

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

3
4) Case No.:
5)
6 Plaintiff,) Assigned for All Purposes to Hon. Danny Y. Chou
7 v.) **PRETRIAL ORDER #1**
8)
9 Defendant.)
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13 Because the Court wishes to ensure that the Court, the parties, and the witnesses in this case are
14 prepared to begin the trial on the actual date that the trial is scheduled, the Court, pursuant to its inherent
15 authority, HEREBY ORDERS THAT:

16 **TRIAL, PTC, AND MSC DATES**

- 17 1. The Jury Trial is scheduled for _____ at **9:00 a.m.** The intent is for jury selection to
18 begin on that date and time. The Court's trial days are normally Monday, Tuesday, and Friday.
19 2. The Pretrial Conference is scheduled for _____ at **9:00 a.m.** Lead trial counsel for each
20 party is ORDERED to appear IN PERSON.
21 3. The Mandatory Settlement is scheduled for _____ at **9:00 a.m.** before a judge to be
22 determined. The judge who has been assigned to handle the mandatory settlement conference
23 will communicate with the parties to confirm the date and time of the conference.
24 4. Please note that the Court is now in Courtroom I of the Central Courthouse located at 800 N.
25 Humboldt St., San Mateo, CA 94401. Any materials for the Court, including pretrial materials,
26 should be delivered to the Central Courthouse.
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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 jury instructions; 3. Proposed verdict form(s); 4. Proposed witness lists; 5. Proposed deposition designations; and 6. Proposed exhibit lists	At least 42 days before the Pretrial Conference
Meet and confer regarding pretrial conference – including motions in limine, proposed jury instructions, proposed juror questionnaire (if any), proposed verdict forms, proposed statement of the case, proposed deposition designations (if any), and witness 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. Proposed jury instructions; 2. Proposed verdict form(s); 3. Proposed voir dire and juror questionnaire (if any); 4. Proposed statement of the case; 5. Witness lists, including proposed deposition designations; 6. Exhibit lists, including any disputed exhibits; 7. Binders with proposed deposition designations with objections (if any); and 8. 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 jury's time and are strongly disfavored. With this understanding,

1 14. Each party shall also submit a hard copy and a Word version of all proposed orders. Each
2 proposed order must provide enough specificity so that a witness will be able to understand what
3 testimony is prohibited.

4 15. The motions shall be heard at the Pretrial Conference or at such other time as the Court may
5 direct.

6 **JURY INSTRUCTIONS**

7 16. The parties shall file a joint set of proposed jury instructions, arranged in the order the parties
8 propose the Court give the instructions, with the Joint Pretrial Conference Statement.

9 17. The parties are invited to use the Judicial Council of California Civil Jury Instructions (CACI).
10 Any modifications made to a form instruction must be plainly identified.

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

13 19. If the parties disagree on an instruction, each party’s proposed version of the disputed instruction
14 shall be provided and identified as “Disputed Instruction No. ____ Re: _____ Offered by
15 _____,” with blanks filled in as appropriate. All proposed versions of the same instruction
16 shall bear the same number. Following each disputed instruction, each party shall explain, in no
17 more than one page, why the Court should give that party’s proposed instruction or why the
18 instruction should or should not be given.

19 20. Any changes to the proposed jury instructions ordered by the Court must be made by the parties
20 and submitted to the Court by the deadline set by the Court at the Pretrial Conference or by any
21 other deadline set by the Court.

22 **VERDICT FORM(S)**

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

25 22. Any changes to the proposed verdict form(s) ordered by the Court must be made by the parties
26 and submitted to the Court in Word format by the deadline set at the Pretrial Conference or by
27 any other deadline set by the Court.

28 **VOIR DIRE AND JURY QUESTIONNAIRE (IF ANY)**

29 23. The Court will conduct the initial voir dire guided by the Standards of Judicial Administration §
30 3.25(c). If the parties want the Court to ask any particular questions from those Standards or any

1 additional questions, they should jointly submit those questions (and any objections) with the
2 Joint Pretrial Conference Statement.

- 3 24. If the parties wish to use a jury questionnaire, the parties must file a joint proposed jury
4 questionnaire or, if they disagree, separate proposed jury questionnaires with the Joint Pretrial
5 Conference Statement.

6 **PROPOSED STATEMENT OF THE CASE**

- 7 25. The parties must file a joint proposed statement of the case to be read to the jury during voir dire
8 with the Joint Pretrial Conference Statement. Unless the case is very complex, this statement
9 should not exceed one-page double spaced. The statement should be neutral rather than
10 argumentative. The parties shall also include the names of attorneys and witnesses to be read to
11 the jury. See Standards of Judicial Administration § 3.25(b).

12 **WITNESS LISTS**

- 13 26. Each party must file a list of all the witnesses that the party intends to call at trial with the Joint
14 Pretrial Conference Statement.

- 15 27. The witness list must be in tabular form and contain the following:

- 16 a. Name of the witness;
17 b. Title of the witness, if any;
18 c. Brief description of the subject matter of the witness' anticipated testimony; and
19 d. Estimated length of the direct examination, cross-examination, and rebuttal.

- 20 28. If any party wishes to designate deposition testimony in lieu of live testimony for any witness,
21 then that party must provide its/his/her/their proposed designations to the opposing parties at
22 least 42 days before the Pretrial Conference. The parties are encouraged to resolve as many
23 disputes over the designations by stipulation as possible.

- 24 29. The parties must file a joint pleading with their proposed deposition designations, any objections
25 to those designations, and any responses to those objections, at the same time as their Joint
26 Pretrial Conference Statement. Objections or responses may be no longer than one page.

