



Barristers – Bridging the Gap  
January 21, 2023

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## Session 5

Judge DeNoce:

MSCs, Jury Trials, and  
His New Role as  
Presiding Judge

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF VENTURA  
3

4 REMOTE MANDATORY SETTLEMENT CONFERENCE

5  
6 Case Number \_\_\_\_\_

7 \_\_\_\_\_  
8 Plaintiff(s),

SETTLEMENT AGREEMENT  
(CCP § 664.6).

9 v.

Status Hearing: Date: \_\_\_\_\_

10 \_\_\_\_\_  
11 Defendant(s).

Time: \_\_\_\_\_

Dept: \_\_\_\_\_  
12

13 1. IT IS HEREBY STIPULATED, BY AND BETWEEN THE PARTIES, that the above  
14 entitled matter is settled on the following terms and conditions:  
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\_\_\_\_\_  Continuation of Item 1 is attached.

2. The \_\_\_\_\_ agree(s) to accept said sum as payment in full of all of their claims, known or unknown, arising from the events described in the complaint and/or cross-complaint with the knowledge that they will be barred from proceeding against the \_\_\_\_\_ in the future.

3. Each side hereby expressly waives any and all rights under *Civil Code* section 1542, which provides as follows:

Section 1542. General Release. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

4. Each party will bear their own costs and attorney fees. Plaintiff(s) to be responsible for the payment of any outstanding medical bills and liens.

5. The parties and counsel request that the court retain jurisdiction over this settlement to enforce it and agree that this settlement will be enforceable pursuant to *Code of Civil Procedure* section 664.6 which provides as follows:

*(a) If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.*

*(b) For purposes of this section, a writing is signed by a party if it is signed by any of the following:*

*(1) The party.*

1 (2) An attorney who represents the party.

2 (3) If the party is an insurer, an agent who is authorized in  
3 writing by the insurer to sign on the insurer's behalf.

4 (c) Paragraphs (2) and (3) of subdivision (b) do not apply in  
5 a civil harassment action, an action brought pursuant to the  
6 Family Code, an action brought pursuant to the Probate  
7 Code, or a matter that is being adjudicated in a juvenile court  
8 or a dependency court.

9 (d) In addition to any available civil remedies, an attorney  
10 who signs a writing on behalf of a party pursuant to  
11 subdivision (b) without the party's express authorization  
12 shall, absent good cause, be subject to professional  
13 discipline.

14 (Code of Civil Procedure § 664.6)

15 In the event any party fails to comply with the terms of this settlement, to compel  
16 compliance, a motion to enforce this settlement agreement must be filed with the trial  
17 court. The party obtaining enforcement of this settlement pursuant to *Code of Civil  
18 Procedure* section 664.6 shall be entitled to reasonable attorney's fees. The parties  
19 further agree that this settlement agreement may be introduced into evidence in any  
20 subsequent proceeding to enforce its terms. The parties acknowledge that this  
21 agreement is exempt from the confidentiality provisions of *Evidence Code* section  
22 1152(a).

23 6. This is the sole settlement agreement between the parties. There are no other  
24 representations or warranties by the parties. Any verbal discussions between the parties  
25 are not part of this settlement unless incorporated in writing herein.

26 7. The parties acknowledge that they requested and consented to conduct the  
27 Mandatory Settlement Conference remotely by way of Zoom and agree to be bound by  
28 the settlement that was reached to the same extent as if the settlement were placed on  
the record, in person, in open court. The "REMOTE MANDATORY SETTLEMENT  
CONFERENCE PROCEDURES; ACKNOWLEDGEMENT OF RECEIPT &  
STIPULATION" form signed by the parties and counsel is incorporated by reference  
herein.

1 8. Counsel for plaintiff(s) and defendant(s) represent that they verbally explained the  
2 terms of this settlement to their clients and are satisfied that they understand and accept  
3 such terms.

4 9. As a result of the settlement in this case, counsel for \_\_\_\_\_ will   
5 File a Notice of Settlement;  File a Dismissal  *with* or  *without* prejudice.

6 10. The parties, counsel, and insurance adjusters or guardians if any, agree that this  
7 settlement agreement may be executed in two or more counterparts, that electronic  
8 and/or digital signatures and dates can be used and will be binding on the signatories  
9 thereto. These signatures will be treated in all respects as having the same force and  
10 effect as original signatures.

