SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA

PRE-TRIAL ORDERS FOR

HON. BENJAMIN T. REYES II

DEPARTMENT 16

SUMMARY OF DEADLINES[1]

Deadline	**Requirements**
As Scheduled by the Court in advance of the trial Date for Counsel Use _____	Conduct an **Issue Conference** with the Court's Settlement Mediator. (See Local Rule 3.200) or a **Settlement Conference** with a Judicial Officer.
As Scheduled by the Court in advance of the trial Date for Counsel Use _____	Conduct **Trial Readiness Conference**
As Scheduled by the Court in advance of the trial Date for Counsel Use _____	Conduct **Advance Pre-Trial Conference** per Section III of these Pre-Trial Orders
Ten (10) calendar days in advance of the of trial Date for Counsel Use_____	[ ] File and serve motions in limine [ ] File and serve Witness List [ ] Exchange copies of all potential trial exhibits
Seven (7) court days in advance of the trial Date for Counsel Use _____	[ ] Exchange copies of proposed jury instructions and jury verdict forms [ ] File and serve trial brief not to exceed 20 pages
Four (4) calendar days in advance of trial Date for Counsel Use_____	[ ] File and serve oppositions to motions in limine / meet and confer to informally resolve motions. [ ] Parties to meet and confer to reach stipulation regarding admissibility and authenticity of trial exhibits or any other factual,

[1] The information in this chart is a brief summary of the primary deadlines in advance of trial. Please review these Pre-Trial Orders and the Court's Local Rules for additional information and any other applicable deadlines.

	evidentiary or procedural stipulations, including stipulations for designation of expert witnesses. [ ] Lodge Trial Exhibits, including Master Exhibits.
At Least Three (3) Calendar days in advance of Trial Date for Counsel Use_____	Parties and Counsel are ordered to conduct an Advance Pre-Trial Conference as set forth in these Orders.
4:00 pm one (2) court days in advance of the trial Date for Counsel Use_____	[ ] Lodge thumb drives and/or binder(s) of all trial exhibits, including joint exhibit list. Make appointment with Court Clerk (925) 608-1116. [ ] Parties to meet and confer on each motion *in limine* and advise the Court which, if any, motions are uncontested [ ] File and serve any written objections to discovery to be proffered in evidence at trial
First appearance for trial	[ ] Lodge any stipulations reached regarding admissibility and authenticity of trial exhibits or any other factual, evidentiary or procedural stipulations and any uncontested or stipulated motions in limine [ ] Lodge joint statement of the case [ ] Lodge Joint Exhibit List [ ] Lodge thumb drive or memory drive device / and/or binders with copy of all expert designations and declarations* [ ] Lodge Proposed Trial Schedule [ ] Lodge Other Persons List [ ] Lodge list and copies of proposed jury instructions and jury verdict forms organized as specified in Section IV of these Pre-Trial Orders
Note: Preference for Electronic or Digital Exhibits	It is Department 16's preference to accept electronic or digital copies of documents referred in these pre-trial orders. The term "binder" or "binders" used herein also refers to and includes to electronic or digital copies of the documents requested downloaded onto a thumb drive and properly indexed for easy access by the Court. Department 16 prefers electronic copies of documents loaded on a thumb drive or other solid state memory device that may be plugged into a USB port. (No CD or DVD ROM discs.) Courtesy copies of binders of physical paper copies will be accepted by the Court, but are not necessary if electronic copies are provided on thumb drives.

	The Court discourages the use of paper documents, unless necessary. Exceptions to the digital preference may be made by the Court for Parties who lack the ability or skill to prepare electronic copies of exhibits. Counsel are expected to familiarize themselves with the Court's "For the Record" digital courtroom equipment and are encouraged to make an appointment with the Clerk for Department 16 ahead of trial to test the equipment's compatibility with Counsel's / Party's equipment.

I. INTRODUCTION

The Court has assigned a trial date for your case. These pre-trial orders are issued to the Parties in this case and are utilized to streamline the trial process by clarifying the deadlines and procedures for orderly handling of your court or jury trial. These Pre-Trial Orders supersede any prior orders provided to Counsel and/or the Parties.

