

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
CENTRAL DIVISION – DEPARTMENT 73
HONORABLE JOEL R. WOHLFEIL**

CLERK: (619) 450-7073
IC CLERK: (619) 450-7006

CASE NAME: _____ vs. _____

CASE # _____

ADVANCE TRIAL REVIEW ORDER MADE BY **DEPARTMENT 73** ON _____
BY THE **HONORABLE JOEL R. WOHLFEIL**

Trial counsel for the parties are ordered to meet in person within the County of San Diego at least three (3) court days before the initial trial call date for the purpose of arriving at stipulations and agreements resulting in the simplification of triable issues. At the meeting, the following information shall be prepared, displayed and/or exchanged:

- _____ 1. Counsel shall produce and [pre]mark all exhibits the parties seek leave of Court to introduce at trial. Counsel shall prepare a joint numerical index of all exhibits for submission to the trial judge. There shall be no subparts to an exhibit. The index shall indicate: 1) the exhibit number, 2) by whom the exhibit is being offered, 3) a brief description of the exhibit, 4) whether the parties have stipulated to admissibility, and if not, 5) legal ground(s) for objection(s) that the objecting party intends in good faith to rely on at trial (see the attached example for joint exhibit list). The index shall be submitted in triplicate. Exhibits not included in the index are subject to exclusion at trial, with the exception of **true** impeachment exhibits. Exhibit tags must be completed and attached on the upper right hand corner of each exhibit. See example on page 6.
- _____ 2. If depositions are intended to be used in lieu of live testimony, counsel shall submit the excerpts to be used, to opposing counsel, at the above meeting. Proposing and opposing counsel shall make a good faith effort to resolve any objections. Any remaining objections shall be brought to the Court's attention prior to the start of trial. It shall be the responsibility of the proponent of the evidence to prepare clean copies of the excerpts, which shall include the beginning and ending page and line numbers, to be given to the trial judge and placed in the record to eliminate the need of reporting the reading of the testimony. The original transcripts of all depositions which may be used at trial for any purpose shall be made available for use by the Court before the commencement of trial, along with a list of any changes made by the deponent after the taking of the deposition. Any problems in this regard shall be brought to the Court's attention prior to the start of trial.

- _____ 3. With regard to any audio and video presentations intended to be used at trial, the proponent shall prepare a written transcript and the procedure set forth in the preceding paragraph shall apply.
- _____ 4. Each party seeking monetary damages shall prepare a summary of the documentary evidence supporting the damages sought (i.e medical bills, accounts, etc.), which shall be included in the exhibit summary and submitted at trial in lieu of the underlying documentary evidence in accordance with Evidence Code 1521.

VOIR DIRE

- _____ 5. Counsel shall jointly prepare a brief non-argumentative summary of the factual nature of the case; **including a brief summary of plaintiff's injuries, if applicable;** for submission to the trial judge. The purpose of the summary is to provide an overview of the case for the jury. This statement shall include a **joint** list of the complete names of all witnesses who are likely to be called in alphabetical order. The joint witness list shall be submitted in triplicate.
- _____ 6. If counsel wish to expand the scope of the judge's initial voir dire beyond the Judicial Council questions found in the Standards of Judicial Administration, Standard 3.25, they shall prepare written questions for submission to the trial judge. These written questions shall be submitted to opposing counsel not later than the above meeting. Duplicate questions shall be eliminated.

JURY INSTRUCTIONS

- _____ 7. Counsel shall prepare a **joint** set of jury instructions. This set shall consist of one package of instructions for all parties. Judicial Counsel Civil Jury Instructions (CACI) preferred. These instructions are available on <http://www.courts.ca.gov/partners/juryinstructions.htm>. The instructions shall be in order they are to be given. Any objections to instructions shall be identified by a Post-It, which identifies the objecting party. Counsel may propose alternative jury instructions. When alternative instructions are presented, those instructions shall be successive instructions in the joint instruction package. The submission of a list of CACI numbers is not acceptable. Neither are multiple packages of instructions acceptable whether arranged by parties, objections or some other method. The full text of all proposed instructions must be presented to the trial judge at or before the time of trial call. If CACI instructions are used, all blanks shall be filled in and all bracketed material that is not applicable shall be deleted.
- _____ 8. Jury instructions not listed in the parties' Joint Trial Readiness Conference Report and prepared in accordance with the above order are subject to exclusion at trial.

- ____ 9. _____ [name of party] waived its right to trial by jury by failing to post fees at least 25 calendar days before the date initially set for trial [CCP631(b)].

FILING DEADLINES / READINESS

- ____ 10. Motions *in limine* shall be prepared and filed and faxed (in accordance with California Rule of Court 2008) or personally served at least **five** court days in advance of trial. The title of each *in limine* motion shall identify the moving party and the nature of the motion, and shall be numbered sequentially, indicating the total number of *In Limine* motions submitted by the moving party. Example: "Plaintiff JANE DOE's Motion *In Limine* to Exclude the Testimony of Joe Expert [NO. 1 of 6]". Written opposition to *in limine* motion, if any, shall be filed and faxed (in accordance with California Rule of Court 2.306) or personally served at least two court days in advance of the trial date and shall identify both the party filing the opposition, and the specific motion which is being opposed by name of moving party and motion number. Example: "Defendant RICHARD ROE's Opposition to Plaintiff JANE DOE's Motion In Limine NO.1". Counsel are urged to file trial briefs according to the same schedule.

