

Uniform Local Rules of Court

Superior Court of California
County of San Francisco



Effective: July 1, 1998
Revised: January 1, 2018

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20 Asbestos Litigation

20.0 Case Management

A. Complex Designation.

All actions for personal injury, loss of consortium and/or wrongful death currently pending or hereafter filed in the Court alleged to be due to asbestos exposure are deemed complex litigation under Standard 3.10 of the Standards of Judicial Administration and CRC, Rule 3.403(b)

B. Asbestos Department.

The Asbestos Department hears all pre-trial matters and makes all trial assignments in asbestos cases and other matters as designated by the Supervising Asbestos Judge (“SAJ”) unless assigned by the SAJ or the Presiding Judge to another department.

C. E-Filing.

Pursuant to CCP § 1010.6 all documents filed in an asbestos case must be electronically filed and served on all parties as set forth below. CRC, Rules 2.250 through 2.261 and LRSF 2.11 govern the E-filing and E-service of documents in all asbestos cases, except as herein provided. E-filing and service of asbestos litigation documents require the utilization of an E-filing services provider. Any such provider must be approved by the Court. See Exhibit A regarding the currently approved E-service vendor on the Court’s website <http://www.sfsuperiorcourt.org/forms-filing/forms>.

1) Operation of E- filing and service procedure.

- a. All parties to the asbestos litigation pending in this Court, other than self-represented parties, must utilize the services of the approved Vendor. Users must enter into a standard service agreement with the Vendor during the registration process with the approved Vendor that will govern any and all transactions completed within and outside the scope of this Rule, in addition to additional features that users may but are not required to use in connection with the E-filing and/or serving of documents through the Vendor; and
- b. The fees charged by the vendor for use of the E-filing and service system must be established by the Vendor. The Vendor must maintain the fee structure in effect for E-File, E-Service, and/or both at the commencement of this Rule for a period of two years. No fees associated with E-File, E-Service, and/or both may be increased thereafter by the Vendor without giving at least 30 days prior notice to all Users.

2) E-filing of pleadings and other documents.

Pursuant to LRSF 2.11.I and except as expressly provide herein, all documents, papers or pleadings directly related to a previously filed document, paper or pleading must be linked to the previously filed document, paper or pleading by utilizing the Vendor's provided "Linked Documents" feature.

Plaintiff must file in paper form the complaint and summons. The proof of service (POS) must be electronically filed. E-Service of a complaint does not constitute service of process for any purpose and does not relieve the serving party from compliance with the applicable provisions of the CCP.

Each defendant must file its first pleading in each case with the Vendor in such manner as the Vendor establishes to enter its appearance and file its first pleading electronically in the newly filed case.

Plaintiffs will provide a case-specific service list to Vendor, distinguishing actual parties from entities designated for courtesy service. Defendant(s) are obligated to serve only those parties and entities required by the CCP. This Rule does not prohibit any party from transmitting documents to any entity not on the service list. Service list changes will remain the responsibility of the individual parties through their counsel, if any. Vendor will process the changes requested by the parties, but Vendor will not initiate them. Parties may only be removed by the party initiating the action or by order of the Court.

D. In re: Complex Asbestos Litigation File.

All orders that are applicable to all asbestos litigation must be filed under the caption "In Re: Complex Asbestos Litigation" and case number CGC-84-828684.

E. Trial Setting.

When an asbestos complaint is filed, the Asbestos Department clerk will designate on its face a Trial Setting Conference ("TSC") date. Two weeks prior to the TSC date, Plaintiff's counsel must provide to the Court and all parties a statement of compliance that said complaint (1) conforms to the CRC, Rule 3.110, (2) has been served on all named parties, and (3) identifies the appearance status of all named defendants. Failure to comply with the requirements set forth herein, including service, responsive pleading and default, may result in the cancellation of the TSC and the issuance of an order to show cause ("OSC"). If there is a failure to notice and/or complete plaintiff's deposition as to all defendants who have been served, no TSC date will be set and the case will be

continued to a later TSC date unless there is good cause shown as to why plaintiff's deposition cannot be completed prior to the TSC hearing date.

