

ORDERS REGARDING COURTROOM AND TRIAL CONDUCT

General Conduct

All trial participants shall maintain and promote order and dignity in the courtroom by conducting themselves in a dignified, courteous, respectful way. Compliance with this order includes, but is not limited to, the following:

- a. Objections, statements, and legal arguments are made while standing and are addressed to the court, not to opposing counsel;
- b. Counsel shall not interrupt the court or opposing counsel;
- c. During proceedings, all persons shall be addressed by surnames, absent specific approval of the court;
- d. Counsel shall refrain from arguments or comments that are redundant, bombastic, sarcastic, disparaging, or hyperbolic;
- e. All objections and concerns related to trial proceedings shall be communicated by calm, reasoned, dignified, and respectful comments and arguments with reference to applicable rules of law or procedure;
- f. The court's orders also apply to non-verbal expression and tone of voice. Counsel shall refrain from inappropriate eye-rolling; smirking; muttering; sarcastic laughter; chuckling; grunting; slamming books, notebooks, doors, etc.; tossing papers, writing instruments, or other items; sarcastic, indignant, derogatory, or angry tones; or other unprofessional demeanor;
- g. Counsel shall familiarize themselves with the Santa Clara County Bar Association's Code of Professionalism.

Pre-Trial Matters

1. Counsel shall immediately advise the court if counsel believes any *in limine* issue will require an evidentiary hearing.
2. A list of requested jury instructions shall be submitted to the court at the earliest possible time.
3. The court's standing order is to exclude all potential witnesses, other than parties, before opening statements begin. Counsel shall monitor this order and advise potential witnesses not to discuss testimony with other potential witnesses.
4. Counsel shall carefully and thoroughly admonish all potential witnesses to abide by all *in limine* rulings prior to the time the witness is called to testify.
5. All counsel, parties, and potential witnesses are ordered to have no contact with known prospective jurors, trial jurors, or alternate jurors.

1 **Jury Selection**

- 2 1. During voir dire, counsel shall not repeat or rephrase questions already asked by the
3 court.
4 2. During voir dire, counsel shall not seek to educate the jury as to the specific disputed
5 facts of the case, commit jurors to vote a particular way, pre-instruct, pre-argue, or
6 indoctrinate.
7 3. Discussions regarding challenges for cause or misconduct in jury selection will done at
8 side bar, or otherwise outside the presence of the jury.

7 **Exhibits and Presentation of Evidence**

- 8
9 1. Exhibits must always be described for the record when first handled on the record, and
10 thereafter referred to by number as marked.
11 2. Counsel shall advise the court of any evidence that may be admitted by stipulation.
12 Counsel shall not propose a stipulation in front of the jury. Stipulations must be agreed
13 to outside of the presence of the jury and must contain sufficient clarity and specificity so
14 they may be recited into the record by the appropriate party. Upon request and mutual
15 agreement, the court will read clear and specific stipulations into the record.
16 3. Counsel shall ask the court for leave to approach a witness the first time it is deemed
17 necessary to approach that witness. The court may then grant leave to approach that
18 witness without further request.
19 4. Objections shall be succinct and shall state specific, recognized legal grounds for the
20 objection. Counsel shall not make “speaking” evidentiary objections nor make
21 “speaking” responses to evidentiary objections.
22 a. The court will address all objections. Questioning shall not resume after an
23 objection is made until the court so orders, even if the questioning attorney
24 intends to withdraw or rephrase the challenged question.
25 b. After the court rules on an objection, there will be no further discussion in front of
26 the jury. Upon request, the court may entertain more extended argument at side
27 bar or otherwise outside the presence of the jury.
28 5. Counsel shall request to approach the bench or request a hearing outside the presence of
the jury if counsel believes any *in limine* ruling should be revisited or reconsidered.
6. Counsel shall minimize requests to approach, and the court may deny such requests.
7. Motions for a mistrial and accusations of attorney misconduct shall be made outside the
presence of the jury.
8. Side bar conferences are not reported (even if a court reporter is provided) but will be
subsequently memorialized outside the presence of the jury.