11  
12 DATED: \_\_\_\_\_

13  
14 \_\_\_\_\_  
(Print Name) (Signature of PLAINTIFF)

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17 \_\_\_\_\_  
(Print Name) (Signature of Attorney for PLAINTIFF)

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(Print Name) (Signature of DEFENDANT)

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(Print Name) (Signature of Attorney for DEFENDANT)

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(Print Name) (Signature of \_\_\_\_\_)

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(Print Name) (Signature of \_\_\_\_\_)

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(Print Name) (Signature of \_\_\_\_\_)

1 **Judicial Certification:**

2 As the Superior Court Judge who presided over the remote MSC in this case by way of  
3 Zoom, I certify that I have verbally verified that each counsel and party above signed this  
4 document and verbally affirmed that they agreed to the terms stated herein and that this  
5 is a judicially enforceable settlement pursuant to CCP section 664.6. The court verbally  
6 discussed the terms of this settlement by way of Zoom with the signatories to this  
7 agreement and was satisfied that they understood the terms stated herein and agreed to  
8 be bound by said terms.

9 Dated: \_\_\_\_\_  
10 \_\_\_\_\_  
11 Judge Kevin G. DeNoce

12 Item 1. [Continued]

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address):

TELEPHONE NO.:

ATTORNEY FOR (Name):

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF VENTURA**

	)	Case No. _____
Plaintiff(s),	}	<b>REMOTE MANDATORY SETTLEMENT CONFERENCE PROCEDURES; ACKNOWLEDGEMENT OF RECEIPT &amp; STIPULATION</b>
vs.	}	
	}	
Defendant(s).	)	
	)	Mandatory Settlement Conference Date & Time:

This case has been ordered to a Mandatory Settlement Conference ("MSC") before Judge Kevin G. DeNoce. Due to the Coronavirus pandemic, the Ventura Superior Court is allowing MSCs to be conducted remotely through the Zoom platform ("Zoom"). By signing this form, providing it to the court, and opposing counsel/parties, you are giving notice of your request and intent to appear remotely by way of Zoom. This document sets forth the policies and procedures governing MSCs conducted by Zoom.

Due to technological constraints, the court cannot conduct an MSC in which some participants appear in person while others appear by Zoom: all participants must appear by Zoom in order for the MSC to be conducted by Zoom. Any questions or issues regarding these policies or procedures must be brought to the attention of the MSC Judge before commencement of the MSC. **This form must be completed by all parties who intend to participate in an MSC conducted by Zoom and be filed with the court at least 5 days prior to the MSC in conjunction with your Settlement Conference Statement. (Cal. Rules Ct., Rule 3.1380(c).)**

1. If you have not previously used Zoom, it is your responsibility to learn how to use Zoom. The court does not provide advice or technical assistance as to how to use Zoom. In order to appear by Zoom, you will need to have a camera and audio feed on the computer or device you are using. Tutorials on how to use Zoom can be found at: [https://learning.zoom.us/learn?utm\\_source=support&utm\\_medium=banner&utm\\_campaign=Start\\_learning](https://learning.zoom.us/learn?utm_source=support&utm_medium=banner&utm_campaign=Start_learning)
2. "Trial counsel, parties, and persons with full authority to settle the case must personally attend the conference, unless excused by the court for good cause. If any consent to settle is required for any reason, the party with that consensual authority must be personally present at the conference." (Cal. Rules of Court, rule 3.1380(b)). All parties and their representatives who will be participating in an MSC conducted by Zoom must be listed on this form with their email address and phone number. The Court will use the email addresses listed on this form to send out Zoom conference invitations on the date of the MSC. The Court will use the phone numbers listed on this form to communicate with participants during the MSC, if necessary.



3. Participants to an MSC conducted by Zoom should join the Zoom conference 5 minutes prior to the scheduled MSC by clicking on the link emailed to you by the Court. Upon entering the Zoom forum, you will be placed in a waiting room until admitted by the Court which will act as the Host. At the outset of the conference, all participants will be admitted together and a brief joint discussion with all parties will take place. Thereafter, the court will engage in separate discussions with each side by using the Zoom breakout room and/or waiting room functions.
  