Any party with an issue related to the TSC and/or trial date that has not been resolved after meeting and conferring with opposing counsel may ask the Court to set a Case Management Conference ("CMC"). The requesting party must file and serve a CMC statement setting forth the specific issue(s) to be addressed by the Court with a meet and confer declaration as defined by CCP § 2016.040. Upon receipt of the CMC statement, the Court may set a CMC and provide notice of the CMC to the requesting party. Requesting party must serve the notice of the CMC on all parties within one (1) business day of the receipt of the notice of the CMC from the Court.

F. Designated Defense Counsel.

- 1) **Selection.** When an asbestos complaint is filed, the SAJ will provisionally appoint a Designated Defense Counsel ("DDC") to serve from a year commencing from the date the complaint was filed. Defendant(s), through a noticed motion for the specific case, may seek to replace the provisionally appointed DDC with another DDC each year on the date of the filing of the asbestos complaint. If defendants do not move for a different DDC on the anniversary date of the previous designation, then the previously appointed DDC will remain in place for another year. Until a further Order is issued by the Court, said DDC must coordinate the procurement and scheduling of certain pretrial discovery activities described herein and, if requested by the Court, must report progress of the coordinated discovery to the Court. The DDC is not deemed an attorney for any defendant solely as a result of said activities. The participating defendants do not waive the attorney-client privilege and/or disclosure of confidential attorney work product by DDC's performance of said activities.
- 2) **Scope.** Nothing herein precludes the DDC from providing or contracting with any defendant for services beyond those authorized by the SAJ's Order, such services include but are not limited to jointly retaining experts on behalf of defendants, noticing, taking and/or defending medical expert witnesses at deposition, or acting as medical trial counsel provided that an association of attorneys has been filed. Any such additional services must be charged only to defendants requesting or contracting with the DDC for said additional services. However, by appearing at a deposition of a joint defense medical expert, or by requesting the work product from the expert's examination or review, that defendant will be billed and obligated to pay for its per capita share of the costs and fees associated with that expert examination or review, plus the costs and fees associated with acquisition of the materials upon which the expert relies. The

amounts billed to such a defendant must be credited per capita to each defendant which had previously paid or been billed for such services. To the extent any defendant requests an Independent Medical Examination (“IME”) of plaintiff, the DDC must schedule and coordinate the IME which may, at defendants’ option, include: physical examination, chest radiographs/CT scans, pulmonary function test and an oral history. The DDC must comply with the standards set forth in *Asbestos Claims Facility v. Berry & Berry*, 219 Cal. App. 3d 9, 267 Cal. Rptr. 896 (1990) in executing its duties.

The DDC will have electronic access to (1) “In Re: Complex Asbestos Litigation” caption, case number CGC-84-828684, and (2) all asbestos cases in which the DDC has been appointed as the Designated Defense Counsel by the defendants through the E-service vendor.

No activity performed by the DDC in this section constitutes a general appearance by or on behalf of any defendant.

Nothing in this Rule precludes a defendant from filing a motion to compel or other motion seeking relief and any such motion may be filed by the DDC, at the request of a contracting defendant(s).

- 3) **DDC Compensation.** The DDC’s costs and reasonable fees must be shared equally among all defendants appearing in the action and allocated on a per capita basis for the following functions provided by the DDC to all defendants:
 - a. As requested by the Court, provide reports or updates, or respond to Court inquiries, and/or attend Case Management Conferences, Trial Setting Conferences and Motions for Trial Preference;
 - b. Obtain authorizations and stipulations for the release of medical (including pathology and radiology), employment, union and military records;
 - c. Notice, schedule and coordinate plaintiff’s deposition with request for production of documents, including cost of the court reporter, original transcript, videotaping, videoconferencing and may include plaintiff’s reasonable travel expenses if taken at a more distant location as provided in **CCP** § 2025.250; and
 - d. For service of the plaintiff’s Preliminary Fact Sheet (herein set forth below in Section 6(A)) and standard interrogatories served upon plaintiff.