27 DATED: March ____, 2025

28

HON. PANTEHA E. SABAN
JUDGE OF THE SUPERIOR COURT

CIVIL TRIAL PROCEDURES FOR DEPARTMENT 3
Hon. Panteha E. Saban

Your case has been assigned to Judge Panteha Saban in Department 3 of the Downtown Superior Courthouse (DTS) for: **Jury Trial**; Trial is generally in session from 9:00 a.m. to 11:45 a.m. and from 1:30 to 4:30 p.m. each day of trial.

Pre-trial Conference

Counsel and/or parties must appear in-person (or remotely if prior request is made and approved through Microsoft Teams at the Pretrial Conference using the links for Department 3 on the court's website (www.scscourt.org)).

At the Pretrial Conference, the court will address scheduling and other administrative matters related to the trial. At that time, counsel should be prepared to address any problems or unique circumstances that could impact trial procedures and scheduling, including unavailability of witnesses, *unavoidable* scheduling conflicts, or requests to call witnesses out of order or for remote testimony. A court reporter is not required for this conference, as no substantive matters will be addressed.

Counsel should inform the Court if counsel believes an *in limine* issue will require an evidentiary hearing or if any unusual legal issue or evidentiary issue is anticipated during trial.

Contact

Attorneys shall contact D3 by email at Department3@scscourt.org. This email is monitored by the courtroom clerk between the hours of 8:30 a.m. and 4:30 p.m. Attorneys shall not contact the Judge directly *without express permission*. **To avoid ex parte communication, please also copy the other party/parties on the email.**

General

Counsel shall always be civil, professional, and polite to the Court, opposing counsel, parties, witnesses, and court staff regardless of whether court is in session or whether the judge is present.

Court Reporters

As of January 1, 2018, the court does not provide court reporters for civil matters. If you wish for your trial to be reported, please be ready to privately retain a reporter in accordance with the court's published *Policy re: Privately Retained Court Reporters and Official Reporters Pro Tempore*. If a court reporter is not retained, the court will order counsel to meet and confer at the end of each trial day to agree on a settled statement. The settled statement will be filed in court the following day at or before 8:45 a.m. If the parties cannot agree, they will submit plaintiffs'

proposal red-lined against defendants' proposal. On even numbered calendar days, plaintiffs will be responsible for the submission. On odd numbered calendar days, defendants will be responsible for the submission. (That refers to the day of the month for the trial, not the day of submission.)

Alternatively, the parties may elect to waive appeal, although the court **STRONGLY ADVISES AGAINST IT**. The point of the settled statement is to have a record for appeal of what occurred during the trial (beyond that reflected in the Clerk's Transcript). If there is no appeal, there is no need for the statement. The reason that the court is ordering daily meetings is because too often the process begins after the notice of appeal is filed, which could be months after the trial has concluded. By that time, memories have faded—especially the court's memory. Yet the parties must either agree or the court must settle the statement. In the court's experience, the sooner that is done, the better.

Pretrial Submissions and Conference

Please review the Local Civil Court Rules pertaining to trial and related matters. Counsels shall meet and confer in advance of the start of trial regarding factual stipulations on uncontroverted matters and place such stipulations in writing.

Jury Trials:

Unless otherwise ordered by the Court, counsel in **jury** trials shall provide the Court with complete hard copy the following **by 12:00 pm on the last court day before the date set for trial**: all *in limine* motions; exhibit lists, except impeachment exhibits; witness lists, except impeachment witnesses; jury instruction requests (see further discussion below); proposed verdict forms; any stipulations on factual or legal issues; a statement of the case; trial briefs; and any proposed special jury voir dire questions or proposed jury questionnaires. Please email a courtesy copy of all e-filed documents to the court (cc'ing all counsel). The department email is: department3@scscourt.org

Any request for a case-specific jury questionnaire will be discussed and decided at the pre-trial conference. In any case in which case-specific questionnaires will be used, prospective jurors who are not seeking a hardship will be directed to complete a questionnaire. The process for completing and returning jury questionnaires will be governed by the Court. However, retrieving, copying, and circulating completed questionnaires to all counsel and to the Court before voir dire begins will be the responsibility of Counsel. These logistics will be discussed at the pre-trial conference.

