

SUPERIOR COURT OF CALIFORNIA COUNTY OF TUOLUMNE 12855 Justice Center Drive, Sonora, CA 95370 Phone: (209) 533-5555	Space below for use of Court Clerk only		
Plaintiff(s): vs. Defendant(s):	Case Number: CV		
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">TRIAL MANAGEMENT ORDERS</td> <td style="width: 50%; border: none;"> Trial Date: Time: Dept.: Judge: </td> </tr> </table>		TRIAL MANAGEMENT ORDERS	Trial Date: Time: Dept.: Judge:
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The following Trial Management Orders are hereby found to be necessary in this case to implement and achieve the purposes of the Trial Court Delay Reduction Act as set forth in Government Code section 68600 et seq. and are hereby issued in the above-referenced matter:

1. As stated in the Notice of Settlement Conference and Jury Trial served herein, the Court does not have the ability to guarantee that one of its court reporters will be available for a civil jury trial. Therefore, if any party wishes to have a court reporter, that party may request court reporter services from the Court pursuant to local rule 1.07.0, subdivision (b), in the event one of the Court's reporters is available or must otherwise make its own arrangements for a court reporter from an outside firm.

2. All exhibits to be used at trial, other than those to be used for impeachment or rebuttal, shall be pre-marked for identification. The Court prefers that the parties prepare a joint exhibit binder that contains the exhibits each side intends to use at trial. The exhibits should be designated by numbers and should not be referred to as "plaintiff" or "defense" exhibits. The parties should ensure that no duplicate exhibits are submitted. The parties shall provide three binders of exhibits: the original for the courtroom clerk, a copy to be kept at the witness box, and a copy for the judge. Two (2) court days before the trial commences, the parties also shall provide the Court with a thumb drive containing electronic versions of all joint trial exhibits.

3. Originals of all depositions shall be available upon request on the first day of trial.

4. A list of all witnesses (expert and non-expert) to be called at trial shall be served upon opposing counsel or any unrepresented parties three (3) court days before trial, and three (3) copies of said list shall be presented to the trial judge at the first appearance in the trial department. Witnesses not listed may be excluded at trial.

5. Parties shall provide the Court with copies of demands for exchange of experts and the lists disclosing the experts.

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6. Parties shall serve proposed jury instructions upon opposing counsel or any unrepresented parties three (3) court days before trial and also submit proposed jury instructions to the trial judge at the first appearance in the trial department. Jury instructions not timely served and presented may be excluded at trial.

7. A brief joint statement outlining the facts of the case shall be presented to the Court by all parties at the first appearance in the trial department.

8. Attorneys' obligations to the Court

a) Prior to or during trial—and *before* addressing the issue with the Court—counsel shall meet and confer to determine areas of agreement and disagreement and/or stipulations concerning:

i	In limine motions: Prior to filing motions in limine, counsel shall have met and conferred with opposing counsel to see if a stipulation can be reached on the issue. In addition, counsel should review <i>Kelly v. New West Federal Savings</i> (1996) 49 Cal.App.4th 659, 669-677 and its progeny. Motions are to be filed and served five (5) court days before trial, with oppositions filed and served three (3) court days before trial. The parties shall make a joint list of all motions in limine filed by the parties and shall indicate whether each is opposed or unopposed. The parties shall prepare a joint binder of motions in limine for the Court. The binder shall be indexed and present each motion followed immediately by the corresponding opposition, with tabs indicating each motion and opposition. A thumb drive containing all motions, oppositions, and trial briefs in Word format shall be included with the binder. Two (2) court days before trial, the binder shall be delivered to Department 4. Counsel should advise their clients and witnesses about rulings on motions in limine that pertain to evidentiary issues. Counsel will be held responsible for any violations of rulings on motions in limine.
ii	Jury instructions: The parties shall prepare a joint list of the proposed jury instructions on which they agree and those on which they disagree. The jury instructions presented to the Court shall be separated into labeled stacks (i.e., an agreed-upon stack; a stack, if any, of plaintiff's proposed instructions to which defendant objects; and a stack, if any, of defendant's proposed instructions to which plaintiff objects). The parties shall also provide the Court with an electronic version of the proposed jury instructions.
iii	Verdict: Whether general or special and the proposed form thereof.
iv	Admissibility (including authenticity and foundation) of documents, photos, or other writings or things: The parties' agreement shall be reduced to a written stipulation for filing. In the case of objections, counsel should bring copies of the exhibit to the pre-trial conference on the first date of trial and be prepared to argue admissibility.
v	Admissibility of models or other demonstrative evidence: Counsel shall show each other or exchange these items, as well as meet and confer about them, on their own time. The parties' agreement shall be reduced to a written stipulation for filing.
vi	Deposition (transcript or video) excerpts: Wrangling over how much or which portions of deposition transcripts will be read to jurors (or which portions of deposition videos will be shown to jurors) in lieu of a witness's live testimony is a huge and unforgivable waste of juror and court time. Accordingly, if a party wishes to read deposition