4. Participants in an MSC conducted by Zoom shall be alone in a quiet room or private area unless the court expressly approves the presence of another person such as an interpreter or support person. Cell phones shall be silenced and not used during the MSC unless necessary to communicate with the court in the event of a lost connection. Mute your Zoom audio when you are not speaking. Only parties, their counsel and their insurance representatives are allowed to view and listen to an MSC. No other person can view or listen to the MSC except as explicitly authorized by the court.
  
5. Is there a request to have the court provide an interpreter for any MSC participant?  
 Yes: [ ] No: [ ]  
 If an interpreter is being requested, please provide the name(s) of the person(s) who need the assistance of an interpreter:  
 \_\_\_\_\_, and the language needed: \_\_\_\_\_. (Persons needing an interpreter should be in a separate private room during the MSC.)
  
6. Zoom is not a court created or provided platform. The court makes no warranties or guarantees regarding the confidentiality, privacy, or integrity of Zoom proceedings. If you have any questions regarding the confidentiality, privacy, or integrity of Zoom proceedings, you should conduct your own research at <https://zoom.us/> or contact Zoom representatives directly.
  
7. **RECORDING OF ANY PORTION OF THE MSC IS PROHIBITED.** No photography, recording or broadcasting of all or any portion of an MSC is permitted, including by screenshot, audio or video recording, or otherwise. (See Cal. Rules of Court, rule 1.150; Pen. Code § 632.) Participants who appear by Zoom are prohibited from forwarding the Zoom invitation or disclosing the Zoom meeting identification code to any non-participant.
  
8. The MSC is subject to the provisions of Evidence Code section 1152 and is not a mediation or otherwise subject to the rules of mediation confidentiality set forth in Evidence Code sections 703.5 and 1119, et seq.
  
9. The MSC Judge will not act as the Trial Judge and may conduct the MSC even if the MSC Judge is otherwise disqualified. (Code Civ. Proc. § 170.4(a)(6).)
  
10. The MSC Judge will conduct the MSC as he or she considers appropriate, including discussing all aspects of the case candidly with counsel and/or the parties and may have substantive discussions with one party (and counsel) without the presence of other parties (and counsel) or with counsel alone without their clients being present. If a party is represented by counsel, the MSC Judge will not meet, or have substantive discussions about the case, with that party alone without the express permission of the party and counsel.

11. The MSC Judge is and will remain impartial but may review the probable evidence, offer evaluations as to the strength or admissibility of probable evidence, including regarding damages, and express opinions about the applicable law, legal arguments, the probable outcome of the case and appropriate terms for settlement.
  
12. The techniques employed by the MSC Judge are designed to facilitate and encourage settlement, but no party is obligated to settle the case. Nothing said or done by the MSC Judge during, or in connection with, the MSC is intended to pressure or coerce any party or counsel to settle the case and should not be so interpreted. The decision to settle or not is entirely the prerogative of the parties and their counsel.
  
13. The MSC Judge will not communicate with the Trial Judge concerning the substance of the case or of the MSC but may inform the Trial Judge if the case settles or not.
  
14. This Stipulation may be executed in two or more counterparts and will be binding on the signatories thereto. As stated above, all participants must agree to participate by Zoom in order for the MSC to be conducted by Zoom. This Stipulation is signed when a signature or e-signature is delivered by facsimile, e-mail or other electronic medium. These signatures will be treated in all respects as having the same force and effect as original signatures.
  
15. **Counsel must convey the above rules to their clients and any other agents participating in an MSC conducted by Zoom and ensure compliance with these rules.**

**RECEIPT ACKNOWLEDGED AND SO STIPULATED:**

Date: \_\_\_\_\_

\_\_\_\_\_

Name of Party

Print Name

Attorney     Other

Plaintiff     Defendant

Cross-Complainant

Cross-Defendant

\_\_\_\_\_

Signature

Email for Zoom Invite: \_\_\_\_\_

Phone number: \_\_\_\_\_

**RECEIPT ACKNOWLEDGED AND SO STIPULATED:**

Date: \_\_\_\_\_

\_\_\_\_\_

Name of Party

Print Name

Attorney     Other

Plaintiff     Defendant

Cross-Complainant

Cross-Defendant

\_\_\_\_\_

Signature

Email for Zoom Invite: \_\_\_\_\_

Phone number: \_\_\_\_\_

**RECEIPT ACKNOWLEDGED AND SO STIPULATED:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Party

- Attorney     Other
- Plaintiff     Defendant
- Cross-Complainant
- Cross-Defendant