A defendant who is no longer an active party to a case must provide written notice to DDC, and within one (1) business day of receipt of same, DDC must cease billing that defendant for any function pursuant to this Rule.

20.1 Discovery in Asbestos Cases

A. Disclosure of Information.

The discovery forms identified in the following sections are provided on the Court's website: <http://www.sfsuperiorcourt.org/forms-filing/forms>.

- 1) **Preliminary Fact Sheet.** Contemporaneous with the filing of a complaint for alleged bodily injury due to asbestos exposure, Plaintiff's counsel must file a Preliminary Fact Sheet ("PFS") prepared and signed by plaintiff's counsel. The PFS must exactly comply with the form provided by the Court as "Plaintiff's Preliminary Fact Sheet/New Filing/Asbestos Litigation". The PFS, with required exhibits, must accompany any service of summons and complaint thereafter made. The PFS is provided to defendants solely for informational and administrative purposes and must not be used by any party as evidence or for impeachment purposes. Plaintiffs must serve DDC, in those cases in which they serve as Designated Defense Counsel, with a copy of the complaint, the PFS and exhibits contemporaneously with service on the first defendant.
- 2) **Defendant's Standard Discovery to Plaintiff.** Within twenty-one (21) days after service of the complaint, plaintiff must serve on all defendants responses to Standard Asbestos Case Interrogatories, Set 1. Responses to Standard Loss of Consortium Interrogatories, Wrongful Death Interrogatories or Standard Friction Interrogatories, when appropriate, must be served within thirty (30) days after service of the complaint. Plaintiff must respond to the Standard Request for Production of Documents and Things and serve said responses on all defendants within thirty (30) days after service of the complaint or ten (10) days prior to the date initially noticed for plaintiff's deposition, whichever is earlier. If any defendant is subsequently served with the summons and complaint, plaintiff must serve responses to the applicable Standard Interrogatories if said responses were previously served, otherwise within twenty-one (21) days of the initial service of the summons and complaint on any party.
- 3) **Discovery on DDC or Defendants.** The original responses to Standard Interrogatories are to be served on the DDC in those cases in which a Designated Defense Counsel has been appointed. If there is no Designated Defense Counsel, then plaintiff must serve each defendant with the responses in compliance with the CCP. Any requests for extension of time for plaintiff to respond to Standard

Interrogatories must be directed to the DDC in those cases in which a Designated Defense Counsel has been appointed. If there is no DDC appointed, then plaintiff must request extension to all of the served defendants in compliance with the CCP.

- 4) **Plaintiff's Standard Discovery to Defendants.** The Court will allow plaintiff to propound Plaintiff's Case-Specific Standard Interrogatories to Defendants. Plaintiff may propound these interrogatories ten (10) days after the service of the summons and complaint on, or appearance by, the defendant on whom they are served, whichever comes first.
- 5) **Plaintiff's Case-Specific Standard Interrogatories.** Such interrogatories must be captioned and served in an individual case and must neither be captioned nor served in In Re: Complex Asbestos Litigation, case number CGC-84-828684.
- 6) **Authorizations.**
 - a. Within ten (10) days after receipt of the standard discovery responses, DDC must forward authorization forms and stipulations (which are available from the Court) necessary for production of records, pathology and radiology to plaintiff and plaintiff must provide fully executed authorizations to DDC within thirty (30) days of the receipt of the forms and stipulations. Duration of the executed authorizations must be for one (1) year. DDC may submit to plaintiff updated authorizations and/or any additional forms required by a particular facility where plaintiff/decedent received treatment. Plaintiff must sign and return any such authorizations or forms within ten (10) days of receipt.
 - b. Upon receipt of records obtained by stipulation or authorization, the document reproduction service must forward these records to plaintiff's counsel and no sooner than twenty-one (21) days later, the document reproduction service must provide copies to DDC, unless notified in writing of an objection. Any party may either make or oppose a motion to compel and/or a motion for protective order or without waiving the objection, make a motion in limine for disclosure of records at trial. In cases where the PFS indicates an intent to file a Motion for Preference pursuant to CCP § 36 or in cases where said motion has been filed, the document reproduction service will immediately electronically scan and send (or hand deliver) copies of said records to plaintiff's counsel. The records will be provided to DDC no sooner than seven (7) days after delivery of the records to plaintiff's counsel unless DDC and the document reproduction service are advised in writing of an objection to