WITNESSES / READINESS

- ____ 11. Trial will not be delayed to accommodate witness scheduling problems. In the absence of extraordinary circumstances, the party will be deemed to have concluded the presentation of his/her case once the examination of available witnesses is concluded.
- ____ 12. Witnesses not listed on the parties' Joint Trial Readiness Conference Report are subject to exclusion at trial.
- ____ 13. Each counsel is ordered to telephone 619-450-7006 prior to 12:00 noon on the day before the initial trial call date to report: 1) their readiness for trial, 2) the estimated trial length and 3) whether a jury will be required.
- ____ 14. The stipulation for release of exhibits (attached) shall be signed by counsel for all parties and filed with court at the time of trial call.

ADDITIONAL ORDERS

X EACH OF THE DOCUMENTS REQUESTED IN THIS TRIAL READINESS CONFERENCE REPORT SHALL BE SUBMITTED TO THE COURT ON THE FIRST DAY OF TRIAL.

X FAILURE OF COUNSEL FOR ANY PARTY TO COMPLY WITH THE ABOVE ORDERS MAY RESULT IN THE EXCLUSION OF EVIDENCE OR BE CONSIDERED AN ABANDONMENT OR FAILURE TO PROSECUTE OR DEFEND DILIGENTLY. ACCORDINGLY, JUDGMENT MAY BE ENTERED AGAINST THE DEFAULTING PARTY EITHER WITH RESPECT TO A SPECIFIC ISSUE OR ON THE ENTIRE CASE. IF COMPLIANCE WITH ANY PART OF THIS ORDER BECOMES UNDULY BURDENSOME, THAT FACT SHALL BE BROUGHT TO THE JUDGE'S ATTENTION IMMEDIATELY.

X WE THE UNDERSIGNED ATTORNEYS OF RECORD IN THIS CASE, HAVE READ AND UNDERSTAND THE ABOVE ADVANCE TRIAL REVIEW ORDERS:

Signature of counsel:

Counsel for [name of client]:

IT IS SO ORDERED:

DATE: _____

JOEL R. WOHLFEIL
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO
DEPARTMENT 73 – HONORABLE JOEL R. WOHLFEIL

TRIAL REQUIREMENTS

Please bring the following to the Friday Trial Call:

The Court requires a **joint trial notebook** be prepared that includes the following:

1. Table of contents;
2. Joint Trial Readiness Report;
3. In Limine Motions/Oppositions with an index of the motions;
4. Copy of joint witness list with a short sentence describing the witness (i.e. "Dr. Joe Smith, an internist from Mercy Hospital");
5. Copy of joint exhibit list (follow grid format – see attachment to Advance Trial Review Orders);
6. Copy of trial briefs
7. Joint statement of the case (if not in Joint Trial Readiness Report);
8. Voir Dire questions that counsel want the Court to ask;
9. Jury instructions – packet of agreed upon instructions and packet of not agreed upon instructions with a post-it note indicating who opposes the instruction
10. Special Verdict Form – either an agreed upon form or each side's proposed Special Verdict Form

Note on Exhibits: Try to eliminate duplicative exhibits. If exhibits are duplicative, the first exhibit used will be the official numbered exhibit for the balance of the trial. Exhibits should be individually marked. If an exhibit is multi paged, Bates Stamp the individual pages. If you are submitting photographs, each photograph should have an individual exhibit number.

Please bring the following to the first day of trial:

1. Two sets of exhibit binders, the original copied set is the official set which will be used by the witnesses. The second set is for the court to use;
2. Copies of Deposition Transcripts that will be used during trial;
3. Three copies of the joint witness list – if different than the one in the joint trial notebook;
4. Three copies of the joint exhibit list – if different than the one in the joint trial notebook

JOINT TRIAL EXHIBIT LIST

CASE NUMBER _____

TITLE _____ V. _____

COURT EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	LEGAL GROUND S FOR OBJECTION	(CLERK ENTRIES)	
				DATE IDENTIFIED	DATE ADMITTED

PRE-TRIAL CHECKLIST – DEPARTMENT 73

1. Time Estimate
2. Motions In Limine
3. 402 hearing issues
4. Witness Problems
5. Are the following ready:
 - a. Joint witness list
 - b. Joint exhibit list
 - c. Jury instructions – Court will have initial jury instruction conference prior to commencement of trial
 - d. Verdict form(s)
6. Jury Selection / Voir Dire Process:
 - a. Counsel will be asked to stipulate to pre-screening of jury panel for time and, general qualifications of jury panel.
 - b. Counsel will have approximately 30 minutes for voir dire to the prospective jury panel, (subject to expansion as necessary). When you pass for cause you pass as to the prospective jury panel.
 - c. Counsel should submit in writing, questions they want the Court to ask. No asking jurors how they would decide based on assumed facts; no asking for promises from jurors; no trading personal information about the lawyer with the jury
 - d. Peremptory challenges.
7. Courtroom Rules:
 - a. Counsel do not need to ask permission to approach a witness
 - b. Counsel should not cross-examine the witness leaning over the witness's shoulder, rather counsel should examine from behind counsel table or at the podium, unless it is necessary to go over an exhibit
 - c. Counsel may request sidebar only if absolutely necessary. Offer of proof may be made at the next break in the proceeding, if requested
8. Jury is not to be kept waiting:
 - a. Counsel are ordered to appear at least 10 minutes before Court begins each session
 - b. Counsel are ordered to have all witnesses on standby so there is no delay
 - c. Witnesses who are at any risk for not appearing should be placed under subpoena

- d. Counsel should be aware that they may be forced to rest if witnesses are not available
- 9. Exhibits:
 - a. All exhibits are to be pre-marked with the brown Court's Exhibit tags and placed in 3 ring binders
 - b. Plaintiff's exhibits should start with number 1
 - c. Defendant's exhibits should start with the next hundred number, at least 100 numbers past the last number used by plaintiff
 - d. Counsel shall avoid duplicate exhibits
- 10. Counsel are ordered to meet and confer on jury instructions and verdict form(s) before the trial