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

Email for Zoom Invite: \_\_\_\_\_

Phone number: \_\_\_\_\_

**RECEIPT ACKNOWLEDGED AND SO STIPULATED:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Party

- Attorney     Other
- Plaintiff     Defendant
- Cross-Complainant
- Cross-Defendant

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

Email for Zoom Invite: \_\_\_\_\_

Phone number: \_\_\_\_\_

**RECEIPT ACKNOWLEDGED AND SO STIPULATED:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Party

- Attorney     Other
- Plaintiff     Defendant
- Cross-Complainant
- Cross-Defendant

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

Email for Zoom Invite: \_\_\_\_\_

Phone number: \_\_\_\_\_

**RECEIPT ACKNOWLEDGED AND SO STIPULATED:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Party

- Attorney     Other
- Plaintiff     Defendant
- Cross-Complainant
- Cross-Defendant

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

Email for Zoom Invite: \_\_\_\_\_

Phone number: \_\_\_\_\_

Emergency Form (rev. 12/30/21)

**Civil Jury Trial Rules**  
Ventura County Superior Court  
Judge Kevin G. DeNoce

The following practices and procedures are to be followed in conducting civil jury trials before Judge Kevin G. DeNoce. Counsel are ordered to read and adhere to these rules. **The court requires that trial counsel sign a copy of these rules acknowledging that you have read them and file a signed copy of these rules with the court at the pre-trial conference (or email a signed copy to the court on that date).** You may email a signed copy to the court at courtroom43@ventura.courts.ca.gov

**Trial Court Hours:**

**Jury trials are conducted from 10:00 a.m. to 4:00 p.m., Tuesday through Friday. Trials are not in session on Mondays since that is a law and motion day for the court.** The court recesses from noon to 1:30 p.m. Counsel are expected to arrive in the courtroom fifteen minutes before each session is to begin (9:45 a.m. and 1:15 p.m.) **Once trial begins, counsel should expect to be in session Tuesday through Friday from 10:00 a.m. to 4:00 p.m. until the trial is completed. If counsel cannot commit to this schedule, it must be brought to the court's attention before jury selection begins.** The court expects that there will not be interruptions (down time) in the trial and that each counsel will have their witnesses ready so that the jury is not waiting. Do not expect the court or jury to wait if witnesses are late.

**Counsel's Duty to Meet and Confer Prior to the Pre-Trial Conference:**

Judge DeNoce conducts a pre-trial conference two weeks prior to the trial date. Prior to the pre-trial conference, counsel are ordered to meet and confer telephonically (1) to prepare a joint witness list and joint statement of the case; (2) to identify motions in limine and issues which can be resolved through stipulation; (3) to identify exhibits which may be admitted into evidence by way of stipulation; (4) to ensure compliance with Code of Civil Procedure section 2025.340(m) concerning use of audio or video recordings of depositions, where applicable; (5) to provide a list of jury instructions to the court; (6) to provide a jury verdict form to the court; (7) to prepare exhibit binders and deposition transcripts for the court; and (8) to discuss scheduling issues and arrive at a reliable time estimate for the trial to be conveyed to the jury panel.

**Trial Documents To Be Provided to the Court at the Pre-Trial Conference:**

The parties are required to appear in courtroom 43 for a pre-trial conference two weeks prior to the trial date. Counsel may appear by CourtCall at the pre-trial conference. The purpose of the pre-trial conference is to discuss whether counsel will be announcing ready for trial, the court's availability to commence the trial on the trial date, and whether counsel have prepared the necessary documents that the court requires be prepared prior to the trial date, including motions in limine, a statement of the case, joint witness list, proposed jury instructions, proposed verdict forms, proposed juror questionnaire, etc. These documents, in particular, motions in limine, must be brought to the pre-trial conference (or provided in advance by courier if appearing by

CourtCall) and will be filed by the clerk in courtroom 43. In cases with significant motions in limine, this procedure permits the court to work on such motions in advance of the trial date so as to avoid delaying jury selection on the trial date. The failure of a party to provide these documents to the court at the pre-trial conference will operate as a waiver of that party's right to request that the trial commence on the trial date and a continuance of the trial date.