said production. There must be no “first look” as to plaintiff’s Social Security Earnings Records.

- c. All records produced pursuant to this Section are presumed to be authenticated and to satisfy the business records exception of the hearsay rule under **CAL. EVID. CODE** §§ 1270 to 1272 unless the party objecting to the admission establishes the contrary by a preponderance of the evidence.

7) Record Procurement.

- a. The DDC must initiate the procedures necessary to obtain plaintiff’s medical and employment records and related medical evidence (radiographs, x-rays, photographs, pathology specimens, etc.), including issuance of subpoenas.
- b. In those cases where a DDC is appointed, absent Court order, no other defendant may initiate procedures to obtain from the plaintiff his/her medical and employment records or medical evidence. A defendant, however, may seek said records as part of a deposition subpoena or notice of depositions of plaintiff’s employers or treating doctors.
- c. The DDC is appointed as primary custodian of pathology specimens and chest radiographs/CT scans which the DDC obtains via subpoena or plaintiff’s authorization/stipulation until the date of trial, at which time the DDC must deliver all pathology materials, films and CT scans to plaintiff. Upon written request DDC must notify plaintiff of any pathology specimens and chest radiographs/CT scans obtained by the DDC and cooperate with plaintiff’s review of same. The DDC must permit Plaintiff and those defendants participating in this function to have reasonable and timely access to said materials.

B. Depositions.

- 1) **Plaintiff’s Deposition.** The plaintiff’s deposition must be noticed by the DDC or by counsel for plaintiff pursuant to **CCP** § 2025.210. Prior to noticing plaintiff’s deposition, the DDC and plaintiff’s counsel must meet and confer regarding deposition dates and location. The party that notices the deposition may proceed first.
 - a. **Duration of Deposition**
 1. **Non-Preference Cases.** Absent agreement of the parties or Court order, there is no presumptive time limit for the defense’s examination of plaintiff. The Court may extend or shorten the length of the deposition upon a showing of good cause. The

parties may, at any time, agree among themselves to extend or shorten the length of any deposition.

2. **Preference Cases.** In any case in which plaintiff has notified defendants that preference under CCP § 36 will be or has been sought there is a presumptive twenty (20) hours for the defense's examination of plaintiff subject to adjustment by the Court for the number of active named defendants, number of alleged exposures, and number of job sites identified. The Court may extend or shorten the length of the deposition upon a showing of good cause. The parties may, at any time, agree among themselves to extend or shorten the length of any deposition.
- 2) **Videotaping of Deposition.** If any portion of the trial preservation testimony is videotaped then the entirety of the plaintiff's testimony must be videotaped. The costs of the videotaping of the plaintiff's testimony are the responsibility of the party noticing the videotaped testimony.
- 3) **Noticing Plaintiff's Deposition.**
 - a) In any case in which the DDC has been appointed, the deposition of any plaintiff may be noticed only by plaintiff's counsel or the DDC, and may not be separately noticed by an individual defendant.
 - b) In any case in which the Court has declined to appoint a DDC, or in which the Court has sustained a party's objection to the appointment of a DDC, either plaintiff's counsel or defense' counsel may notice the deposition of any plaintiff according to the CCP.
- 4) **Discovery Cut-Off.**
 - a. In non-preference cases, all non-expert witness discovery must be completed no later than thirty (30) days prior to the initial trial date. Expert witness discovery must be completed no later than by 5:00 p.m. (P.S.T.) on the Friday prior to the case's initial trial date. If the Court is closed on the Friday prior to the initial trial date, the cutoff is extended to the next day on which the Court is open.
 - b. In cases where the Court has granted preference under CCP § 36, all discovery must be completed prior to the assignment of the case out to trial, unless there has been a stipulation by the parties or an order by the Court.
- 5) **Expert Witnesses.** Expert witness disclosure and designation must comply with the CCP absent stipulation by the parties or an order by the Court granted at the TSC or at a motion hearing.