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	testimony (or show video testimony) of a party or due to witness unavailability , counsel shall meet and confer on their own time and come to agreement to the extent possible on what will be read or shown to the jury. The parties' agreement shall be reduced to a written stipulation for filing. This rule does not apply to impeachment of a witness testifying in court.
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b) Two (2) court days before trial commences, counsel shall deliver to Department 4 a binder containing copies of the following items:

i	Pleadings: Each party's operative pleadings (i.e., most recent complaint, cross-complaint, or answer), including attachments thereto.
ii	Statement of the case.
iii	Trial briefs from each party: At a minimum, trial briefs should identify the causes of action (or primary defenses) on which the party is proceeding, the causes (or defenses) the party is dismissing, and the relief the party seeks from the litigation. The trial brief also should include a summary of the facts in issue and a brief statement of what the party intends to prove in support of its claims (or defenses). The summaries should be sufficient to allow the Court to rely on them when ruling on the relevance and admissibility of evidence.
iv	Index of joint exhibits: The index shall be in the form found online at http://www.lacourt.org/forms/pdf/LACIV216.pdf . The parties shall submit three (3) copies of the index to the Court at their first appearance.
v	Witness lists for the Court's use: The lists shall include a very brief statement of identity (e.g., John Doe - registered nurse present during the surgery; Jane Smith - President of Widget Co.; Billy Jones - pedestrian bystander).
vi	Expert witness disclosures.

9. Attorneys' obligations to the jury

The criticism most often heard in post-trial juror interviews concerns the wasting of valuable time in witness shuffling, legal argument, cumulative direct and cross-examination, ill-preparedness, and delays over jury instructions. Accordingly:

- a) Witness availability: In the course of their respective cases in chief, counsel shall ensure an adequate number of witnesses, lay and expert alike, is available to fill the entirety of each trial day.
- b) Witnesses called out of order: Except in cases of emergency or a like showing of exceptional good cause, the Court will rarely exercise its discretion to grant leave to call any witness out of turn.
- c) Argument: Points of law, whether procedural, substantive, or evidentiary, shall be argued outside the presence of the jury (sidebars shall rarely be sought or granted).
- d) Cumulative examination (Evidence Code section 352): Cumulative, duplicative, or redundant examination will be cut off immediately.

10. Rising for the jury: Counsel and all parties present shall rise each time the venire or jury enters or leaves the courtroom.

11. Attorneys' duty to instruct clients and witnesses: Counsel are hereby ordered to instruct their respective clients and witnesses as follows:

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- a) They may not communicate in any manner with the venire or jurors or converse in any manner within the jurors' hearing.
- b) They may not dress in a bizarre manner when coming to court, nor may they converse, read, look at cell phones, chew gum, or eat in the courtroom.
- c) While in the courtroom, they may not indicate by words or conduct disagreement with or approval of testimony or other evidence being given.
- d) They are to spell all unusual names or words for the reporter and clerk.
- e) After testifying, they shall not discuss their testimony with any other witnesses.

12. Voir dire rules

The Court uses the "six-pack" method of questioning potential jurors. Counsel will be allowed six peremptory challenges per side.

Voir dire is not a platform from which the attorneys may:

- a) Educate prospective jurors about the case,
- b) Compel them to commit to a particular disposition of the case,
- c) Prejudice them for or against a party,
- d) Argue the case, or
- e) Instruct prospective jurors on matters of law.

Counsel may, with due regard for the foregoing principles, provide the Court and all other counsel with a list of case-specific voir dire areas of examination in the event that counsel desires such inquiry to be conducted by the Court. Following the Court's exploration of such areas with the venire, counsel may inquire further.