**The documents which must be provided to the court and opposing counsel at the pre-trial conference include the following:**

- 1.) **Trial Briefs:** Trial briefs must be brought to the pre-trial conference and provided to the court and opposing counsel. They will be filed by the clerk in courtroom 43. Trial briefs shall not exceed 20 pages and must contain a brief summary of the facts, the claims and defenses subject to litigation; the major legal issues (with supporting points and authorities); and the relief claimed.
- 2.) **Motions in limine:**
  - a.) **Motions in limine must be brought to the pre-trial conference and provided to the court and opposing counsel.** They will be filed at the pre-trial conference by the clerk in courtroom 43.
  - b.) **Oppositions to motions in limine must be filed in courtroom 43 seven calendar days after the pre-trial conference and served by email on opposing counsel that same day by no later than 4 p.m. (typically this day falls on a Monday, one week prior to the trial date.)**
  - c.) **Replies to motions in limine must be filed in courtroom 43 nine calendar days after the pre-trial conference and served by email on opposing counsel that same day by no later than 4 p.m. (typically this day falls on Wednesday, 5 days prior to the trial date.)**
  - d.) **The parties are ordered to create a working courtesy copy of all motions in limine, oppositions, and replies, and organize them in three-ring binders which must be lodged with the court ten calendar days after the pre-trial conference (the Thursday prior to the trial date).**
  - e.) **Before and after filing motions *in limine*, the parties shall meet and confer in an effort to (1) reach stipulations resolving disputes over the admissibility of evidence and (2) limit the contested motions *in limine* to a manageable number for the Court to decide.**
  - f.) **Counsel are permitted to file no more than 10 motions in limine on each side. If you believe you have good cause to file additional motions in limine, you must file a supporting motion and declaration.**
- 3.) **Joint Jury Statement:** **For jury trials only, the parties shall file a joint statement of the case to be read to the jury panel at the outset of jury selection. This statement should be a neutral, concise factual statement of the case not exceeding two pages.** (See, Ventura County Superior Court Rules, Rule 8.12(G).) Alternatively, the parties may agree to provide

Mini-Opening Statements (five minutes or less per side). In addition to filing your Joint Jury Statement, please email a copy to the court at: courtroom43@ventura.courts.ca.gov

4.) Joint Witness List: The parties shall file a joint list of all witnesses that each party intends to call. The joint witness list shall identify each witness by name, each expert witness, the expected length (in tenths of an hour) of the direct and cross examination of each witness, and any potential scheduling problems or special requirements. Please total the number of hours so that the Court can estimate the total length of trial. The court may preclude the testimony of a witness not listed in the joint witness. In addition to filing a Joint Witness List, please email a copy to the court at: courtroom43@ventura.courts.ca.gov

5.) Jury Instructions: **A list of all jury instructions requested by all parties along with a full content copy shall be provided to the court at the pre-trial conference and emailed to the court on such date. If a joint list of jury instructions cannot be agreed upon, each party must file a separate list of instructions. In providing jury instructions to the court, counsel should make any proposed substantive additions, select appropriate gender, and insert appropriate names, BUT NOT REMOVE ANY OPTIONAL (BRACKETED) language from the CACI instructions.** This is to insure that opposing counsel and the court do not miss any optional language that the court/opposing counsel believe should be included. These complete instructions must be emailed to the court prior to commencement of the trial. By emailing all jury instructions to the court along with the proposed verdict form, the court can make changes to these in the courtroom after input from counsel. A copy of the final jury instructions and verdict form will then be emailed back to counsel prior to closing arguments.

The court generally does not pre-instruct on substantive issues of law. If counsel desires to have the court pre-instruct on an area of law or if counsel wishes to question prospective jurors regarding any legal principles, notice shall be given by way of motion filed and served at least five (5) court days prior to the commencement of trial.

6.) If there is a request to use a written jury questionnaire, a copy must be provided to the court and opposing counsel at the pre-trial conference and also emailed to the court. Any proposed questionnaire must be at least 12 point font and not exceed 15 pages and include a declaration under penalty of perjury at the end for jurors to sign.

7.) Jury Verdict Form: **At the pre-trial conference, counsel for all parties must provide the court with a proposed verdict form. If the parties cannot agree on a joint verdict form, each party must submit their own proposed verdict form prior to jury selection. The court requests that you also submit the verdict form to the court by way of email.** By providing the court with an electronic/emailed copy, changes to the verdict form can be made in the courtroom if necessary. In emailing the court, always remember to copy all parties/counsel on the email so as to avoid any *ex parte* communications with the court.

