

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO**

Department 2

STANDING CASE MANAGEMENT ORDER
FOR CASES ASSIGNED TO THE HON. BARRY T. LaBARBERA

INSTRUCTIONS TO PLAINTIFF(S)/CROSS-COMPLAINANT(S):

YOU shall serve a copy of this Standing Case Management Order on all Defendants/Cross-Defendants at the same time the complaint/cross-complaint is served.

I. GENERAL MATTERS

A. It is the Court's policy to provide a dignified forum in which to resolve disputes in a peaceful, professional, legally correct and expeditious manner. All of the following rules are designed to achieve these goals. It is not the Court's intention to prohibit a party from raising any issue by any means allowed by Rule of Court, Code or statute. If any of the rules or procedures discussed herein creates a problem, counsel should raise the matter with the Court at the earliest opportunity.

B. Electronic communication with the courtroom clerk is permissible for routine communications having to do with scheduling, stipulated continuances, and/or joint requests. Substantive arguments are not permitted unless approved by the Court. In any correspondence with the clerk, opposing counsel should be copied in order to avoid ex-parte communications. The clerk's email address is Kathy.Martindelcampo@slo.courts.ca.gov.

C. Counsel shall turn off all audible telephones and pagers and instruct their clients and witnesses to do so. Communication devices worn on the head are not permitted in the courtroom.

II. CASE MANAGEMENT CONFERENCES ("CMC")

A. CMC Statements are not required. The Court expects that counsel will be prepared to discuss the current status of the case, discovery, amenability to mediation, and any unusual factual, legal or evidentiary issues that may need resolution.

B. Early mediation is strongly encouraged. Good faith participation in mediation will ordinarily excuse participation in a Mandatory Settlement Conference. The Court will typically sign an order to mediate at an early CMC.

C. It is the Court's policy to resolve discovery disputes informally and efficiently. Accordingly, the Court has instituted special procedures for the resolution of discovery disputes through Pretrial Discovery Conferences, which can be scheduled on forms that are available from the clerk's office (see section IV.C, below). All parties must agree to such procedures as explained below.

III. MEDIATION

A. The parties are strongly encouraged to engage in early, meaningful mediation. Mediation will ordinarily take place within 90-120 days of all parties' appearance, but a longer time may be allowed.

B. Parties who select private mediation should comply with the mediator's instructions regarding briefing and payment of fees, which ordinarily should be divided equally.

C. A worthwhile mediation process means that parties, attorneys and any other person whose consent or authority is required to achieve a final disposition of the dispute shall be present, as well as a representative of any insurer who has authority to settle the case for any amount up to the limits of the policy.

D. Plaintiff should file a one-page Notice of Mediation with the clerk's office notifying the Court of the date of the mediation and name of the mediator.

IV. LAW AND MOTION MATTERS

A. To the extent practicable, the Court will post tentative rulings on law and motion matters on the Court's website no later than the evening before the hearing. The Court's website is located at www.slocourts.net.

B. When the parties agree to have a matter taken off calendar more than two weeks prior to the hearing date, counsel should promptly notify both the courtroom clerk and the research attorneys via e-mail or by phone. This is important in order to avoid unnecessary commitment of judicial resources to moot matters. The contact information for the research attorneys is SloCourtAttorneys@slo.courts.ca.gov.

C. Resolution of Discovery Disputes

1. The parties may stipulate to proceeding with an informal Pretrial Discovery Conference in lieu of filing and serving discovery motions under Sections 2016.010 through 2036.050. In that event, the parties shall proceed as follows:

a. All parties to the discovery dispute shall sign a written stipulation electing to resolve the specified discovery dispute(s) between them according to the procedure outlined in this section IV.C. In such event, the parties stipulate to waive their right to proceed with regularly noticed motions and stipulate that the Court can issue binding discovery orders as a full and final resolution of such dispute(s).

b. Any request for a Pretrial Discovery Conference must be filed with the clerk's office on the approved form (which is available online or can be requested from the clerk), must include a brief summary of the dispute (limit of 5 pages), and must be served on opposing counsel in the same manner as the request is filed with the clerk.

c. No other pleadings or exhibits, declarations, or attachments, will be accepted.

d. The parties will be notified by minute order whether the request has been granted or denied and, if granted, the date and time of the Pretrial Discovery Conference.

e. The Court will issue a binding order at the conclusion of the Pretrial Discovery Conference.

V. READINESS CONFERENCE

A. These conferences are typically scheduled during the week before trial. At these conferences, trial counsel should be prepared to discuss at least the following topics:

1. Estimated trial length. A jury trial will ordinarily be in session from Monday through Friday from 10:00 a.m. to 12:00 p.m., and 1:30 p.m. to 4:30 p.m.

2. Number, timing and availability of witnesses, as well as any special witness needs, or the need to call witnesses out of order.

a. Counsel are responsible for arranging the appearance of all witnesses during their presentation of the case so as to eliminate delays. Counsel should confer among themselves as to which witnesses will be called *at least 24 hours in advance of a witness' testimony*.

b. Counsel are to inquire of their clients and witnesses to determine whether they are in need of any type of accommodation with an interpreter, under the Americans with Disabilities Act, or any other type of assistance.

