

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

3
4 ,) Case No.:
5 Plaintiff,) Assigned for All Purposes to Hon. Danny Y. Chou
6 v.) **PRETRIAL ORDER #1**
7 ,)
8 Defendant.)
9)
10)

11 Because the Court wishes to ensure that the Court, the parties, and the witnesses in this case are
12 prepared to begin the trial on the actual date that the trial is scheduled, the Court, pursuant to its inherent
13 authority, HEREBY ORDERS THAT:

14 **TRIAL, PTC, AND MSC DATES**

- 15 1. The Court Trial is scheduled for _____ at **9:00 a.m.** The Court's trial days are normally
16 Monday, Tuesday, and Friday.
- 17 2. The Pretrial Conference is scheduled for _____ at _____ **a.m./p.m.** Lead trial counsel for
18 each party is ORDERED to appear IN PERSON.
- 19 3. The Mandatory Settlement is scheduled for _____ at **9:00 a.m.** before a judge to be
20 determined. The judge who has been assigned to handle the mandatory settlement conference
21 will communicate with the parties to confirm the date and time of the conference.
- 22 4. Please note that the Court is now in Courtroom I of the Central Courthouse located at 800 N.
23 Humboldt St., San Mateo, CA 94401. Any materials for the Court, including pretrial materials,
24 should be delivered to the Central Courthouse.

OTHER PRETRIAL DEADLINES AND REQUIREMENTS

5. A summary of the deadlines established by this Order is provided below:

EVENT	DEADLINE
Serve (but <u>not</u> file): 1. Proposed motions in limine; 2. Proposed witness lists; 3. Proposed deposition designations; and 4. Proposed exhibit lists	At least 42 days before the Pretrial Conference
Meet and confer regarding pretrial conference – including motions in limine, witness lists, including proposed deposition designations, and exhibit lists	At least 35 days before the Pretrial Conference
File and serve motions in limine and oppositions to motions in limine	At least 21 days before the Pretrial Conference
File joint pretrial conference statement with: 1. Witness lists, including proposed deposition designations; 2. Exhibit lists, including any disputed exhibits; 3. Binders with proposed deposition designations and objections (if any); and 4. Binders with motions in limine, oppositions, and supporting declarations or requests for judicial notice	At least 14 days before the Pretrial Conference
Pretrial Conference	At least 14 days before the Trial Date
Deliver set of trial exhibits in binders and on thumb drive to the Court	At least 7 days before the Trial Date

6. The parties must make every effort to raise and, if possible, 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 of trial or during trial waste the Court's time and are strongly disfavored. With this understanding, **ALL DEADLINES AND REQUIREMENTS IMPOSED BY THIS ORDER ARE SUBJECT TO MODIFICATION AT THE DISCRETION OF THE COURT.**

7. Any changes to the deadlines established by this order for filings or submissions to the Court REQUIRE an order from the Court. If the parties agree on the proposed change(s), then they may submit a joint stipulation and proposed order explaining the reasons for the proposed change(s). If the parties do not agree, then the party seeking to change the deadline(s) may seek ex parte

1 relief. In seeking to change any deadlines, please keep in mind that the Court needs enough time
2 to review the parties' filings and submissions.

3 **MOTIONS IN LIMINE**

- 4 8. The parties are encouraged to resolve as many trial issues by stipulation as possible. The parties
5 shall meet and confer no later than 35 days before the Pretrial Conference to determine whether
6 any evidentiary issues may be resolved by stipulation. No party may file a motion in limine
7 without first making a good faith effort to resolve the evidentiary issue with the opposing party.
- 8 9. Motions in limine and their oppositions must be filed no later than 21 days before the Pretrial
9 Conference. No replies will be permitted without leave of the Court.
- 10 10. Each party must submit a tabbed binder with its motions in limine in numerical order with the
11 opposition immediately behind the motion within the same tab. Any declarations or requests for
12 judicial notice submitted by the parties in support of or in opposition to the motions in limine
13 along with any attached exhibits must be submitted in a separate tabbed binder. The binders must
14 be submitted to the Court with the Joint Pretrial Conference Statement or no later than seven (7)
15 days before the Trial Date if no Pretrial Conference has been scheduled.
- 16 11. Each motion in limine should address a single, separate topic and shall be limited to five (5)
17 pages in length unless otherwise permitted by the Court. Each motion should be clearly
18 identified as “_____’s Motion in Limine No. ___ Re: _____.”
- 19 12. Each opposition is also limited to five (5) pages in length unless otherwise permitted by the
20 Court.
- 21 13. Each party shall file only one (1) declaration and/or one (1) request for judicial notice to support
22 all motions in limine and one (1) declaration and/or one (1) request for judicial notice to support
23 all oppositions to motions in limine. The parties do not have to include a copy of the operative
24 complaint.
- 25 14. Each party shall also submit a hard copy and a Word version of all proposed orders. Each
26 proposed order must provide enough specificity so that a witness will be able to understand what
27 testimony is prohibited.
- 28 15. The motions shall be heard at the Pretrial Conference or at such other time as the Court may
direct.