8.) Estimated Trial Length: **At the pre-trial conference, counsel provide the court with an accurate time estimate for the trial which takes into consideration time for jury selection, presentation of evidence, closing argument, any potential bifurcated phase,**

**and at least one day of deliberations. This time estimate should also take into consideration that trial will only be in session Tu-Fr 10-12, 1:30-4, and not in session on Mondays.** In providing your time estimate, error on the side of a longer estimate in order to avoid losing jurors and a potential mistrial. Since the court prequalifies jurors for hardship, the court needs this time estimate prior to the first day of jury selection in order to prepare a hardship declaration that will be sent to jury services the day before jury selection begins.

- 9.) Definitions for Technical Terms: If there are technical terms which will be used by the witnesses and/or attorneys, it would be helpful to the court and court reporter to have a list of those terms with the correct spelling and definitions. A list of technical terms with their correct spelling and definitions should be jointly prepared by the parties and provided to the court and court reporter prior to jury selection and motions in limine. The court requests that the parties attempt to agree on the definitions for such terms and inform the court as to whether there is a dispute regarding the meaning of any technical terms. The parties should also consider whether they wish to stipulate that a list of agreed definition of technical terms may be provided to the jury at the outset of the case.

**Documents to Be Lodged With The Court On The First Day of Trial:**

- 1.) Trial Exhibit Binders: The parties shall jointly prepare, and be fully prepared to lodge with the court on the first day of trial, three sets of tabbed, internally paginated and properly marked exhibits, organized numerically in three-ring binders (a set for the court, the Judicial Assistant and the witnesses). The parties shall mark non-documentary exhibits and insert a simple written description of the exhibit behind the corresponding numerical tab in the exhibit binder.
- 2.) Transcripts of Depositions: Copies of deposition transcripts which may be read or referred to at trial must be lodged with the court on the first day of trial.
- 3.) If there are more than ten (10) potential witnesses that may be called at trial, provide 100 copies of a comprehensive (joint) witness list that can be passed out to the prospective jurors at the beginning of jury selection to determine if jurors know any of the witnesses.
- 4.) Each party must provide the court with a separate list of your retained experts, non-retained experts, and treating physicians who may testify, and categorize the witnesses in accordance with these designations.

**Jury Selection:**

The court prequalifies jurors for hardship by having the jurors in the Jury Assembly room fill out a declaration indicating whether they can serve on a case of the anticipated length of this trial. This is done before the jurors are brought into the courtroom. Generally, the court brings a panel of 70 pre-qualified jurors into the courtroom at a time and does not use a "six pack" method. The court uses a PowerPoint during jury selection to inform jurors of their duties, admonitions, and the information set forth in CACI 100-114. If counsel wishes to see a copy of the court's jury selection PowerPoint, please ask the court's judicial assistant prior to the jury panel being summoned to the courtroom. The court also uses a standard Jury Questionnaire in its examination of prospective jurors.

In conducting voir dire, counsel are reminded not to ask jurors “any question that, as its dominant purpose, attempts to precondition the prospective jurors to a particular result, indoctrinate the jury, or question the prospective jurors concerning the pleadings or the applicable law.” (CCP section 222.5.) The court will take challenges for cause at sidebar (or otherwise outside the hearing of the jury).

### **Court Reporter Services:**

The parties are encouraged to provide court reporter services for all evidentiary portions of the trial and jury instruction discussions. In the absence of a court reporter, the Court will not be able to provide “read back” of testimony if requested by the jury. **The Court requests that counsel provide a court reporter that has “real time” capability.**

### **Use of Publications, Articles, Expert Treatises, and Deposition Transcripts at Trial:**

If pursuant to *Evidence Code* section 721, subdivision (b)(2) or (b)(3), a party seeks to introduce a publication or reference the content of a publication in questioning a witness, a noticed motion supporting such use must be filed prior to the conclusion of jury selection. This advance notice and motion requirement does not apply to publications used pursuant to *Evidence Code* section 721, subdivision (b)(1). In questioning an expert witness, "case specific" information/hearsay may not be conveyed to the jury unless it has been independently admitted. (See, *People v. Sanchez (2016) 63 Cal.4th 665, 676-679.*) If you wish to have an expert reference "case specific" hearsay information in his/her testimony, or you wish to reference “case specific” information in your questioning of an expert, absent a stipulation, such evidence should be admitted into evidence prior to its use.

