

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

CASE NAME: \_\_\_\_\_ vs. \_\_\_\_\_  
CASE NUMBER: \_\_\_\_\_

ADVANCE TRIAL REVIEW ORDER MADE BY DEPARTMENT 68 ON \_\_\_\_\_  
BY THE **HONORABLE RICHARD S. WHITNEY**

Trial counsel for the parties are ordered to meet in person, over the phone, or via video, 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:

**EVIDENCE / EXHIBITS**

- \_\_\_\_\_ 1. Counsel shall produce and pre-mark all exhibits the parties seek leave of Court to introduce at trial. Multi-page exhibits are to be paginated. Counsel shall prepare a Joint Trial Exhibit List for submission to the trial judge (see attached exemplar for Joint Trial Exhibit list format). 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) the legal ground(s) for objection that the objecting party intends in good faith to rely on at trial. 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. The brown exhibit tags must be completed and attached on the lower right corner of the front page of each exhibit. You are responsible for filling out the top two lines only (see exemplar below).
  
- \_\_\_\_\_ 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. 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.

Court's Ex: (In Order) _____
Case #: (Case Number) _____
Rec'd.: (Leave Blank) _____
Dept.: (Leave Blank) Clk.: (Leave Blank) _____

\_\_\_\_ 3. With regard to any audio or 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 Counsel questions found in Judicial Administration Standard 3.25(c), they shall prepare written questions for submission to the trial judge. These written questions shall be submitted to opposing counsel no later than the above meeting. Duplicate questions shall be eliminated.

\_\_\_\_ 7. Counsel shall prepare a joint set of jury instructions. This set shall consist of one package of instructions for all parties. Multiple packages of instructions will not be accepted. Judicial Counsel Civil Jury Instructions (CACI) are preferred. These instructions are available on the Court's website at [www.courtinfo.ca.gov/jury/civiljuryinstructions](http://www.courtinfo.ca.gov/jury/civiljuryinstructions) and in the CACI books. The instructions shall be in the order they are to be given. Any objections to instructions shall be identified by a post-it note, which will identify 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.

\_\_\_\_ 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 timely. Any other party seeking jury trial must post fees within five (5) **calendar** days after the Trial Readiness Conference, or jury is waived as to all parties [CCP § 631(b)].

### **FILING DEADLINES / READINESS**

- \_\_\_\_ 10. Motions in Limine shall be prepared, filed and faxed (in accordance with California Rules of Court, Rule 2.306) or personally served at least five (5) **court** days in advance of the trial . The title of each Motion in Limine shall identify the moving party and describe the nature of the motion, and shall be numbered sequentially, indicating the total number of Motions in Limine 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 oppositions to Motions in Limine, if any, shall be filed and faxed (in accordance with California Rules of Court, Rule 2.306) or personally served at least two (2) **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 is 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/its 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. Counsel are ordered to telephone the courtroom clerk at (619) 450-7068 prior to 12:00 noon on the day before the initial trial call, to report: 1) their readiness for trial, 2) the estimated trial length, and 3) whether a jury will be required.
- \_\_\_\_ 14. Counsel shall prepare a Witness Time Estimate and submit to the Court on the first day of trial (see attached exemplar for Witness Time Estimate format).
- \_\_\_\_ 15. If you are hiring a Court Reporter for trial, you **MUST ENSURE** that the Reporter has the capability of hooking up with the appropriate cables to connect to BRIDGE software.

**ADDITIONAL ORDERS**

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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]:**

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IT IS SO ORDERED:

DATED: \_\_\_\_\_

\_\_\_\_\_  
**RICHARD S. WHITNEY  
JUDGE OF THE SUPERIOR COURT**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO  
DEPARTMENT 68 – HONORABLE RICHARD S. WHITNEY**

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**TRIAL REQUIREMENTS**

Please bring the following to the Friday Trial Call:

The Court requires a **Joint Trial Notebook** be prepared, which will include the following:

1. Table of Contents
2. Copy of Joint Trial Readiness Report submitted at the Trial Readiness Conference
3. Copies of filed 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 this Advance Trial Review Order)
6. Copy of Trial Briefs
7. Joint Statement of The Case
8. Voir Dire questions that counsel wish the Court to ask
9. Jury Instructions – packet of instructions, with post-it notes on any objections, indicating who opposes the instruction, and the basis for the objection.
10. Special Verdict Form – either an agreed-upon form, or each side’s proposed Special Verdict Form

Note on exhibits. Please 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, paginate the individual pages. If you are submitting photographs, each photograph must have an individual exhibit number.

Please bring the following to the first day of trial (not the Friday Trial Call):

1. Two sets of exhibit binders. The original set (with the brown exhibit stickers) will be used by the witnesses. The 2<sup>nd</sup> copied set is for the Court’s use.
2. Copies of deposition transcripts that will be used during trial
3. Three (3) copies of the Joint Witness List
4. Three (3) copies of the Joint Exhibit List