Absent special circumstances, *in limine* and other pre-trial motions are to be heard on the record prior to calling a jury panel.

1 **Bench Trials:**

2 Unless otherwise ordered by the Court, counsel in **bench** trials shall provide the Court with
3 complete hard copy of the following **by 12:00 pm on the last court day before the date set for**
4 **trial:** all *in limine* motions; exhibit lists, except impeachment exhibits; witness lists, except
5 impeachment witnesses; any stipulations on factual or legal issues; statement of the case; and
6 trial briefs. Please also email a courtesy copy of all e-filed documents to the court (cc'ing all
7 counsel). The department email is: department3@scscourt.org

8 **All Trials:**

9 Counsel shall meet and confer in advance of the pretrial conference regarding factual
10 stipulations on uncontroverted matters and place such stipulations in writing to be read into
11 the record. Counsel is encouraged to waive authentication evidence on documents where
12 authenticity is not a disputed issue and to stipulate to the admissibility of exhibits for which
13 the likelihood of admission cannot be legitimately questioned.

14 Originals of all depositions that may be used during trial are to be lodged with the Clerk
15 before trial begins.

16 Counsel shall carefully advise their clients and witnesses of *in limine* rulings and the
17 obligation to abide by them.

18 **Jury Instructions (Jury Trials)**

19 A list of requested jury instructions (CACI) shall be submitted to the Court by 12:00 pm the
20 day before the day set for trial. An edited set of instructions shall be submitted at the earliest
21 possible time after the conclusion of *in limine* motions if necessary. Any non-CACI or
22 pinpoint instructions shall be submitted in writing. Counsel should submit all potentially
23 relevant instructions and the Court will have a final instruction hearing before instructions are
24 read to the jury. Counsel are responsible for providing 16-17 copies (12 for jury, 2-3 for
25 alternates, courtesy copy for judge to read and a copy to be filed) of the final instructions to
26 Court and each side should have their own copy.

27 **Statement of the Case and Voir Dire/Hardships (Jury Trials)**

28 Counsel shall decide at the pre-trial conference whether voir dire is to be reported. If not,
counsel shall stipulate that any reporter is excused for voir dire.

Before beginning voir dire, the Court will introduce parties and counsel to the jury panel.
The Court will inform the jury of the expected length of trial based on counsel's good faith
time estimates. Time estimates should include actual days the jury will spend at the
courthouse, including jury selection, evidence, and a best estimate of deliberation time. Time

estimates should also include consideration of multiple trial phases in bifurcated jury proceedings.

Hardship requests of jurors will be heard by the Court. The Court provides hardship request forms for prospective jurors to complete, and the Court decides legal hardship.

After all hardship requests have been heard and decided, the Court will read a neutral statement of the case (ideally agreed upon at the pretrial conference) or will allow each side to present a five-minute “mini-opening statement” if requested and appropriate. This will be discussed at the pre-trial conference.

The Court will conduct initial voir dire. A set of standard questions is attached below if no case-specific written questionnaire will be used. Counsel may submit in writing specific questions and areas of inquiry they want the Court to cover. Proposed questions must be phrased in a neutral tone.

Attorney voir dire time is determined by the Court based on reasonable estimates given at the pretrial conference. While the Court typically allows approximately 30 minutes **per side** for the initial 18 prospective jurors and approximately 10 minutes **per side** for each set of newly seated prospective jurors, the Court is flexible about time allotments, in accordance with CCP § 223.5. Counsel may ask general questions to the panel at large or individual questions to a juror in any order. Jurors are to be addressed by last name or juror seat number.

The Court uses a “six-pack” method for jury selection. Challenges for cause are made at side bar following voir dire of the first 18 prospective jurors. Vacated seats in the box from granted “for cause” challenges will be filled from the 6 prospective jurors in the bottom row (the “six-pack” starting from left to right). Peremptory challenges are permitted only for the 12 prospective jurors in the formal jury box. **Each side** receives 6 peremptory challenges. Vacated seats are filled from the “six-pack.” When the “six-pack” and one seat in the jury box are empty from challenges, the clerk will call 7 new prospective jurors. The first 12 jurors seated after all sides have passed will be sworn and constitute the jury.

