

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA**

[}	Case No.: [
Plaintiff[s],	}	PRE-TRIAL ORDER
vs.	}	TRIAL DATE: [
Defendant[s].	}	
	}	
AND CROSS COMPLAINT	}	
	}	

IT IS ORDERED that:

Peremptory challenges. The number of peremptory challenges shall be:

Party: [, **six (6)** peremptory challenges

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In addition, each side shall have additional peremptory challenges for alternate jurors in the same ratio as peremptory challenges for regular jurors, such peremptory challenges applicable only to alternate jurors. For example, if there are six peremptory challenges for regular jurors and four alternate jurors, there will be two peremptory challenges for alternate jurors.

1 **Six-pack procedure.** Eighteen potential jurors shall be empanelled and all 18 shall be
2 questioned on voir dire and passed or excused for cause. Peremptory challenges shall then be
3 exercised and the panel re-filled by the 6-pack in the order seated. On exhaustion of the 6-pack
4 plus one, 7 new potential jurors shall be empanelled, those 7 shall be questioned on voir dire,
5 passed or excused for cause, and the peremptories shall continue. This process shall continue
6 until a jury is selected or all peremptory challenges are exhausted.

7 **Alternate jurors.** [alternate jurors shall be selected.] Alternate jurors shall be filled by
8 any remaining persons in the 6-pack, in the order seated, until the 6-pack is exhausted.
9 Thereafter, the 6-pack procedure shall not be used to select any remaining alternate jurors. The
10 alternates and their order shall be as designated at the outset of the trial.

11 **Voir dire.** Any voir dire questions that counsel request be considered by the court to be
12 included in the court's voir dire shall be submitted at the pre-trial conference. Counsel will be
13 allowed to introduce themselves and their clients at voir dire and make a brief opening statement
14 prior to the commencement of the oral questioning phase of the voir dire process.

15 Except for good cause shown, counsel for each side shall be allowed a reasonable
16 amount of time to voir dire the original 18 prospective jurors and each new 6-pack panel of
17 prospective jurors. At the end of his or her voir dire for a panel counsel shall either pass for
18 cause or reserve challenges for cause. When all sides have concluded voir dire for a panel, a
19 single side bar conference shall be held to rule on any challenges for cause.

20 The voir dire will not be reported unless counsel request otherwise.

21 **Jury.** The party demanding a jury trial shall, at the beginning of the second and each
22 succeeding day's session, pay daily jury fees to the courtroom clerk. The amount for each day
23 will be calculated and provided by the courtroom clerk to the demanding party. If more than one
24 party has demanded a jury, the amount payable by each party may be determined by stipulation
25 or order of the court. Failure to pay daily jury fees may be deemed a waiver of the jury and the
26 trial may proceed as a court trial.

27 **Jury Instructions.** If not already done, each lead trial counsel shall, within eighteen
28 (18) hours, file, serve and, e-mail to the court at **dgeck@sbcourts.org** as an e-mail attachment

(Microsoft Word preferred) a **list of the parties' requested CACI instructions, by number, a document containing the edited text of each CACI Instruction as the party wants it given, and the text of any requested special jury instruction, with supporting authorities** as ordered in the **TRIAL CALL ORDER**. Proposed jury verdict forms shall be submitted at the same time as the proposed jury instructions. Except for good cause shown, all supplemental requested jury instructions shall be submitted at the earliest opportunity and no later than 24 hours before the jury instruction conference. The reading of jury instructions to the jury will not be reported unless counsel request otherwise.

Witness Lists. If not already done, each lead trial counsel shall, within eighteen (18) hours, file, serve and, e-mail to the court at **dgeck@sbcourts.org** as an e-mail attachment (Microsoft Word preferred) a **complete witness list of the party's proposed witnesses**.

Witnesses may not be added to the list during trial except for good cause shown.

Statement of the Case. The parties shall submit a joint statement of the case to be read to the jury (or each party shall submit a statement of the case if the parties are unable to agree) at the pre-trial conference.

Evidence Binders. If not already done, each lead trial counsel shall, within eighteen (18) hours, file, serve and, e-mail to the court at **dgeck@sbcourts.org** as an e-mail attachment (Microsoft Word preferred) a **table of contents of that party's exhibits in the evidence binder**.

Trial counsel for all sides shall confer about their intended numbering of exhibits/numbers to be used. For example, Plaintiff/Petitioner shall use numbers 1 – 200 and Defendant/Respondent shall use numbers 201 – 400 adjusting the numbers as necessary to accommodate both parties number of exhibits and shall bring their evidence binder (**binders shall be between 2 ½ and 3 inches in size**) with a **table of contents** and numbered tab for each exhibit as ordered in the **TRIAL CALL ORDER to the Court the first morning start of trial**. No exhibit, except an impeachment exhibit, shall be marked for identification or received in evidence if it is not identified and described on the trial exhibit index, except for good cause shown. All exhibits in the evidence binder(s) shall be marked for identification as they are referred to during trial. Each party shall identify for the clerk the block of exhibits he or she intends to use in the next trial

1 segment so they can be marked for identification during a recess. Medical bills or invoices shall
2 be tabbed and marked separately from medical records or other documents. Multi-paged exhibits
3 shall be internally numbered by Bates stamp or other consecutive numbering.