II. WITNESS LISTS AND TRIAL EXHIBITS

1. Witness List. Not less than ten (10) calendar days in advance of the first day of Trial date, the Parties shall file and serve a witness list of the witnesses that they actually expect to call as witnesses at trial (the "Witness List") in accordance with Local Rule 3.11(c)(2). The purpose of the Witness List is for examination of prospective jurors and to estimate the length of trial. For that reason, it should only include those persons who will likely be testifying. Omitting a name in good faith will not bar the witness from being used; this is not a discovery mechanism.

2. Interpreter(s). Any Party seeking a Court Interpreter shall complete local form MC-300e&s (See Court's website at cc-courts.org) requesting an interpreter at least one week in advance of the trial or any issue conference or any hearing where an interpreter is sought. The trial department's clerk must be notified of any party or counsel who requested an interpreter at

least three (3) court days in advance of the trial date. However, please in keep in mind the more infrequently used interpreters may require more lead time.

3. Trial Exhibits and Exhibit Lists. Not less than ten (10) calendar days in advance of the trial date, the Parties shall exchange copies of all potential trial exhibits, including discovery responses, to be used at trial, along with an exhibit list. The Parties shall, thereafter, meet and confer regarding such trial exhibits at the Advance Trial Conference, as set forth further below.

II. MOTIONS IN LIMINE

4. Due Date for MILs. Any motions in limine shall be filed and served not less than ten (10) calendar days in advance of the first date of trial.

5. Oppositions. Any opposition or other response to a motion in limine shall be filed and served not less than four (4) calendar days in advance of the first date of trial.

6. Binders or Thumb Drives to be Prepared with Courtesy Copies of MILs. No later than 4:00 pm two (2) court days in advance of the trial date (typically the Thursday before a Monday trial date) . When using binders, courtesy copies of all filed motions in limine shall be provided to the Court in a tabbed binder together with any opposition and/or related filed papers. Each binder shall have an index of the papers. Each Party is responsible for assembling and providing such binder to the Court as to their own filed motions in limine (with any related papers as set forth above). Failure to do so may result in denial of the motion. This provision supersedes the provisions regarding lodging courtesy copies as set forth in Local Rule 3.11(b).

If the Parties wish to submit digital copies of the Binders on a thumb drive (preferred), please ensure that the digital copies are prepared with an index or indices for easy access to the motions and/or all exhibits.

7. The Parties shall meet and confer on each motion in limine Two Court Days Before Trial. The papers regarding any uncontested motions may be omitted from the binder(s). Uncontested motions may be indicated by a notation on the binder index.

8. At first appearance for trial, the Parties shall lodge stipulations reached regarding admissibility and authenticity of trial exhibits or any other factual, evidentiary or procedural

stipulations and any uncontested or stipulated motions in limine. Parties shall be prepared to discuss the filed motions in limine in Chambers with the Court and/or argue them on the record as directed by the Court.

9. The Court advises the Parties that the Court is generally not inclined to grant blanket or boilerplate motions in limine where specific evidentiary objections can more appropriately be made at the time that the subject testimony is elicited or the subject evidence is proffered. Attempting to exclude evidence based on "relevancy" arguments are rarely appropriate, as the Court generally is inclined to consider objections as to relevancy in the context of the evidence that may be presented during trial. There are similar considerations as to many other types of evidentiary objections. The Parties are admonished to limit motions in limine to matters as to which Parties believe a ruling in advance is both necessary and appropriate. **The Parties are also advised to review Local Rule 3.11(b) regarding the standard motions in limine that the Court will typically issue.**

III. ADVANCED TRIAL CONFERENCE BETWEEN THE PARTIES

10. Not less than three (3) court days in advance of the trial date, the Parties shall meet and confer in a face-to-face or Zoom or other remote conference (the "Advance Trial Conference") as to the following:

a. Preparation of Trial Exhibits. The Parties shall meet and confer regarding their respective trial exhibits. **This includes removing all duplicative exhibits, pre-marking all exhibits, and updating and consolidating the exhibit lists into a single master exhibit list (the "Master Exhibit List").** Each exhibit on the Master Exhibit List shall be designated by and pre-marked with a separate numerical identifier and indexed electronically, if submitted electronically through a thumb drive. At trial, the Court expects that when an exhibit is used it will already be marked and identified on the Master Exhibit List and that all Parties will have a pre-marked copy. Each Party is responsible for providing, at first appearance for trial, at least three binders, with copies of their trial exhibits (one for the Clerk of the Court, one for the witness

stand, and one for the Judge) conforming to the Master Exhibit List. All parties are admonished that a failure to lodge a Master Exhibit List and exhibit binders or digital copies on thumb drive in conformance with the foregoing may result in a rescheduling of the trial to a later date in the Court's discretion.