If pursuant to *CCP* section 2025.620, a party seeks to introduce a deposition transcript at trial other than of a party, a noticed motion supporting such use must be filed prior to the conclusion of jury selection.

### **Stating Objections During the Trial:**

**The court does not permit speaking objections. Simply state the grounds for your objection, i.e., hearsay, lack of foundation, etc.** If counsel wishes to argue about a ruling on an objection, it will be done at the bench or on the record outside the presence of the jury. Objections made before the jury shall state the legal basis only. Do not argue objections in the jury’s presence unless invited by the court. [See Ventura County Superior Court Rules, Rule 8.12(C)(2).] **Counsel objecting on “*Kennemur*” grounds is obligated to give advance notice of such objection and provide the court with a sufficient record to rule on the objection as soon as counsel reasonably anticipates that such an objection may be forthcoming.** Counsel opposing a *Kennemur* objection has the burden of showing the court where in the deposition/declaration the expert disclosed the opinion being objected to. Counsel should be mindful that the court is not in a position to know whether an expert opinion was disclosed prior to trial unless counsel provides the court with a sufficient record for the court to make that determination. Counsel should not expect the court to keep a jury waiting while the court is asked to read a voluminous deposition in order to rule on an unnoticed *Kennemur* objection.



**Witnesses:**

Counsel must have sufficient witnesses present each day of trial to avoid delay. **Each counsel shall notify (by way of email) the court and opposing counsel by 6 p.m. the evening before, as to what witnesses will be called the following day except for witnesses offered solely for impeachment.** Failure to follow this rule may result in exclusion of any witness not so disclosed. Counsel are expected to accommodate each other when a need arises to call a witness out of order.

The standing order of the court is to exclude witnesses (including experts) from the trial, unless counsel request otherwise. Counsel are expected to inform witnesses of this order. Counsel must also advise their witnesses not to discuss their testimony with any other witness during the trial, including after the witness testifies.

**Questioning of witnesses shall be done from outside the well and away from the witness stand unless necessary to cover exhibits or diagrams being referenced by the witness.** Before approaching a witness, counsel should ask for the court's permission. Counsel should inquire of the court before approaching the witness stand. **Counsel should promptly return to counsel table once it is no longer necessary to be beside the witness.** Do not admonish a witness while the witness is testifying; you may request that the court admonish the witness.

**Use of Exhibits During Trial:**

**Although the court requests that exhibits be pre-marked, counsel should only mark as exhibits items you intend to move into evidence. Do not mark numerous pages as an exhibit if you only intend to move some of those pages into evidence. Stated otherwise, only mark as an exhibit the pages that you will be moving into evidence. Electronic exhibits (CDs of documents, etc.) cannot be admitted in place of hard copies. The Court will need a hard copy of exhibits for the jury, Court, and Judicial Assistant and counsel must provide them to the Court on the first day of trial. Please give your exhibits to the Judicial Assistant prior to jury selection and have them pre-marked before jury selection is completed.**

When counsel wishes to use an exhibit not produced and marked at the commencement of trial, counsel should disclose the exhibit to opposing counsel and provide it to the judicial assistant prior to its use so an exhibit tag can be attached to it.

In publishing/providing exhibits to the jury, they shall be handed to the bailiff who will provide the exhibit to the jury. Counsel should not display, project, etc., an exhibit to the jury which has not been admitted into evidence without prior approval of the court. Counsel using a document presentation system shall identify on the record by exhibit number an exhibit to be displayed before showing it to the jury.

**Once an exhibit is marked, it shall not leave the courtroom regardless as to whether it is received into evidence.** At each break and at the end of the day, all marked exhibits are to be handed back to the judicial assistant to ensure that they do not get lost or mistakenly taken out of the courtroom by counsel or a witness.

