

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

CASE NAME: _____ vs. _____

CASE NUMBER: _____

ADVANCE TRIAL REVIEW ORDER

**HONORABLE MATTHEW C. BRANER
DEPARTMENT 60**

The Court, having determined that the above referenced matter is now ready for trial, hereby issues its Advance Trial Review Order as follows:

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:

STIPULATIONS

1. Stipulations and agreements shall be reduced to writing. Expert witness qualifications are an exception to this order.

EVIDENCE/EXHIBITS

2. Counsel shall produce and pre-mark all exhibits the parties seek leave of Court to introduce at trial. There shall be no subparts to an exhibit. Counsel shall prepare a joint numerical index of all exhibits for submission to the trial judge. The index shall indicate: 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[s] that the objecting party intends in good faith to rely on at trial (see the attached exemplar).
3. Multi page exhibits must be sequentially paginated.
4. Exhibits not included in the index and displayed or exchanged are subject to exclusion at trial, true impeachment exhibits excepted.
5. Brown exhibit tags must be completed and attached on the lower right-hand corner of each exhibit.
6. All exhibits will be pre-marked as Court exhibits.

DEPOSITIONS

7. 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. This applies to video/audio depositions as well: counsel are to meet and confer regarding edits, with any remaining objections brought to the court's attention.

8. 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.

AUDIO OR VIDEO RECORDINGS

9. With regard to any audio or video presentations intended to be used at trial, the Proponent shall prepare a written transcript and comply with the procedure set for in the preceding paragraph #7.

STATEMENT OF CASE/WITNESS LIST

10. 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.

VOIR DIRE

11. If counsel wish to expand the scope of the judge's initial voir dire beyond the Judicial Council questions found in CRC Standards of Judicial Administration 3.25 (c), 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 AND VERDICT FORMS [Jury Trials Only]

12. Counsel shall prepare a joint set of jury instructions accompanied by a listing of each instruction by CACI number, if any, and title. This set shall consist of one package of instructions for all parties. The instructions shall be in the 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.
13. The full text of all proposed instructions must be presented to the trial judge at or before the time of the trial call. If CACI instructions are used, all blanks shall be filled in and all bracketed material that is not applicable shall be deleted.
14. 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.
15. Jury instructions not prepared in accordance with this Advance Trial Review Order or not listed in the Trial Readiness Conference Report are subject to exclusion at trial.
16. Counsel shall attempt to agree on a Special Verdict Form. The form should follow CACI and include all causes of action and all parties. If counsel are unable to agree, each side may submit a proposed form at Trial Call, with the items in dispute highlighted. A failure to agree on a Special Verdict Form may delay the calling of a jury panel and beginning the trial.

MOTIONS IN LIMINE

17. Motions in limine shall be prepared and filed and faxed (in accordance with the California Rules of Court) or personally served at least five court days in advance of the trial. The title of each in limine motion shall identify the moving party and describe 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, if any, shall be separately filed to each motion in limine. The opposition shall be filed and faxed (in accordance with the California Rules of Court) 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". The parties shall bring a separate in limine binder to trial call with the motions and any responses arranged in order.

TRIAL BRIEFS [Bench Trials Only]

18. Trial Briefs shall be filed and served at least five (5) court days before Trial Call (generally the Friday before).

WITNESS/READINESS

1. Parties are urged to cooperate in resolving witness scheduling issues; the trial will not be delayed merely because of witness scheduling problems. Absent compelling reasons, the party will be deemed to have concluded the presentation of his/her case once the examination of available witnesses is concluded.
2. Witnesses not listed on the parties' Trial Readiness Conference Report are subject to exclusion at trial.
3. Each counsel (or self-represented litigant) is ordered to telephone the Court Clerk (619)450-7060, prior to 10:00 am 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. Counsel are to email the clerk the final joint exhibit list, the joint witness list and the motion in limine index prior to commencement of trial. The clerk's email address will be provided at trial call.
4. The stipulation for release of exhibits shall be signed by counsel for all parties and filed with the Court at the time of trial call.

ADDITIONAL ORDERS

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.

WE THE UNDERSIGNED ATTORNEYS OF RECORD IN THIS CASE, HAVE READ AND

UNDERSTAND THE ABOVE TRIAL REVIEW ORDER:

COUNSEL (Printed name and signature)

COUNSEL FOR (Name of Client)

IT IS SO ORDERED.

