

**Department 10
Civil Pre-Trial Order**

PRE-TRIAL DISCOVERY AND MOTIONS

Unless demanded earlier pursuant to CCP § 2034.230, the parties must disclose in writing at least 30 days before trial the identity of any expert witness including any expert report prepared by the expert or a summary of the testimony where no report has been prepared, curriculum vitae, and estimated time for the expert's testimony.

Discovery must be complete 30 days before trial, except that any expert witness may be deposed as late as 10 days before trial.

MANDATORY MEET-AND-CONFER BEFORE TRIAL

At least 14 days before the date set for trial:

The parties must exchange (email is sufficient with confirmation)

- A list of all possible non-expert witnesses
- A list of potential exhibits
- Proposed stipulations
- A brief proposed statement of the case
- Preliminary jury instructions

The parties must file:

- Motions in Limine: Each party shall file and serve Motions in Limine, numbered consecutively by party. Absent good cause, parties are limited to FIVE such Motions. Excessive, unnecessary, and improper Motions are disfavored. All motions seeking to exclude evidence shall set forth factual support as to the exact nature and type of evidence that the party is seeking to exclude, including attaching relevant portions of depositions, interrogatories, or other factual support. The court will specifically enforce the standards of *Kelly v. New West Federal Savings*, 49 Cal. App. 4th 659, 670 (1996). Motions that make unsupported assertions about what witnesses allegedly said in deposition or speculate about what witnesses may say at trial without attaching to the motion a declaration setting forth a factual basis are subject to sanctions.
 - The following motions in limine are conditionally granted and, unless contested in writing, should NOT be filed:
 - To amend the Case Caption to Reflect Remaining Defendants only. The defendants will be referred to, introduced, and participate at trial in alphabetical order.
 - To preclude reference to any possible future wrongful death action.

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- To preclude reference to plaintiff's counsels' other clients or website.
 - To preclude attribution of fault to any party granted summary judgment.
 - To exclude witness from courtroom until witness's testimony is completed.
 - To preclude mention of bankruptcy or any other financial status of absent defendants.
 - To preclude reference to absence of corporate representative. This does not, however, preclude Plaintiff from commenting on any defendant's failure to produce or refute relevant evidence.
 - To exclude evidence or mention of insurance, including Plaintiff's medical insurance.
 - To exclude experts not designated pursuant to CCP § 2034.
 - To exclude any reference to or evidence of prior settlements
 - To bifurcate punitive damages claims.
 - To exclude collateral source evidence.
- Trial brief: Each party shall file and serve a trial brief summarizing the case.

At least 7 days before the date set for trial:

- Motions in Limine: Each party must file and serve any opposition to Motions in Limine. Non-oppositions are not required. The Court will assume that any Motion not opposed is conceded.

At least three days before the Pretrial Conference, counsel are required to meet and confer on at least the following topics.

- Preparation of a joint statement of the case to be read to the jury at the start of voir dire.
- Preparation of a list of potential witnesses, or other involved persons, to be read to the jury during voir dire.
- All stipulations possible, which must be reduced to writing.
- Motions in limine. Counsel must identify which ones are genuinely disputed, and seek to compromise to the maximum extent possible.
- Realistic identification of witnesses to be called, with best estimates of length and any known scheduling issues.
- Identification of those portions of videotaped testimony or depositions to be presented to the jury.
- Identification of interrogatory or RFA responses, or other discovery materials, to be presented to the jury.

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- Whether the trial will be reported (including the voir dire). Local Rule 2.52 provides that no court reporting services are provided except for a party with an approved fee waiver obtained by filing form MC-30 no later than three days before trial. Otherwise, to have the matter reported, you must comply with the Civil Protocols of Use of Private Pro Tempore Reporters packet and follow its requirements.
- Identification and marking of exhibits.
 - Marking must be in proper court format. The Court encourages a joint exhibit list. There is to be unified numbering of the exhibits. In other words, all exhibits for both parties must bear consecutive numbering. Gaps are acceptable, such that, for example Plaintiff(s) may have exhibits 1-50, and Defendant(s) may have exhibits 100-150.
 - If the parties cannot agree on a joint exhibit list, Plaintiff(s) will use exhibit numbers, and Defendant(s) will use exhibit letters.
 - Multiple plaintiffs or defendants shall agree on how to assign letters or numbers in order to avoid duplication. At the trial besides copies for counsel, you must prepare three for the court: the official set for the clerk, a bench set for the judge, and a set for the witnesses.
 - The Court expects the parties to stipulate to admissibility to the maximum extent possible. Objections for lack of authentication or the like will be frowned on if there is no genuine dispute as to authenticity.
 - If there are more than a small number of exhibits, the sides are to put all exhibits into one or more binders with appropriate tabs.
- Jury instructions.
 - Preparation of a single, agreed set of instructions, as far as agreement is possible.
 - If there are disagreements as to particular instructions, they should be identified for the Court's decision.
 - If there are instructions that cannot be decided on until the evidence comes in, they should be flagged for consideration.
 - NOTE: Counsel must keep in mind that, by the end of the trial, we will need a comprehensive set of instructions with a physical copy ready for the jury.
- Verdict form.
- AV equipment. The Court's preference is that you utilize the Court's equipment. If other equipment is needed, this issue must be raised in advance with the Court so that it can be coordinated with the Court and between the parties.

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- The civil courts in Contra Costa County do not longer provide court reporting services. (Local Rule 2.52) If you wish to have your matter reported, you must obtain the Civil Protocols for Use of Private Pro Tempore Court Reporters packet and comply with all the requirements therein. The Court will provide a reporter for any party with an approved fee waiver, upon request made by filing form MC-30 no later than three calendar days before trial.

TRIAL DATE

The Court will do its best to notify counsel, during the week before a trial date, if there is an existing trial that will not be finished in time.

The Wednesday prior to the trial date, the Court will hold a Pretrial Conference. The following matters will be discussed.

- Settlement: If there remains any possibility for settlement (complete or partial), the Court will be happy to give the parties time to discuss the matter. If the parties believe that the Court can be of assistance (through settlement mentors or otherwise), they should request such participation in time for it to be arranged.
- Expected length of trial. The Court will be giving the jurors a firm outside date for completion of the trial, including deliberations. If we give the jurors a date and the trial runs longer, you can expect a mistrial.
- Motions in limine. It is very helpful if these are gathered in a binder, each motion together with the opposition (if any) to it.
- Any rulings required on instructions.
- An agreed set of the start-of-trial instructions to be given after the jury is sworn.

Also, if either or both sides intend to use any form of visual or audio equipment, whether for presentation of evidence or for arguments, the equipment **MUST BE BROUGHT TO COURT** on Friday morning for hookup and live field testing. The same rules apply to use of the court equipment; i.e. you must arrange to test your knowledge of how to use the equipment and that your evidence is compatible with the **system**.