**PowerPoints, Charts, Reenactments, Demonstrations & Visual Displays:**

PowerPoints, slides, charts, and exhibits intended to be referenced in opening statements or closing arguments must be shown to opposing counsel at least thirty minutes prior to their presentation. Counsel must provide a hard copy of any PowerPoint to the court and opposing counsel at least thirty minutes before its use. Opposing counsel must inform the court at least fifteen minutes prior to its intended use, of any objection to a PowerPoint, slide, chart, or exhibit which is to be taken up outside the presence of the jury. **In order for there to be an appellate record as to what was displayed to the jury and what was objected to, counsel must provide the court with a printed hard copy of any PowerPoint or Chart which must be marked as a court exhibit before being presented in court.**

**Documents, video, or photographs which counsel intends to display/project should be marked and moved into evidence prior to display/projection.** No reenactment, experiment, graphic demonstration, comparison, exemplar, or physical display of a party or witness shall be conducted during the trial without giving at least one court day advance notice to the court and opposing counsel so that a hearing can occur outside the presence of the jury.

**Evidentiary Stipulations:**

If the parties intend to enter into a stipulation regarding the admissibility of evidence, whether business record foundation need be established, etc., the parties should memorialize the stipulation in writing and file it with the Court. It is not uncommon for the parties to discover in the midst of trial that there was not a “meeting of the minds” as to exactly what was stipulated. To avoid this possibility, and to provide the Court with the authority to enforce an evidentiary stipulation, it must be memorialized in writing and provided to the Court. The written stipulation should also state that the parties agree that the Court can enforce the stipulation such as by overruling any objection to evidence stipulated to be admissible.

**Persons Assisting and Associated with Counsel During Trial:**

Other than the parties and trial counsel, no persons are permitted in front of the bar separating the audience from counsel table unless expressly permitted by the court. If “assistants” for either side wish to sit at counsel table, please provide the name of your assistant to the court clerk and introduce your assistant to the court. Assistants and co-counsel that are sitting at trial counsel table should not come and go from the courtroom during session as it is distracting to the jury.

**Counsel are to instruct their clients, witnesses, family members, and anyone else attending court with them, of motion *in limine* rulings, the rules of the court, how to behave on the witness stand, to pause for objections, not to argue with the questioner, and NOT to converse with jurors. Further, these persons are to be instructed by counsel that they are not to converse in any manner within hearing distance of the jurors.**

Counsel will advise their clients, family members, friends and witnesses that head nodding, grimaces, eye rolling, and other unnecessary gestures in response to testimony, argument, or a

court ruling will not be tolerated, and may result in the court giving a curative admonition to the jury.

**Entering the Well:**

Questioning of witnesses shall be done from outside the well and away from the witness stand unless necessary to cover exhibits or diagrams being referenced by the witness.

Opening statement and closing argument shall only be presented from behind your counsel table, the podium in the well, and the area of the well directly in front of the jury box. Opening statement and closing argument shall not be presented from the witness stand or beyond the bar in front of the jury box. Counsel shall not make contact with or pass the bar in front of the jury box or ask the jury any questions such as whether they can see a diagram, exhibit, chart, Powerpoint, etc.

**Sidebar Conferences:**

Sidebar conferences are not reported. A party wishing to memorialize any unreported proceedings "on the record" will, upon request, have the opportunity to do so outside the presence of the jury at a time designated by the court.

**Unanticipated Issues That Arise During The Trial:**

If unanticipated motions need to be made during the trial (motions *in limine*, 402, foundation, etc.), both opposing counsel and the court shall be notified immediately as opposed to raising the matter first thing in the morning or afternoon shortly before the jury comes back. If such a motion comes to mind after hours, opposing counsel and the court shall be notified after hours by email and all counsel shall be in court at 9:00 a.m. on the following court day to address the matter. All counsel are ordered to exchange email addresses and telephone numbers so they can confer both during and after court hours. Counsel should not expect to keep the jury waiting while seeking to litigate an unnoticed motion.

**"DOE" Defendants:**

The court will, without further notice, dismiss all fictitiously named defendants at the close of the evidence.

**Policy Concerning Food and Drink:**

Counsel may consume drinks in the courtroom. Food is not permitted in the courtroom absent medical necessity.

**Trial Attorneys' Duty While the Jury is Deliberating:**

While the jury is deliberating, counsel and the parties are to be available to physically return to the courtroom within thirty (30) minutes of a telephone call in order to receive a verdict, answers

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questions of the jury, or provide read back of testimony. Please provide the clerk with a cell phone number where you can be reached.

I have read and understand the foregoing and agree to be bound by the above rules.

\_\_\_\_\_  
Counsel (print)  
Plaintiff/Defendant

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date