

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

KATHLEEN DOLE et al
Plaintiff/Petitioner(s)
VS.
BAYER CONSUMER CARE
HOLDINGS LLC f/k/a MSD
Consumer Care, Inc. et al
Defendant/Respondent
(s)

No. 25CV123904
Date: 09/01/2026
Time: 1:30 PM
Dept: 18
Judge: Patrick McKinney

ORDER Case Management Conference

The Tentative Case Management Order in this matter was published and was not contested. Tentative Case Management Order is affirmed as follows.

ORDER RE: CASE MANAGEMENT

The Court has ordered the following after review of the case, including timely filed Case Management Statements, without a conference.

The Case Management Conference scheduled for 09/01/2026 is continued to 10/08/2026 at 01:30 PM in Department 18 at Rene C. Davidson Courthouse .

The conference is continued for updated status and to be heard with the pending motions for summary judgment/adjudication. Updated Case Management Statements must be filed by Plaintiff and Designated Defense Counsel (DDC) no later than 7 days prior to the CMC and posted on eCourt. If the foregoing date is a court holiday or a weekend, the time is extended to the next business day. Individual defendants may also opt to file their own CMC Statements.

PRETRIAL ORDER - JURY TRIAL

All parties shall comply with Civil Local Rule 3.35, with the following modifications, and subject to any further orders. All counsel must be fully familiar with the law applicable to the issues raised by the pleadings and any matters to be addressed at trial, including the applicable rules and provisions set forth or referred to in the Civil Code, Code of Civil Procedure (CCP), California Rules of Court (CRC), Evidence Code (EC), and Local Rules (LR).

A. MEET AND CONFER

Unless a different deadline is noted below, at least ten days prior to the trial date, the parties are ORDERED to meet-and-confer in good faith regarding trial preparation, including the following subjects and tasks:

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1. which of the parties' exhibits can be admitted without objection, the elimination of duplicative exhibits, and the admissibility of evidence to be offered at trial, including the admissibility of any writing as defined by EC § 250;
2. whether any issue in the trial should be bifurcated;
3. the length of the trial;
4. any outstanding discovery and completion dates;
5. deposition designations, counter-designations and objections - counsel shall exchange proposed page and line designations of deposition testimony of witnesses who will not be appearing live at trial; at least five court-days before trial, counsel shall exchange objections and counter-designations and shall meet and confer regarding the designations prior to the trial;
6. jury instructions on which the parties agree, and the list of those in dispute;
7. the utility of a jury questionnaire;
8. the benefit of additional alternative dispute resolution prior to trial;
9. the need for an interpreter for any witness;
10. the content of the joint, neutral statement of the case;
11. whether counsel wants to present "mini-openings" to the jury;
12. the cause(s) of action to be dismissed prior to trial, if any;
13. each affirmative defense to be withdrawn prior to trial, if any;
14. the list of undisputed facts to be used at trial;
16. each item that is required to be addressed in this Trial Readiness order;
16. stipulated orders, including in limine orders;
17. whether the parties stipulate to a reduced number of peremptory challenges; and
18. any other trial readiness issues.

B. TRIAL DOCUMENTS

At least five days prior to the trial date the parties must file, serve on all other parties, and deliver electronic courtesy copies, each of the following:

1. Exhibit List - A joint exhibit list with no duplicate documents. Counsel shall meet-and-confer to assign blocks of exhibit numbers to each party; all parties must use exhibit numbers. The court prefers the use of an electronic document repository with pre-marked exhibits placed in the repository no later than the trial date, with an Index identifying each exhibit in the following column format:

Title/Description Witness Date Stipulated Admitted Notes

The description on the index will be used by the court to identify in the record the documents that are marked for identification or admitted into evidence during the trial.

2. Jury Instructions and Verdict Form - Stipulated (meaning fully agreed upon): form jury instructions with ALL BLANKS FILLED IN; all specially prepared jury instructions with all blanks or information filled in; and a single verdict form. All of these items must be in a form that can be given to the jurors at the beginning or conclusion of the trial. This means the packet must be collated, in order, with no identifying marking other than the CACI, must be tailored to the case with all blanks filled in with the correct identifying information, must have all extraneous portions deleted, and have all brackets removed. If any instruction has been modified,

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a separate copy of the instruction with all modifications clearly identified through track changes. Any proposed jury instructions or verdict forms not agreed to by the parties must be separately filed (with a proposed version using track changes, and a clean version), with an electronic courtesy copy delivered to Department 18 at least five court-days prior to the trial date. See also LR 3.35(i)-(j).

This does not mean a set of instructions or verdict form for each party or side. The court expects the parties to resolve any differences and present a unified set of jury instructions and a verdict form. It is easier to delete instructions that do not apply after the presentation of evidence than to craft instructions on the eve of argument. The same applies to the verdict form; all causes of action and defenses should be included even if counsel expects some may be removed by motion or otherwise stricken or modified.