b. Admissibility of Trial Exhibits and Other Stipulations. The Parties shall meet and confer regarding admissibility of their respective trial exhibits. The Parties are encouraged to be liberal in considering mutual stipulations as to their admissibility at trial. The Parties shall meet and confer regarding any factual, evidentiary or procedural stipulations. The Parties are encouraged to discuss any additional stipulations to further narrow contested trial issues. All stipulations shall be reduced to writing and lodged at first appearance for trial.

c. Joint Statement of the Case. The Parties shall meet and confer regarding a joint statement of the case to be read to the jury. A draft of any such statement, with any disagreements highlighted, shall be lodged at first appearance for trial.

d. Discovery to be Proffered in Evidence at Trial. The Parties shall meet and confer to identify any portions of videotaped or other depositions or discovery to be proffered at trial as to which there are objections. All objections are to be filed and served in writing at least two (2) Court days before trial.

e. Audio or Visual Presentations. The Parties shall meet and confer to identify all those audio or visual presentations to be proffered at trial and any objections thereto. All audio or visual presentations are to be tested before use in front of the jury. All objections are to be submitted to the Court in writing at least two (2) court days before trial. The Parties are encouraged to contact the Clerk for Department 16 to schedule access to the courtroom to test any audio-visual presentations prior to trial. Any such access should be scheduled when all sides have a representative present.

f. Experts. The Parties shall meet and confer regarding any stipulations regarding the qualification of any expert(s) and the preparation of a binder with all expert

designations and declarations which shall be provided in a binder and lodged at first appearance for trial.

g. Detailed Trial Schedule. The Parties shall meet and confer regarding preparation of a joint hour-by-hour proposed schedule for the trial (the "Proposed Trial Schedule"). The Proposed Trial Schedule shall be lodged at first appearance for trial.

h. Names of Other Persons/Entities. The Parties should meet and confer and prepare a list of the names of any other persons (or associated entities) not expected to testify but whose names might come before the jury (the "Other Persons List"). A courtesy copy of the Other Persons List shall be lodged at first appearance for trial.

i. Proposed Jury Instructions. The Parties shall meet and confer regarding proposed jury instructions and jury verdict forms. See Section IV below.

IV. PROPOSED JURY INSTRUCTIONS AND JURY VERDICT FORMS

11. Not less than seven (7) court days in advance of the trial date, the Parties shall exchange copies of proposed jury instructions and jury verdict forms. The Parties may identify the California Jury Instructions approved by the Judicial Counsel by CACI number. Counsel shall meet and confer to jointly prepare proposed jury instructions for unique legal issues and/or causes of action for which CACI instructions are not applicable.

12. The Parties shall review and comply with the provisions of the California Rules of Court ("CRC") regarding the form of proposed jury instructions. See CRC Rule 2.1050 *et seq*.

13. Following the Advance Trial Conference and the meet and confer regarding the proposed jury instructions and jury verdict forms, the Parties shall lodge a list and copies of proposed jury instructions and jury verdict forms at first appearance for trial. **The proposed jury instructions and jury verdict forms shall be divided into two sets for the Court.** The first set being agreed jury instructions and verdict forms and the other set being disputed jury instructions and verdict forms. Each Party's authorities on contested jury instructions are to be noted on the instructions or verdict forms. No duplicates should be provided. No "blank" or incomplete jury instructions or jury verdict forms should be provided.

V. VOIR DIRE

14. The Court will conduct the initial voir dire examination of the first eighteen prospective jurors using a "14 Pack" method (12 in the jury box and 14 in the first row of the audience gallery). The Parties will have the opportunity to conduct further examination within reasonable time limits (typically 30 minutes to one hour per side) by asking questions reasonably calculated to discover bias or prejudice with regard to the circumstances of the particular case or the parties before the Court, in accordance with Code of Civil Procedure section 223. The Court will permit additional reasonable time to conduct examination of the alternate jurors. A Party may not directly or indirectly argue their cases during voir dire. While some reasonable introductory narrative may be appropriate and permissible in connection with voir dire and framing hypothetical questions, the Parties are cautioned to avoid lengthy recitations of the law and attempts to precondition the jury panel as to what the law may or may not require.