13. Limitation on length of voir dire

Generally, each side will have 45 minutes for its initial examination of the panel and 6 minutes for each "six-pack" replacement. If the parties believe more time is required for their specific case, the issue must be raised at the pre-trial conference.

The practice of posing a series of substantially identical questions to each venire member in turn is impermissible as a misuse of scant juror and judicial resources. The risk of juror indoctrination, serious as it may be, is secondary to the waste of valuable court time involved in such excursions.

14. Jury pre-instruction

Immediately following empanelment and oath and prior to opening statements, the Court will pre-instruct the jury on the following issues:

- a) Preliminary admonitions (CACI 100)
- b) Overview of trial process (CACI 101)
- c) Taking notes (CACI 102)
- d) Evidence and differentiating evidence from argument (CACI 106)
- e) Witnesses (CACI 107)
- f) Questions from jurors (CACI 112)
- g) Burden of proof (CACI 200; CACI 201, if appropriate)
- h) Other preliminary issues as appear appropriate

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15. Written questions from jurors: The Court allows jurors to submit written questions. (See CACI 112.) The procedure is as follows: Jurors with written questions will hand them to the bailiff or court attendant or clerk, who will hand them to the judge. If not objectionable, the judge will hand the question to trial counsel, who may decide to ask the question or not. The Court may choose to ask the question, if counsel declines, after giving counsel the opportunity to object.

16. Advance notice of witnesses and exhibits: Counsel shall inform each other and the Court, not later than the close of session each trial day, of the identity and order of each witness to be called by each attorney on the next trial day. Such disclosure shall not be required for impeachment evidence.

17. Publication or display of exhibits

No exhibit, impeaching or otherwise, shall be referred to by counsel or their client's witness or shown to the jury unless first reviewed by all other counsel and the Court.

No documentary or physical evidence shall be published, displayed, or otherwise shown, read, or referred to before the jury until 1) formally marked for identification on the record and 2) received in evidence on the record.

18. Witnesses excluded: Per Evidence Code section 777, all witnesses shall be excluded from the courtroom prior to commencement of opening statements unless otherwise ordered. Counsel shall ensure that their respective witnesses comply with this order.

19. Examination pursuant to Evidence Code section 776: When calling a witness to testify pursuant to Evidence Code section 776, counsel shall not announce in the jurors' presence that the witness is called as a "hostile" or "adverse" witness but shall simply proceed with examination after stating for the record that the witness is called pursuant to the statute. The Court shall rule on the applicability of Evidence Code section 776 only if such a ruling is required by an objection by opposing counsel.

20. Form of evidentiary objection: Evidentiary objections shall be stated solely by brief reference to evidentiary rules (e.g., "hearsay," "lacks foundation"). "Speaking objections," witness coaching, testimony in the guise of an objection, and other self-serving monologues shall not be permitted.

21. Stipulations

It is stipulated by and between the parties, by and through their respective counsel, that:

- a) All jurors and alternates are present at the beginning of each session and at all necessary times, unless an absence is expressly brought to the attention of the Court.
- b) The Court's admonition to the jury, after having been given once, shall be deemed to have been given just prior to every recess, adjournment, continuance, or other interruption of the trial.
- c) After closing arguments and instructions, alternate jurors may be released by the Court, subject to recall if needed.
- d) After the jury is instructed, the trial judge or, in his/her absence, any judge of this Court, may respond to written inquiries from members of the jury and may have the court reporter go to the jury room and read portions of the testimony to the jury upon its request.
- e) After the jury is instructed and has begun its deliberations, the jurors are permitted,

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without notice to counsel and without requiring the jurors to assemble in the courtroom, to leave the jury deliberation room as follows:

- At the end of each deliberation day, for lunch (at the jurors' own expense and unaccompanied by a bailiff or other court personnel), and for bathroom or other breaks;
 - Provided that the jurors report to the assigned bailiff their purpose in leaving the jury deliberation room and the time they plan to return; and
 - Further provided that, upon their return, they report to the assigned bailiff that all 12 jurors are present and that they are resuming their deliberations.
- f) Upon final determination of this action, the clerk may, without further order of the Court, return any and all exhibits, identifications, depositions, interrogatories, and requests for admission, along with answers and responses thereto, and other stored material, to the party or person(s) who filed, subpoenaed, or moved to have an item marked for identification or admitted into evidence.

22. Other orders and/or comments:

Dated: _____
Judge of the Superior Court

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