3. Jury Questionnaire - A jury questionnaire that contains a blank line for the name and badge number of the juror, and includes a list of counsel who will appear, and all witnesses (in alphabetical order) who may testify at the trial. Any proposed jury questionnaire not agreed to by the parties must be separately filed with a courtesy copy emailed to the trial department at least five court-days prior to the trial date.

4. Statement of the Case - A joint, neutral, brief, proposed statement of the case that will be read to the jury panel before voir dire. See LR 3.35(h). If there are any areas of disagreement then the parties shall indicate within the joint statement the portions that are agreed upon, and those that are not using track changes, with each party providing a clean version if the track changes were accepted as proposed by them. If each party agrees to present a brief "mini-opening" (up to 3 minutes) to the jury panel, please indicate that request to the Court when filing the proposed joint statement of the case.

5. Witness List - A comprehensive list of all witnesses the party intends to call in the case. The list should be in alphabetical order and should generally identify the anticipated subject matter of each witness's testimony. See LR 3.35(f).

The parties must electronically lodge no later than five court days before the trial date the following:

6. Deposition Transcripts - Lodge all original deposition transcripts. LR 3.35(c)(1).

7. Deposition Designations - Deposition designations and counter-designations are not to be filed with the Court nor advance copies sent to the Court. All deposition designations must be provided to the Court electronically in the following Word format: (a) page and line designations and counter-designations, (b) objections to the designations, if any (c) response(s) to the objections, if any, and (d) boxes for the Court to check whether any objection(s) to the designated page(s)/line(s) are sustained or overruled.

8. Trial Exhibits - Both parties shall use numbers to identify exhibits. Counsel shall meet-and-confer to assign a range of exhibit numbers to each party. There should be no duplicative exhibits for the parties. The parties shall be prepared to discuss presentation of exhibits electronically on the first day of trial or at a trial readiness conference. All exhibits will be

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marked for identification by the trial department on the first day of trial. See also LR 3.35(b) and (g).

C. MOTIONS IN LIMINE

All motions in limine must be filed, served on all other parties, and courtesy copies (electronic) delivered to trial department, at least ten days prior to the trial date. All briefs in opposition to the motions must be filed, served on all parties, and courtesy copies (electronic) delivered to the trial department, no later than five days before the trial date. Please do NOT file generic motions unrelated to the specific facts of the case. For example, a "motion to exclude evidence not disclosed in discovery" is not helpful unless the motion references specific, objectionable evidence that the opponent is expected to offer.

1. Unless otherwise ordered, each side may file no more than five motions in limine. However, each defendant may file up to an additional two defendant-specific motions in limine.

2. Each motion in limine shall be filed separately from any other motion in limine and shall not be combined, aggregated or consolidated with any other motion. Counsel shall not file "trial briefs" seeking evidentiary rulings that could have been filed as a motion in limine; such requests will not be considered by the court.

3. Motions in limine shall be numbered consecutively beginning with the party's name, and shall include in the title the applicable category:

- a. Expert testimony;
- b. Evidence;
- c. Damages;
- d. Legal duty;
- e. Other.

4. Each motion in limine shall be accompanied by a memorandum of points and authorities as defined in CRC 3.113(b). All motions seeking to exclude evidence shall set forth factual support supporting the exact nature and type of evidence the party seeks to exclude, including attaching relevant portions of depositions, interrogatories or other factual support. Motions which make unsupported assertions about what a witness allegedly said in deposition or speculate about what a witness may say at trial without attaching to the motion a declaration setting forth a factual basis are subject to sanctions.

5. At the time motions in limine are filed, the parties shall provide the trial judge with one list of all motions in limine filed, with plaintiffs' listed first followed by defendants' motions in numerical order, with the subject of each motion described in 10 words or less, and a statement of whether the motion is stipulated, withdrawn, deferred or contested.

6. The following in limine motions shall NOT be filed but shall be deemed ORDERED unless the parties stipulate otherwise or take exception in a motion:

- a. PROCEDURAL:

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(1) To amend the case caption to reflect remaining defendants only. Defendants will be referred to, introduce and participate at trial in alphabetical order, unless otherwise ordered;

(2) To preclude reference to any possible future wrongful death action;

(3) To preclude reference to plaintiffs' counsels' other clients or website;

(4) To preclude attribution of fault to any party granted summary judgment;

(5) To exclude non-party witnesses from the courtroom until they testify, and their testimony concludes.

b. EVIDENCE:

(1) To preclude mention of bankruptcy or other financial status of absent defendants;

(2) To preclude reference to absence of corporate representatives. This ruling does not preclude a party from commenting on the other side's failure to produce or refute relevant evidence;

(3) To exclude reference to or evidence of insurance, including Plaintiff's medical insurance;

(4) To exclude experts not designated pursuant to section 2034 of the Code of Civil Procedure;

(5) To preclude reference to Serpentine as the State Rock;

(6) To preclude reference to Defendants as "the Asbestos Industry", provisionally. To the degree Plaintiff has evidence that the principal product of any of the defendants is asbestos, such as a mining company or fabricator of raw asbestos, the plaintiff may refer to that defendant as a member of the "asbestos industry." Without such a showing, plaintiff(s) may not assert or argue that a defendant or any defendants are within the asbestos industry.