15. Two alternates are normally selected on cases with average time estimates.

16. Any request pursuant to CRC Rule 3.1540 regarding additional questions that the Court will put to the jurors shall be in writing, lodged at first appearance for trial.

17. The Parties are admonished to be mindful of the following in conducting voir dire examination:

a. Do not repeat the Court's questions.

b. Use group questions to avoid undue consumption of time.

c. Do not ask questions regarding hardship or personal comfort of jurors. The Court will address hardship at an appropriate time.

d. The Court will not allow needless, repetitive questions, or permit pre-instruction, or pre-argument by a Party. "If I prove…" questions will not be allowed.

VI. GENERAL COURTROOM DECORUM

18. All Parties are expected to conduct themselves with civility, dignity and decorum at all times. Rude or discourteous behavior displayed against Court Staff, including the Clerk, Bailiff, Research Attorneys, and Summer Externs will not be tolerated by the Court. Disruptive tactics or uncivil conduct are not acceptable. Counsel and Parties are referred to the Contra Costa

County Bar Association's Standards of Professional Courtesy (www.cccba.org) and the Court's Local Rules, Chapter 8, Standards of Professional Courtesy, which are incorporated in these Pre-Trial Orders.

19. Colloquy between the Parties on the record or at sidebar is not permitted. All remarks should be addressed only to the Court rather than to the opposing Party unless the Court invites the Parties to confer directly on a matter.

20. The Parties shall not engage in any activity at their table, move about the courtroom or otherwise engage in other conduct so as to cause distraction while the opposing Party is arguing or questioning a witness. No Party should indicate approval, disapproval, or otherwise react to any testimony or argument in a distracting or discourteous manner.

VII. OPENING STATEMENTS

21. All Parties must show or exchange and meet and confer regarding any visuals, graphics, or exhibits to be used in the opening statements, allowing for time to work out objections and any necessary revisions. Opening statements should be limited to a summary of what a Party expects the evidence to show.

VIII. WITNESSES

22. Each Party is responsible for informing their witnesses of the substance of any in limine orders potentially implicated by that witnesses' testimony, including, but not limited to, advising the witness as to any matters that Court has ordered excluded or not to be addressed during trial. The Parties are encouraged to request a sidebar in the event they believe a particular line of inquiry may implicate any of the Court's prior rulings on motions in limine.

23. As a general rule, the side presenting evidence is to have witnesses available to fill the entire court day. If a party "runs out of witnesses," the Court may use its discretion to have witnesses testify out of order or impose other appropriate remedies, including deeming a Party's presentation of evidence rested.

24. Each side is to notify the opposing side, no later than the end of each court day, the names of all witnesses that the Party expects to call the following court day.

IX. OBJECTIONS

25. Speaking objections are not permitted when the jury is present unless the Court requests argument or clarification in open court. A Party seeking to present argument may request a sidebar conference. The Court will permit a Party, upon request, to make a more complete record of any objections at the appropriate time and outside the presence of the jury.

X. CLOSING ARGUMENTS

26. If a Party intends to publish the Court's jury instructions or excerpts therefrom, the published instruction or excerpt must be verbatim with a reference to the applicable jury instruction number. Parties shall not display misquoted or incomplete jury instructions.

XI. ADDITIONAL CASE SPECIFIC ORDERS

27. Not Applicable.

XII. NOTICE REGARDING COMPLIANCE WITH ORDERS

28. All Parties are admonished that the failure to timely comply with any current orders regarding the conduct of trial, including, but not limited to, the orders made herein, the Court's Local Rules, the CRC, the Code of Civil Procedure or any other applicable rules or procedures (the "Applicable Rules") may bar them from presenting evidence at the trial or may result in the delay of the trial.

29. All Parties are further admonished that a failure to timely comply with all Applicable Rules and/or conduct which frustrates or obstructs such orders may result in the imposition of sanctions against you, including, but not limited to, monetary sanctions up to $1,500 pursuant to Code of Civil Procedure section 177.5. In addition, if you fail to comply with such orders, the Court may make orders adversely affecting your rights and/or resulting in other sanctions or penalties against you.

30. As relates to the filing, service or other presentation of papers in connection with the trial, a failure to timely comply with all Applicable Rules may result in the Court disregarding such paper(s) or denying the relief requested (or granting relief sought by an opposing Party).

IT IS SO ORDERED.

Dated: _____

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HON. BENJAMIN T. REYES II
Judge of the Superior Court