4 **Deposition Transcripts.** No deposition transcript shall be read in court until a
5 condensed or other copy has been furnished to the court. Admissible portions of a party
6 deposition may be used for any purpose and read into the record. Non-party depositions may be
7 used only for impeachment absent further order of the court, in which case relevant and
8 impeaching deposition testimony may be read into the record without comment. Foundational
9 questions about depositions shall be kept to a minimum and questions whether the witness
10 remembers giving certain testimony at his or her deposition shall not be permitted absent further
11 order of the court.

12 **Time estimates and Examination of Witnesses.** The final time estimate for trial,
13 including pre-trial conferences, jury selection, jury instruction, opening statements, closing
14 arguments and all examination of witnesses including direct examination, cross-examination,
15 redirect, re-cross, rebuttal examination and so forth is _____ hours.

16 In cases where a party is represented by multiple attorneys, one attorney shall conduct
17 the entire examination of one witness, including sidebar conferences, and one attorney shall give
18 the entire opening statement and one attorney shall give the entire closing argument (including
19 rebuttal) for one party.

20 **Order of Proof.** In cases involving cross-complaints or other actions consolidated for
21 trial, examination shall proceed first on the complaint and shall be limited to examination, cross-
22 examination and so forth on the plaintiff's case in chief followed by defendant's case in chief
23 and any rebuttal. Next, examination shall proceed on the cross-complaint and shall be limited to
24 examination, cross-examination and so forth on the cross-complainant's case in chief followed
25 by cross-defendant's case in chief and any rebuttal. Next, examination shall proceed on any
26 consolidated complaint and shall be limited to examination, cross-examination and so forth on
27 the plaintiff's case in chief followed by defendant's case in chief and any rebuttal, and so forth as
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1 above. Upon prior approval of the court, witnesses may be called out of order for convenience of
2 the witness, but the order of examination shall remain the same.

3 The order of closing argument shall be: each plaintiff's closing argument; each
4 defendant's closing argument; each plaintiff's rebuttal argument; each cross-complainant's
5 closing argument (limited to new matter alleged only in the cross-complaint); each cross-
6 defendant's closing argument (limited to new matter alleged only in the answer to cross-
7 complaint); each cross-complainant's rebuttal argument.

8 **Court Etiquette.** During opening statement and trial counsel shall speak from the
9 lectern or counsel table except when reasonably required to be elsewhere to refer to an exhibit.
10 During closing argument, counsel may speak from wherever they wish. Counsel shall request
11 permission to approach the witness and shall not enter the well. Counsel shall avoid familiar
12 address of witnesses by first name or nickname.

13 **Objections.** No speaking objections shall be allowed without permission of the court.
14 State only the ground of the objection. If the objection is hearsay, the proponent of the evidence
15 shall state only the purpose for which it is offered. If the court finds the evidence is hearsay, the
16 proponent of the evidence shall state only the exception in a word or two. If the objection is
17 relevance, the proponent of the evidence shall state only the ultimate or intermediate fact it is
18 offered to prove, in a word or two. If the objection is foundation, the objecting party will be
19 asked for the elements of foundation claimed to be missing in a word or two each.

20 Questions summarizing prior testimony are prohibited beyond the bare minimum needed
21 to orient a witness.

22 **Court Hours.** Court hours normally shall be Monday through Thursday 9:00 a.m. to
23 noon with a morning recess at 10:30 am and 1:30 to 4:30 p.m. with an afternoon recess at 3:00
24 pm, except Friday when the Court hears other matters.

25 **Witnesses.** Before adjournment each day, each counsel shall notify the court and
26 opposing counsel of the witnesses anticipated to be called the following day and as far into the
27 future as practicable. Non-party witnesses shall be excluded until they have testified and been
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excused and each party shall so advise his or her witnesses. Counsel shall identify non-party witnesses to the bailiff who shall so exclude them from the courtroom.

Audio and Video Tapes. No audio or video tape shall be played unless a transcript of the audio has been submitted to the court and counsel 24 hours prior to playing the tape, absent a showing of good cause.

Interpreters. Parties shall arrange for any foreign language interpreters required during trial, shall notify the court and counsel of any such need for an interpreter at the pre-trial conference, and shall notify the bailiff before calling a witness requiring an interpreter and request the bailiff to place a chair at the witness box for the interpreter.

Wheeler/Batson. The parties and counsel are ordered not to violate *People v Wheeler* (1978) 22 C3d 258 and *Batson v Kentucky* (1986) 476 US 79, and *People v Gutierrez* (2017) California Supreme Court No. S224724 and any such violation may result in monetary sanctions.

Dated: _____

DONNA D. GECK, Judge of the Superior Court