DATED: _____

MATTHEW BRANER
Judge of the Superior Court

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

CASE NAME: _____ vs. _____

CASE NUMBER: _____

TRIAL EXHIBIT INDEX

<u>EXH. NO.</u>	<u>OFFERED BY</u>	<u>DESCRIPTION</u>	<u>LEGAL GR. FOR OBJECT</u>	<u>DATE OFFR'D</u>	<u>DATE ADMIT.</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

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GROUND FOR OBJECTION

- | | |
|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 1. No Objection:
Admissibility Stipulated | 7. Unduly Time Consuming.
Prejudicial, Confusing, or
Misleading (§352) |
| 2. Irrelevant (§ 210) | 8. Subsequent Repair (§ 1151) |
| 3. Hearsay (§ 1200) | 9. Other (Specify): _____ |
| 4. Best Evidence (§ 1500) | |
| 5. Inadmissible Opinion (§ 800) | |
| 6. Insufficient Foundation (§ 403)
(Relevancy, Personal Knowledge,
Authenticity (§ 1500, Identity)) | |

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

DEPARTMENT 60 – HON. MATTHEW C. BRANER

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. Limine motions and oppositions and index of Limine motions
4. Copy of Joint Witness List. Listing the witness as either percipient or expert.
5. Copy of Joint Exhibit List (follow grids format – see attachment to ADR)
6. Copy of Trial Briefs
7. Joint Statement of the Case
8. Voir Dire questions counsel requests 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
11. Copy of the operative pleading, *i.e.*: complaints and answers

The Court also requires a separate notebook for limine motions, in order with any opposition sequentially attached.

Due on the 1st day of trial:

1. Two exhibit binders (original for the witness premarked with Court Exhibit tags and one copy for the Court)
2. Three copies of the Joint Witness List (unless they have already been emailed to the clerk.)
3. Three copies of the Joint Exhibit List (unless they have already been emailed to the clerk.)
4. Copies of Deposition Transcripts that will be used during trial

Date: _____

Case No: _____

PRE-TRIAL CHECKLIST (DEPT. 60)

1. Time Estimate
2. Motions in Limine?
3. Any 402 hearing issues?
4. Any witness problems?
5. Are the following ready:
 - a. Joint Witness List
 - b. Joint Exhibit List
 - c. Jury Instructions
 - d. Verdict Form(s)
6. Voir Dire Process:
 - a. Generally this court uses a 21 Pack, but that is subject to expansion or contraction depending on the nature of the case.
 - b. Counsel will generally be given 20- 30 of voir dire for the first 21. (Subject to expansion, as necessary)
 - c. Counsel should submit in writing questions they want the Court to ask.
 - d. No asking jurors how they would decide based on assumed facts; no asking for promises from jurors; no comment on personal lives/families of parties or attorneys; no preconditioning or indoctrination.
 - e. Challenges to 12 in box. New jurors selected in order.
 - f. Any challenges for cause shall be heard outside the presence of the jury
7. Courtroom Rules:
 - a. Counsel need only to ask permission to approach witness, or enter the well once.
 - b. Counsel should not cross-examine witness leaning over witness' shoulder; should examine from behind counsel table or at podium unless necessary to go over exhibit.
 - c. Counsel may request sidebar only if absolutely necessary; Offers of proof may be made at the next break in the proceeding if requested.
 - d. If deposition transcripts are to be used during examination, a copy must be available for the court.
8. Jury is not to be kept waiting:
 - a. Counsel are ordered to appear promptly at 9 a.m., and following each recess;
 - b. Counsel are ordered to have all witnesses on standby so they can be called without delay;
 - c. Witnesses who are at any risk for not appearing should be placed under subpoena;
 - d. Counsel should be aware that they might be forced to rest if witnesses are not available without good cause.
9. All exhibits should be pre-marked, unless some valid reason not to.
10. Counsel are ordered to meet and confer on jury instructions and on the special verdict forms that need to be changed or supplemented based on how the evidence comes in.

By signature below counsel acknowledge receiving and reviewing a copy of the Department 60 Pre-Trial Checklist.

Counsel for Plaintiff

Counsel for Defendant