

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CASE NAME: _____ vs. _____

CASE# _____

ADVANCE TRIAL REVIEW ORDER MADE BY DEPARTMENT 2103 ON

BY THE HONORABLE KEVIN A. ENRIGHT.

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:

EVIDENCE/EXHIBITS

- _____ 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) the legal ground(s) for objection(s) that the objecting party intends in good faith to rely on at trial (see the attached exemplar for joint exhibit list). The index shall be submitted in triplicate. Exhibits not included in the index are subject to exclusion at trial, **true** impeachment exhibits excepted. Exhibits tags must be completed and attached on the upper right hand corner of each exhibit. 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. 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 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 Council questions found in CRC Appendix, Div. I, Section 8, 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. 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. 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 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.
- _____ 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.

2

- _____ 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 and filed and faxed (in accordance with California Rule of Court 2.306) 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 to *in limine* motions, if any, shall be filed and faxed (in accordance with California Rule of Court 2008) or personally served at least three 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 Department 2103 at (619) 844-2213 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 the court at the time of trial call.

ADDITIONAL ORDERS

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:

DATED: _____

HON. KEVIN A. ENRIGHT
JUDGE OF THE SUPERIOR COURT