The number of alternate jurors will be determined at the pre-trial conference. Each side receives one peremptory challenge per number of alternate jurors to be selected. Replacement of a sworn juror by an alternate shall be by random “lot” selection by the Court.

Pre-instructions and Opening Statements (Jury Trials)

The court will pre-instruct the jury with standard CACI instructions **before** opening statements.

At the pre-trial conference, the Court will seek time estimates from counsel for opening statements and may then set time limits. Please follow these time limits.

1 If a chart, photograph or other demonstrative evidence is to be used in opening statement, it
2 should be shown to and approved by opposing counsel prior to the commencement of the
3 statements (if necessary, the Court will resolve any issues).

4 **Trial: General Matters (All Trials)**

5 Counsel shall silence all audible cellphones and other devices and shall instruct their clients
6 and witnesses to do the same.

7 Audio Visual: If a party plans to use technology and/or audio-visual equipment for trial
8 presentations, please make sure to test all equipment in advance. Plan on bringing your own
9 extension cords, power strips, etc. When setting up technical equipment, counsel is responsible
10 for ensuring that electrical cords and cables do not present safety hazards. Please refrain from
11 use of duct tape to secure cords; rather, use of cord or floor covers/mats that will not leave
12 residue is preferred. The court does not allow for “down time” for testing equipment during jury
13 time. Therefore, you are encouraged to come to the courtroom in advance of the trial sessions.
14 Arrange this advance time through the bailiff and the clerk.

15 At the conclusion of each day’s session, counsel should update the court of witnesses and
16 time estimates to confirm that trial is on schedule.

17 Jury Trials: Before convening in the morning and after the noon recess, trial jurors will be
18 told to assemble in the jury assembly room rather than returning to the courtroom, so to
19 reduce jurors being present in the hallway, in the presence of parties, witnesses or counsel
20 while waiting for the courtroom to open. However, counsel should remind their clients and
21 witnesses to be aware at all times of the jurors’ potential presence in the hallways, restrooms,
22 and elevators. Counsel are instructed to have conferences with clients, opposing counsel,
23 and/or witnesses in a location that will avoid problems.

24 All members of the court staff shall be treated courteously. When the court is in session, the
25 staff shall be referred to as “Madam/Mr. Clerk”, “Madam/Mr. Reporter” or “Deputy.”
26 During proceedings, all other persons shall be addressed by last name. First names (including
27 those of opposing counsel) should not be used in front of the jury.

28 **Witnesses (All Trials)**

Counsel is responsible for securing timely presence of witnesses during presentation of the
case. Counsel should always have present in the court building all witnesses who are
anticipated to be called during that session, e.g. all the witnesses for the morning or all the
witnesses for the afternoon. When an expert witness is to be called, it is acceptable to
estimate a specific time for that testimony. However, counsel should have another witness
available if any witness is delayed or the trial moves faster than anticipated.

Jury Trials: If jurors submit written questions to be asked of witnesses, they will be considered at side bar with the attorneys after all questioning by counsel of the witness has finished. If a juror-supplied question is appropriate, the Court will ask the question, either as written or paraphrased. The Court will allow appropriate and limited follow-up questioning by counsel to put the witness' answer into context. The Court will provide all written questions, whether asked of the witness or not, to the clerk to be included in the record.

Exhibits (All Trials)

No demonstrative exhibits, charts, diagrams, or enlargements shall be placed or held within sight of the jury or read aloud unless by stipulation of all parties or admission into evidence by the Court.

The parties are directed to meet and confer to (1) avoid unnecessary duplication or repetition of exhibits and (2) resolve foundational objections, particularly for proffered business records, to the extent possible.

For all trials, on the respective exhibit lists, please provide specific descriptions to briefly identify the substance of each proffered exhibit. General descriptions such as "Documents produced by opponent in discovery," etc., are not sufficiently informative.

Counsel shall provide the courtroom clerk with an Exhibit List in an **editable Word version**.