3. Numbering and exchange of exhibits. The parties are encouraged to agree upon a reasonable exhibit numbering system. Exhibits to be used in the case-in-chief should be pre-marked and exchanged *no later than the morning of trial and earlier if feasible*. The use of exhibit books or binders is strongly encouraged and the court clerk will

extract each exhibit referred to on the record. Such exhibit will be immediately marked for identification before it is shown to a witness or otherwise used. No exhibit will be published until it has been admitted into evidence by the Court.

4. Voir dire procedures. Counsel should attempt to agree upon a brief neutral statement of the case to be read to the prospective jury panel. The use of juror questionnaires is encouraged. A questionnaire should include a joint written witness list.

5. Jury instructions and verdict forms.

a. Counsel are to deliver all proposed instructions, verdict forms and requests for special findings to the Court and to opposing counsel *no later than the morning of trial*. Proposed instructions shall be complete in all respects without unfilled “blanks” or “bracketed” portions.

b. Either before or shortly after trial starts, counsel are to meet and confer with the goal of reducing the amount of contested jury instructions and disagreement as to the form of the verdict. Within two (2) court days after beginning trial, all counsel should notify the Court as to which of the proposed instructions, and which sections of the verdict form, are acceptable to all parties, and which are disputed.

6. Stipulations to reduce the length of trial. Counsel should consult with each other regarding all possible stipulations and reduce them to writing. In particular, counsel should consider waiving the necessity for authentication/foundational evidence regarding all trial exhibits, unless authentication is an important issue. Agreements in this regard do not operate as a waiver of other proper trial objections.

7. Motions in limine. Prior to hearings on motions in limine, counsel should review *Kelly v. New West Federal Savings* (1996) 49 Cal.App.4th 659, 669-677, and its progeny. Counsel should advise their clients and witnesses about rulings on motions in limine that pertain to evidentiary issues. Counsel will be held responsible for any violations of rulings on motions in limine.

VI. TRIAL

A. The Court will typically hear organizational and scheduling matters, procedural issues and in limine motions at the beginning of trial, including any matters left over or continued from the Readiness Conference. These sessions are typically scheduled for 10:00 am on the first trial date.

1. Originals of all depositions to be used in the trial are to be lodged with the clerk at the beginning of trial. At the end of the trial, these depositions can be picked up from the clerk, or they can be returned by mail at the party's expense.

B. Jury Selection Procedures

1. Jury selection ordinarily begins at 1:30 p.m. the first day of trial. If a questionnaire is used, the Court will consider hardships on the first day of trial, jurors will adjourn to complete the questionnaires, and the attorneys will receive the random list. Voir dire will begin at 10:00 a.m. on day two.

2. Otherwise, after the entire panel is screened for hardship, eighteen names are drawn at random, and voir dire is conducted.

3. Challenges for cause are exercised and ruled upon at sidebar. Upon request, counsel will be given the opportunity to make a record of any unreported sidebar conference once the jury is not present.

4. At least two alternate jurors are typically selected. If it becomes necessary to substitute an alternate juror, the first alternate chosen will be the first substitute.

5. Trial Procedures

a. No charts, diagrams or other exhibits should be shown or read aloud to the jury unless by stipulation or after admission of the item into evidence.

b. Counsel should provide hard copies of any power point presentations, audio or video recordings and the like to opposing counsel in advance of showing them to the jury

c. If counsel will seek to introduce an audio recording (or audio portion of a video recording), please review California Rule of Court 2.1040.

d. Marking documents out of files: Please review *Neal v. Farmers Insurance Exchange* (1978) 21 Cal.3d 910, 923-924.

e. Any object that cannot be folded into 8½" x 11" such as models, blowups, etc. should be accompanied by either a photograph or a photocopy to be retained by the Court in lieu of the oversized exhibit.

f. When objections are made, counsel should state only the legal basis, without speaking objections.

g. Sidebar conferences are normally held off the record. Counsel may make a record of any unreported sidebar conference at an appropriate opportunity in the proceedings. During trial, if counsel wish to place matters on the record, he or she may so request and the Court will provide an opportunity to do so, ordinarily at the end of the trial day once the jury has been excused.

6. Post-Trial Procedures

a. After the verdict is rendered by the jury, the prevailing party is expected to prepare the judgment, which should be submitted on the next Court day following trial unless otherwise ordered.

b. Counsel should make arrangements with the clerk to withdraw exhibits in cases that will not be appealed. The clerk will hold the exhibits for sixty days after the filing of the notice of entry of judgment. Any exhibits remaining after that time will be destroyed unless a notice of appeal is filed.

DATED: November 7, 2017

HON. BARRY T. LaBARBERA
Presiding Judge of the Superior Court
County of San Luis Obispo