 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 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 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.

90. 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.

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

MISCELLANEOUS

92. The initial Case Management Conference scheduled for _____ is VACATED.

93. The initial Case Management Conference is reset for _____ at 9:00 a.m. Zoom appearances are permitted but not required.

94. All discovery is STAYED pending the initial Case Management Conference.

95. By the date of the Conference, the parties shall provide the Clerk with an email service list as required by this Order and shall be prepared to indicate whether they agree to email service from the Court.

96. Any recording of a court proceeding held by video or audio conference, including "screen-shots" or other visual or audio copying of a hearing or conference IS PROHIBITED unless otherwise permitted by the Court. Violation of these prohibitions may result in sanctions, including restricted entry to future hearings and conferences, denial of entry to future hearings

1 and conferences, removal of Court-issued media credentials, or any other sanctions deemed
2 appropriate by the Court.
3

4 97. The Court may not be able to provide a court reporter for the PTC or Trial. Any
5 party that wishes to have a court reporter for the PTC or Trial may bring their own reporter if
6 the Court is unable to provide one. Before a party may bring its/his/her/their own court reporter
7 to a proceeding, however, that party MUST comply with Local Rule 2.12. Otherwise, a court
8 reporter is WAIVED.
9

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

13 **IT IS SO ORDERED.**
14

15 DATED: _____

16 HON. MARK A. MCCANNON
JUDGE OF THE SUPERIOR COURT
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