- 27 30. The parties must also submit to the Court tabbed binder(s) with the proposed deposition
28 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.

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

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

7 TRIAL EXHIBITS

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

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

20 35. To avoid any party claiming "ownership" of an exhibit, all exhibits shall be marked and referred
21 to as "Trial Exhibit No. ___" – and NOT as "Plaintiff's Exhibit" or "Defendant's Exhibit."

22 36. Each party must file an exhibit list identifying all the exhibits that the party intends to introduce
23 at trial with the Joint Pretrial Conference Statement.

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

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

38. Each party must provide the Court with a complete set of exhibits that the party intends to
introduce at trial in both hard copy in tabbed binders and on a thumb drive at least seven (7) days

1 before the Trial Date. Each party will be expected to place the official exhibit stamp on each
2 document; the exhibit tabs may be obtained from the courtroom clerk. The Court may require
3 additional copies of those exhibits for trial, including separate exhibit binders for each witness.

4 39. Any exhibit that is not identified on a party's exhibit list is subject to exclusion in the reasonable
5 exercise of the Court's discretion. In exercising this discretion, the Court will consider whether
6 the exhibit is solely being used for impeachment.

7 **MEET AND CONFER**

8 40. Each party must serve (but NOT file) at least 42 days before the Pretrial Conference its proposed
9 motions in limine, proposed jury instructions, proposed verdict form(s), proposed witness list,
10 including proposed deposition designations, and proposed exhibit list. Anything that is not
11 included in these served documents – i.e., motions in limine, witnesses, deposition designations,
12 or exhibits – may be subject to denial or exclusion in the reasonable exercise of the Court's
13 discretion.

14 41. All parties must meet and confer regarding motions in limine, jury instructions, verdict form(s),
15 jury questionnaire (if any), a statement of the case, witness lists, including deposition
16 designations, exhibit lists, a pretrial conference statement, and any other issues that may arise at
17 trial no later than 35 days before the Pretrial Conference. The meet and confer must include
18 discussions in person or by videoconference. If the parties wish to meet and confer by telephone,
19 they must obtain permission from the Court. The Court expects meaningful meet and confer in
20 accordance with the following guidelines available at
21 [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)
22 [2014.pdf.](http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf)

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

- 24 a. Resolve any issues raised in the motions in limine;
- 25 b. Resolve any disputes over the jury instructions;
- 26 c. Resolve any disputes over the verdict form(s);
- 27 d. Agree on a proposed jury questionnaire (if any);
- 28 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

1 g. Stipulate to any relevant facts that can be incorporated into the record without supporting
2 testimony or exhibits.

3 43. Wherever possible, the parties shall stipulate to the admissibility of any exhibits. If a stipulation
4 is not possible, then the parties shall make every effort to stipulate to the authenticity and
5 foundation for an exhibit absent a legitimate objection.

6 **PRETRIAL CONFERENCE STATEMENT**

7 44. The parties shall file a Joint Pretrial Conference Statement at last 14 days before the Conference
8 that contains the following:

- 9 a. Substance of the Action: A brief description of the parties, the claims and defenses that
10 remain to be decided (including whether any issues are for the Court to decide rather than
11 the jury), and the operative pleading, including the date of filing, that raises these claims
12 and defenses.
- 13 b. Relief Requested: A detailed statement of all requested relief that itemizes all elements of
14 damages that are claimed.
- 15 c. Undisputed Facts: A plain and concise statement of all relevant facts to which the parties
16 will stipulate for incorporation into the record without supporting testimony or exhibits or
17 that are undisputed.
- 18 d. Settlement Discussions: A brief description of the efforts the parties have made to settle
19 the case and a brief statement about whether the parties believe that further negotiations
20 are likely to be productive and what, if anything, would facilitate settlement.
- 21 e. Estimate of Trial Length: An estimate of the number hours needed for the presentation of
22 each party's case.
- 23 d. Miscellaneous: Any other matters that will facilitate the just, speedy, and efficient
24 resolution of the case.

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

- 27 a. Proposed jury instructions
- 28 b. Proposed verdict form(s)
- c. Proposed jury questionnaire (if any)
- d. Proposed statement of the case
- e. Each party's witness list, including proposed deposition designations;

- 1 f. Each party's exhibit list, including any disputed exhibits;
2 g. Binder(s) containing the parties' deposition designations, with the testimony to be
3 introduced highlighted in yellow and any objections bracketed in red; and
4 h. Binder(s) container each party's motions in limine, any oppositions, and any supporting
5 declarations or requests for judicial notice in support of or opposition to the motions.
6 46. The parties shall also email the witness lists, exhibit lists, proposed jury instructions, proposed
7 verdict form(s), proposed jury questionnaire (if any), proposed statement of the case, and
8 proposed orders in Word format to the Court.

9 **PRETRIAL CONFERENCE**

- 10 47. A Pretrial Conference will occur at least 14 days before the Trial Date. Lead trial counsel for
11 each party must attend in person.
12 48. At the Pretrial Conference, each party should be prepared to argue and discuss:
13 a. Motions in limine;
14 b. Jury instructions;
15 c. Voir dire;
16 d. Jury questionnaire (if any);
17 e. Verdict form(s);
18 f. Proposed statement of the case;
19 g. Witnesses, including proposed deposition designations;
20 h. Exhibits;
21 i. Stipulations; and
22 j. Any other issues relating to the trial.
23

24 Dated: _____

25 Danny Y. Chou
26 Judge of the Superior Court
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