

MSC AND TRIAL SETTING ORDERS FOR DEPARTMENT S31

MSC: _____ TRIAL READINESS: _____

TRIAL: _____ TRIAL DOCUMENTS DATE: _____

MANDATORY SETTLEMENT CONFERENCE:

Pursuant to California Rule of Court 3.1380 and Local Rule of Court 611, all parties and adjusters are ordered to appear. No less than five (5) days prior to the Settlement Conference, MSC Briefs must be filed directly in Department S-31 and served on opposing parties that include all four (4) elements enumerated in CRC 3.1380, including, but not limited to settlement discussions. A violation of this order may result in monetary sanctions, exclusion of evidence, and/or witness.

If all counsel or self-represented parties so agree, they may contact the Judicial Assistant in Department S-31 prior to the MSC date to request the MSC be held remotely by videoconference. Telephone and email information for all counsel and unrepresented parties must be provided to the Judicial Assistant for a remote conference to be scheduled.

THE COURT FURTHER ORDERS AS FOLLOWS:

TRIAL DOCUMENTS- The parties are ordered to meet and confer with respect to all issues arising from this Order and to exchange all necessary documents such that on the date of the TRC, the following documents are filed **directly** in the DEPT S31:

1. **Joint** witness list with time estimates for direct examination, cross-examination, re-direct, and re-cross;
2. **Joint** exhibit list (Exhibits shall be pre-marked in numerical order and if multiple pages, date stamped at the bottom of each page;
3. **Joint** Statement of the Case (if the parties do not anticipate giving mini-openings);
4. **Plaintiff's** Jury Instructions/Special Verdict.

TRIAL BRIEFS- Trial briefs are required for bench trials. Trial briefs are only required for jury trials if the time estimate is over eight days.

EXHIBITS- The parties shall exchange and inspect all exhibits not furnished during discovery. Exhibits shall be placed in 3-ring binders with 1 copy for the Court, 1 for the witness and 1 for all other parties to the action.

JURY INSTRUCTIONS- Plaintiff shall submit, in compliance with **CRC RULE 2.1055**, a complete set of jury instructions (with a generic pleading cover sheet) with an itemized list of the CACI Instructions and Special Instructions, if any. Defendant's jury instructions are due filed on the first day of trial and should only include **additional instructions** not previously submitted by Plaintiff and a list of **objections** to Plaintiff's instructions.

MOTIONS IN LIMINE- Motions in limine shall comply with **Local Rule 415** and the parties are expected to read and be familiar with *Amtower v Photon Dynamics Inc.*, (2008) 158 CA4th 1582; *Kelly v New West Financial Services* (1996) 49 CA4th 659; and *R&B Auto Center Inc. v Farmers Group Inc.* (2006) 140 CA4th 327.

SUA SPONTE RULINGS – Attached are Orders applicable to all trials.

LOCAL RULES- The parties are expected to be familiar with all the applicable local rules for trial (**Local Rules 411 et seq.**) If you have further questions please contact department S31 at 909-708-8701.

DATED: _____



HONORABLE STEPHANIE THORNTON-HARRIS

¹ Except that all motions in limine and opposition shall be *filed* directly in Dept. S31 at least **8 days** before the Trial Readiness Conference (**Local Rule 411**)

SUA SPONTE RULINGS OF THE COURT FOR TRIAL

1. No witness may be called except with court permission in exceptional circumstances, unless notice has been given to all parties of the date when the witness will testify. Such notice shall be given no later than at the end of the court day preceding the court day before the witness is to testify.
2. All witnesses will be excluded from the courtroom, unless otherwise ordered, excepting those for whom an exception exists at law. (e.g. parties and corporate representatives.)
3. Evidence of, or reference to, settlement negotiations, mediation, and materials related thereto which are privileged under the evidence code or by agreement of the parties shall not be allowed.
4. Evidence of, or reference to, insurance, or the fact that an attorney is employed by, or has been compensated by, an insurance company, shall not be allowed.
5. Evidence of, or reference to, other claims or actions against any party to the litigation shall not be allowed without permission of the court.
6. Evidence of, or reference to, the financial position or wealth, or lack thereof, of any party to the litigation, shall not be allowed without permission from the court.
7. General motions in limine regarding evidence not produced in discovery will not be granted. Where parties expect a dispute regarding the admission of evidence they should advise the court at the earliest opportunity. If an issue arises at trial each party must be prepared to share with the court the actual discovery record.
8. Motions in limine regarding the "Golden Rule" or the "Reptile Theory" will not be granted. The Court is well aware of the underlying law and expects all parties and their counsel to comply. The Court also expects opposing counsel to timely object if appropriate.
9. Motions in limine to include evidence (as opposed to exclude evidence) will not be granted.
10. Absent a formal request at the Trial Readiness Conference, mini-openings are limited to five minutes per party. The Court may extend the time for mini-openings upon a showing of good cause.
11. Demonstrative evidence and/or site inspections taking place outside of the courtroom shall not be allowed unless the requesting party makes a formal, written request at the earlier of the Trial Readiness Conference or at least one week prior to the viewing/inspection. The request shall include the proposed location of the viewing, a time estimate including travel to and from the

location, whether all parties are waiving a court reporter for the inspection, and proposed safety measures for the jurors, attorneys, courtroom staff, and judge.