- a. **Demands and Designations.** Demands for exchange of expert information are deemed served 70 days before the initial trial date. Any expert designations must be served in compliance with CCP § 2034.260, et seq.
- b. **Depositions.** Any request for the deposition of another party's expert must be made in writing and served on all parties. Parties must provide dates and times for an expert's deposition within five (5) court days of receipt of a request for said expert's deposition. The offering party must make a good faith effort to provide notice of any expert deposition a minimum of six (6) court days prior to the date of the expert deposition. In no event may experts be produced for deposition on less than four (4) court days notice. The parties must have no less than two (2) court days to accept or decline any offered expert's deposition. The parties must meet and confer in good faith to resolve any conflicts in the times of depositions in the same case

A party offering the expert for deposition before any request is made must provide notice a minimum of ten (10) calendar days prior to the date on which the expert is produced for deposition. Any responding party must have no less than four (4) court days to accept the deposition. Depositions of experts must not occur more than 40 calendar days before trial, except for good cause.

Before the case is assigned to a trial department, the parties must advise the SAJ of any issues regarding the completion of expert depositions that impact the orderly progress of trial. No later than 48 hours prior to the expert's scheduled deposition, the party retaining the expert is required to produce the expert's file(s), note(s) and report(s) for the specific case. However, this does not preclude a request for additional materials.

- 6) **Telephonic Depositions of Expert Witnesses.**
 - a. Upon proper demand by a party (the deposing party) to depose a retained expert witness designated by another party (the defending party), the defending party may make the expert witness available for deposition by telephone upon the following conditions:
 - b. Telephonic Depositions of Expert Witnesses Procedures:
 1. Counsel for the defending party must notify all counsel at the time of disclosure that the expert witness will be offered for deposition by telephone. Any party objecting to the taking of the

deposition by telephone must advise all counsel in writing by facsimile, E-service or hand delivery of the basis of their objection no later than five (5) court days after the date of disclosure or three (3) court days in cases where preference under CCP § 36 has been granted. The parties are encouraged to give telephonic notice of their objection to the defending party. The defending party must meet and confer in good faith with the opposing party to resolve any and all issues pertaining to the offered telephone deposition. If after meeting and conferring, an objection to the telephonic deposition persists, the offering/defending party seeking the telephonic deposition may make a motion to permit proceeding with a telephonic deposition. Said motion may be made upon one (1) court day notice and must be heard by the SAJ or other judge designated by the SAJ.

2. At least two (2) court days in advance of the deposition, the defending party must also provide a full and complete copy of the expert's file (including but not limited to deposition(s) or medical records reviewed by the expert in preparation for his or her testimony which the expert has highlighted, tabbed or otherwise altered) and Curriculum Vitae to any party who so requests it.
3. If there are additions to the expert's file within two (2) court days prior to the deposition, the defending party will provide all additional materials to any party who previously requested materials as soon as practicable, but at least one (1) hour prior to the scheduled deposition. The defending party will notify the deposing party in writing two (2) court days in advance of the deposition in the event the expert to be deposed does not have a file and/or Curriculum Vitae.
4. Counsel for the defending party must have a facsimile machine readily available or electronic mail access for use by the expert witness during the course of the deposition, and counsel for the deposing party must have a facsimile machine readily available or email access capable of transmitting attachments for use during the course of the deposition.
5. The attorney for any party may elect to be personally present with the deponent during the deposition, but in such case the deposition must be taken, at the option of the expert witness, at the office of the expert witness or at such location as counsel for