Plaintiff's exhibits shall start with a mutually agreed upon number and proceed sequentially. Defense exhibits should be numbered starting at a mutually-agreed number that will not risk overlap with Plaintiff's/Petitioner's exhibits. If more than one side offers the same document, both shall use the same exhibit number for that document.

Unless otherwise agreed upon and approved by the Court, the Court **requires** that each party offering exhibits be prepared with multiple **identical and identically pre-numbered** sets of all trial exhibits (other than unique and irreproducible physical objects), one for each of the following:

- The bench
- The clerk
- The witness/witness stand
- **Each** party (Unless the party waives the request for a hard copy)

Accordingly, this typically means a minimum of **four** full sets of pre-numbered exhibits, plus a further copy for each additional party, if any, beyond the minimum two.

Counsel shall pre-mark all exhibits before the testimony of witnesses that they pertain to, unless used for impeachment. If possible, all exhibits should be presented to the other side and marked for identification before that side's presentation of its case. Each exhibit must be identified on the record by a witness or by stipulation. Motions to admit exhibits into evidence should be made before the witness is excused in the event of foundation objections.

1 If an exhibit is provided to the witness, counsel may point to or help identify the part of the
2 exhibit to which the witness should refer but should then step back in the well. Counsel
3 should not remain looming over the witness while he or she is testifying. This is also true
4 when a larger exhibit such as a map or diagram is placed on the board behind the witness.
5 Counsel should not stand behind the witness while conducting the examination.

6 At the close of each trial day, it is counsel's responsibility to store all demonstrative exhibits
7 and equipment, unless other instructions are given.

8 The Court is unlikely to allow parties to use exhibits that were not identified and marked
9 before trial unless they are truly rebuttal or impeachment exhibits.

10 **Closing Instructions and Argument**

11 In jury trials, the Court will instruct jurors **before** closing arguments.

12 At the pretrial conference or prior to argument, the Court will seek time estimates from
13 counsel for closing arguments and may then set time limits. Please follow these time limits.

14 Short recesses may be requested to set up technical equipment to be used during argument.

15 **Jury Deliberations**

16 The courtroom is generally closed during jury deliberations. Counsel and the parties may
17 remain in the building or leave, but in all cases, it is the responsibility of counsel to inform
18 the Clerk and Deputy where he or she can be reached at all times. The parties and counsel
19 are expected to return to the courtroom **within 20 minutes** of being notified by the Clerk. If
20 there are juror questions during deliberations, the Court will either contact counsel by a joint
21 phone call to discuss the response or request the parties to return to court if the response
22 requires additional argument.

23 **After Trial**

24 If counsel wish to have an opportunity to visit with trial jurors after they have been
25 discharged, they should let the Court know.

26 After a verdict is rendered by the jury, the prevailing party shall prepare the judgment, unless
27 otherwise directed by the Court. The judgment shall be submitted within 5 court days after
28 the trial is concluded.

HON. PANTEHA E. SABAN

JURY PANEL QUESTIONNAIRE

1. Please state your name.
2. What is your occupation? (If retired or unemployed, what was your previous occupation?)
3. Are you married or have a significant other? If so, please tell their occupation?
4. Do you have adult children? If so, please tell us their occupation?
5. Do you know any of the following: (a) the parties; (b) the attorneys; (c) the witnesses; (d) the judge or court staff; or (e) the other jurors? If so, please explain.
6. Do you have any beliefs or feelings toward any of the parties, attorneys, or witnesses that might be regarded as a bias or prejudice for or against any of them?
7. Have you, a family member, or close friend ever been involved in a lawsuit? (If yes, please explain.)
8. Have you heard of, or do you know anything, about the specific facts or events in this case?
9. Do you believe that this kind of case should not be in court to be decided by a jury?
10. Do you have any interest, financial or otherwise, in the outcome of this case?
11. Have you ever served as a juror or witness? If so, was it a civil or criminal case?
12. Do you have any ethical, moral, religious, or philosophical beliefs that prevent you from being a juror in this case, or from judging someone else? If so, please explain.
13. Is there anything about the nature of this case that would make it difficult for you to be fair and impartial to both sides?
14. Would you be able to follow the law as given to you by the court?