12. The Court generally allows non-party witnesses to testify via Zoom, Teams, or any similar technology. Should counsel choose to utilize this format, the Court expects counsel to have at least one trial team member familiar with running and troubleshooting the technology present during the witness's testimony. The Court will not provide IT assistance should technical difficulties occur before or during the witness's testimony. The party calling the remote witness is expected to inform all other parties and the Court at least 48 hours before the witness testifies. Remote witnesses must testify from a laptop or desktop computer with a secure connection and have live technical support available during the entirety of the witness's testimony. No witness will be allowed to testify from a tablet, cellular phone, or other small, personal device. All parties must provide the remote witness with a hard copy of all exhibits to be used during testimony (with the exception of impeachment exhibits) prior to the clerk swearing in the witness. The party calling the remote witness is expected to work with all counsel and the witness to ensure the witness has all proposed exhibits from all parties prior to testifying. The attorney calling the witness is expected to conduct a "test run" with both the witness and the Courtroom Attendant one of the breaks or the day prior. Arrangements may be made directly with the Courtroom Attendant.
13. The Court recognizes that, as AI tools proliferate generally in society, there may arise situations in which AI-generated documents or materials (for example, created by a Party prior to the commencement of litigation) are or may become exhibits, evidence, or the subject of factual disputes in an action. In such situations, a pro per party or counsel shall follow the procedures below with regard to proffering evidence, documents, or other factual material which that Party or counsel knows or has any reasonable basis to believe is or was created in whole by a generative AI or any AI tool for creating text, documents, images, video, graphics, audio, or any other material:
 - a) If a Party or counsel seeks to file or otherwise present to the Court any such AI-generated evidentiary material, no such material shall be considered unless previously disclosed or produced timely in discovery (or, with respect to demonstrative exhibits, by the Trial Readiness Conference).
 - b) Contemporaneous with the production or disclosure of any such AI-generated evidentiary material, counsel shall serve a Notice to the opposing Party or side identifying such material with sufficient specificity to locate it (such as by Bates or production number, by attaching a copy to such Notice, by promptly responding to any request for counsel to provide a copy of such material, or by any other means which reasonably permits the other

Party or side to identify and locate the material promptly). Any such AI-generated material which does not have an accompanying Notice shall not be considered by the Court. Absent stipulation between the Parties or other order of the Court on scheduling, at the time of the submission or filing of any such material to the Court, the Party or counsel proffering such AI-generated material to the Court shall file and serve any declarations, affidavits, or sworn testimony to address the material's authenticity under the Evidence Code.

c) If a Party or counsel chooses to use an AI or other automated tool as part of a process for creating exhibits, demonstratives, or other material to be filed or presented to the Court, they shall only do so consistent with their ethical and legal obligations and shall use such tools responsibly and with competent training, knowledge, and understanding of the limitations and risks of such automated tools. **Parties and counsel shall not file, proffer, or otherwise present to the Court exhibits, demonstratives, or other evidentiary or factual material which contain AI-hallucinated assertions of fact, uncorroboratable statements as to factual matters or evidence, or any fictitious or non-existent references or citations to law or fact.** A *pro per* party's or a counsel's failure to confirm or double-check the accuracy, veracity, or even existence of a basis for an assertion of fact or evidence created by an AI tool is grounds for potential sanctions.

d) Any exhibit, demonstrative, or other material to be filed or presented to the Court which was created or drafted with any assistance or use of an AI tool shall be identified as such in its title or caption, in a table preceding the body of exhibit, demonstrative, or other material, and by a separate Notice filed contemporaneously with the document or material. Counsel shall maintain records sufficient to identify, if requested by the Court, those portions of that exhibit, document, or material created or drafted by use of an AI tool.

e) Third parties and non-parties to an action may own and operate publicly available AI tools. The owner or operator of any such AI tool may have access to, ownership of, or otherwise retain information input or submitted to such AI tool, including queries or prompts. Counsel and Parties choosing to use an AI or other automated tools shall fully comply with any applicable protective order and all applicable ethical/legal obligations (including issues relating to privilege) in their use, disclosure to, submission to, or other interaction with any such AI tools. Such counsel and parties using any AI tool shall maintain records sufficient to establish and corroborate their compliance with this Order, if asked by the Court, such as by keeping records of all prompts or inquiries submitted to any such third-party AI tools.

14. **Audio –Visual Equipment:** The Courtroom is equipped with a computer projector, DVD Player, document (“Elmo”) and screens. Connections for the use of computers which tie into the projector are available at counsel tables. Additionally, there is a standard DVD/VCR combination player available in the courtroom and deliberation room. It will NOT play Blue-ray disks.

Please be careful when crating DVD’s on computers with the intention of playing them regular DVD players. When creating your DVD be sure that you are setting the correct software options to ensure proper playback in a DVD player. It is strongly advised, and most commonly practiced, that you use your own computer for playing any DVD evidence.