WITNESS LISTS

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16. Each party must file a list of all the witnesses that the party intends to call at trial with the Joint Pretrial Conference Statement.
 17. 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.
 18. If any party wishes to designate deposition testimony in lieu of live testimony for any witness, then that party must provide its/his/her/their proposed designations to the opposing parties at least 42 days before the Pretrial Conference. The parties are encouraged to resolve as many disputes over the designations by stipulation as possible.
 19. The parties must file a joint pleading with their proposed deposition designations, any objections to those designations, and any responses to those objections, at the same time as their Joint Pretrial Conference Statement. Objections or responses may be no longer than one page.
 20. The parties must also submit to the Court 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.
 21. 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.
 22. Any witness who is not identified on a party's witness list or any deposition designation that was not submitted to the Court is subject to exclusion in the reasonable exercise of the Court's discretion.

TRIAL EXHIBITS

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23. 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.
 24. 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

1 shall withdraw the duplicative exhibit (but should not renumber its portion of the exhibit list). If
2 there is any dispute over which portions of an overlapping exhibit should be introduced into
3 evidence, the parties shall meet and confer in an attempt to informally resolve the issue. If the
4 parties are unable to informally resolve the dispute, then each party shall submit its disputed
5 exhibit with the Joint Pretrial Conference Statement and explain, in no more than one double-
6 spaced page, why the Court should use its proposed exhibit.

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

9 26. Each party must file an exhibit list identifying all the exhibits that the party intends to introduce
10 at trial with the Joint Pretrial Conference Statement.

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

- 12 a. Exhibit number;
- 13 b. Brief description of the exhibit (with any bates numbers if they exist);
- 14 c. Sponsoring witness;
- 15 d. Date marked for identification (left blank); and
- 16 e. Date admitted into evidence (left blank).

17 28. Each party must provide the Court with a complete set of exhibits that the party intends to
18 introduce at trial in both hard copy in tabbed binders and on a thumb drive at least seven (7) days
19 before the Trial Date. Each party will be expected to place the official exhibit stamp on each
20 document; the exhibit tabs may be obtained from the courtroom clerk. The Court may require
21 additional copies of those exhibits for trial, including separate exhibit binders for each witness.

22 29. Any exhibit that is not identified on a party’s exhibit list is subject to exclusion in the reasonable
23 exercise of the Court’s discretion. In exercising this discretion, the Court will consider whether
24 the exhibit is solely being used for impeachment.

25 **MEET AND CONFER**

26 30. Each party must serve (but NOT file) at least 42 days before the Pretrial Conference its proposed
27 motions in limine, proposed witness list, including proposed deposition designations, and
28 proposed exhibit list. Anything that is not included in these served documents – i.e., motions in
limine, witnesses, deposition designations, or exhibits – may be subject to denial or exclusion in
the reasonable exercise of the Court’s discretion.

1 31. All parties must meet and confer regarding motions in limine, witness lists, including proposed
2 deposition designations, exhibit lists, a pretrial conference statement, and any other issues that
3 may arise at trial no later than 35 days before the Pretrial Conference. The meet and confer must
4 include discussions in person or by videoconference. If the parties wish to meet and confer by
5 telephone, they must obtain permission from the Court. The Court expects meaningful meet and
6 confer in accordance with the following guidelines available at
7 [http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf)
8 [2014.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf).

9 32. During the meet and confer, the parties must engage in a good faith effort to:

- 10 a. Resolve any issues raised in the motions in limine;
11 b. Resolve any disagreements over witnesses, including deposition designations, and
12 exhibits to be introduced at trial; and
13 c. Stipulate to any relevant facts that can be incorporated into the record without supporting
14 testimony or exhibits.

15 33. Wherever possible, the parties shall stipulate to the admissibility of any exhibits. If a stipulation
16 is not possible, then the parties shall make every effort to stipulate to the authenticity and
17 foundation for an exhibit absent a legitimate objection.

18 **PRETRIAL CONFERENCE STATEMENT**

19 34. The parties shall file a Joint Pretrial Conference Statement at last 14 days before the Conference
20 that contains the following:

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

- 1 d. Settlement Discussions: A brief description of the efforts the parties have made to settle
2 the case and a brief statement about whether the parties believe that further negotiations
3 are likely to be productive and what, if anything, would facilitate settlement.
4 e. Estimate of Trial Length: An estimate of the number hours needed for the presentation of
5 each party's case.
6 d. Miscellaneous: Any other matters that will facilitate the just, speedy, and efficient
7 resolution of the case.

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

- 10 a. Each party's witness list, including proposed deposition designations;
11 b. Each party's exhibit list, including any disputed exhibits;
12 c. Binder(s) containing the parties' deposition designations, with the testimony to be
13 introduced highlighted in yellow and any objections bracketed in red; and
14 d. Binders container the party's motions in limine, any oppositions, and any supporting
15 declarations or requests for judicial notice in support of or opposition to the motions.

16 36. The parties shall also email the witness lists, exhibit lists, and proposed orders in Word format to
17 the Court.

18 **PRETRIAL CONFERENCE**

19 37. A Pretrial Conference, will occur at least 14 days before the Trial Date. Lead trial counsel for
20 each party must attend.

21 38. At the Pretrial Conference, each party should be prepared to argue and discuss:

- 22 a. Motions in limine;
23 b. Witnesses, including proposed deposition designations;
24 c. Exhibits;
25 d. Stipulations; and
26 e. Any other issues relating to the trial.

27 Dated: _____

28 _____
Danny Y. Chou
Judge of the Superior Court