(7) To exclude reference to the 1989 Proposed EPA Ban which never went into effect; and

(8) To exclude "but for" causation opinions by experts.

c. DAMAGES:

(1) To exclude reference to or evidence of prior settlements;

(2) To exclude collateral source evidence;

(3) To preclude reference to surviving spouse pension benefits as a collateral source;

(4) To limit evidence of Plaintiff(s)' claims for past and future medical expenses to those actually paid by or on behalf of Plaintiff. Evidence of currently outstanding medical expenses not yet paid is limited to amount which were actually incurred and for which plaintiff is personally liable or

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their insurer is contractually liable. Future medical expense evidence is limited to amounts which are reasonably foreseeable Plaintiff will incur and be liable for, either personally or through their insurance coverage. Evidence of the amount billed for medical care but for which Plaintiff is not liable either personally or through their insurer is excluded. Evidence that medical payments were made on behalf of Plaintiff by a collateral source such as Medicare is excluded.

D. 48 HOUR NOTICE

(1) Opening Statements: In opening statements, no display to the jury or reference should be made to any document, chart, graph, map, picture, model, video, etc. except (a) when marked as an exhibit and admitted into evidence; (b) by stipulation of counsel; or (c) with leave of court. At least 48 hours in advance of the opening statement, the parties shall exchange any presentations or demonstrative aids they intend to display to the jury. Objections shall be brought to the attention of the trial immediately so that the court has reasonable time to rule upon the objections before the presentations.

(2) Trial: The parties shall identify to the other side the names of the witnesses they will be calling to testify and exhibits they intend to introduce (in their direct case) at least 48 hours in advance (no later than 5:00 pm on Friday for witnesses testifying on Mondays). Failure to strictly comply with this order may result in preclusion of the witness or exhibit until full notice has been afforded the other side.

E. Bankruptcy Claims. No later than 14 days before the trial date, plaintiff shall provide defendants copies of claims made to bankruptcy trusts on behalf of plaintiff.

F. Remaining Parties and Dismissals. Plaintiff(s) shall provide the court with an alphabetical list of all defendants remaining in the case, including names of defense counsel, firm names, and defense counsel's email addresses no later than five days before the trial date. Plaintiff(s) shall provide the trial department with an alphabetical list of all defendants who were granted summary judgment in their favor, including a description as to what product or site was the basis for summary judgment, no later than five days before the trial date.

G. WITNESSES. Witnesses, including experts, must be ready to testify in court when called. Absent exceptional circumstances, a party who fails to present a witness to testify will be deemed to have rested.

Any court reporter working within the Alameda County Superior Court shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, the Court and others with whom they come into contact.

USE OF EXHIBITS / PLEADING / DEMONSTRATIVE AIDS / SIMULATIONS, ETC.

No counsel, party or witness may show any document, chart, graph, map, picture, model, video, slide presentation, pleading, demonstrative aid, video, simulation, or any other document (other than a stipulated exhibit) to the jury at any point in the trial, including voir dire, except by stipulation of counsel, or with prior court approval. If any counsel, party or witness intends to use such an item during trial, it must be provided to all counsel and the court no later than four court days prior to use. No later than three court days prior to use, all opposing counsel or parties

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must meet and confer to resolve any objections. If the parties are unable to resolve the dispute, no later than noon 2 court days prior to proposed use (e.g., if the item is expected to be used on trial on Thursday, then by noon on Tuesday), counsel must inform the court of the dispute so the court can make a ruling. FAILURE TO COMPLY WITH ANY PART OF THIS PROVISION MAY RESULT IN THE ITEM NOT BEING DISPLAYED TO THE JURY OR OTHERWISE USED AT TRIAL.

DISMISSAL OF PARTIES

On the first day of trial, all remaining unnamed "DOE" parties will be dismissed.

Designated Defense Counsel (Defendant) must forthwith serve a copy of this order on all counsel of record and self-represented parties.

The Court orders counsel to obtain a copy of this order from the eCourt portal.

Dated : 09/01/2026



Patrick McKinney / Judge