the electing party may designate within thirty-five (35) miles of the office of the expert witness. Any attorney so electing must give notice of such election to the defending party by facsimile, E-service or hand delivery within five (5) days, or three (3) days in cases in which preference has been granted, after notice has been provided of the date, time and place at which the expert is being offered by the defending party. Any party may attend by telephone from any other location. If counsel for the defending party elects to be personally present, notice must be provided to all parties at the time the expert is offered for deposition. The defending party must make arrangements to allow attorneys for any other party to attend the deposition by telephone.

6. The cost of the telephone connection must be paid by the defending party and may be a recoverable cost of suit. The deposing party must tender the expert's fee to the expert witness and/or counsel for the defending party no later than the scheduled time for the commencement of the deposition if the deposing party is present with the expert. If the deposing party is not present with the expert, the deposing party must tender the expert's fee to the defending party no later than the scheduled time for the commencement of the deposition.
7. Nothing herein precludes the parties from reaching different or additional agreements concerning retained expert witness depositions. This Rule does not apply to non-retained expert witness or percipient witness depositions. Nothing in this Rule limits a party's right to seek a protective order or other relief including a motion to exclude expert testimony and/or to compel the personal appearance of an expert for deposition and/or for sanctions.
8. Plaintiff and defendants must cooperate in good faith to minimize late or untimely cancellations of expert witness depositions. Except as otherwise agreed, the parties must provide a minimum of two (2) court days notification in the event of cancellation or change to a scheduled expert witness deposition. When a cancellation is not timely made, the canceling party must pay the expert witness his/ her fee for one-half hour of deposition time at the expert witness' standard deposition rate.

C. Informal Discovery Conferences.

All parties must participate in the Court's Informal Discovery Conference ("IDC") as set forth below. The IDC does not limit or expand the rights of any party as set forth in CCP, CRC and LRSF. Specifically, participation in the IDC does not negate the requirements of CCP § 2016.040 which requires parties to meet and confer before filing a Discovery Motion. The IDC must apply to all discovery disputes whether or not a discovery motion has been filed with the Court.

No Discovery Motion will be heard until the parties have participated in an IDC with the SAJ or a Court designee. The parties must make good-faith efforts to meet and confer in person or by telephone prior to the IDC.

The party intending to bring a discovery motion must confer with the opposing party regarding scheduling of the IDC and must provide mutually agreeable dates to the SAJ's clerk. After the Court sets the date for the IDC, the potential moving party must provide notice of the date of the IDC to any parties who are involved in the discovery dispute by electronic mail no less than two (2) court days before the IDC. Counsel with full authority to resolve the discovery dispute on behalf of the moving and opposing parties, including any parties who have either joined or opposed the motion, must appear and participate in good faith at the IDC. No court reporting is permitted at the IDC. If the discovery dispute cannot be resolved at the IDC, then counsel for the parties who have participated at the IDC must attend the Discovery Motion hearing on those issues, if any, unless excused by the Court.

Prior to the IDC, the potential moving party must lodge a letter with the SAJ identifying the discovery at issue and the dispute between the parties. This letter, which must not be longer than one-and-one-half pages and must not include exhibits or attachments, will be delivered to the SAJ by 2:00 p.m. (P.S.T.) no later than two (2) court days before the IDC. The potential moving party must also send the letter by electronic mail or E-service to all other parties involved in the discovery dispute no less than two (2) court days before the IDC. Only those parties actually involved in the specific discovery dispute may participate at the IDC. Parties actually involved in the discovery dispute are the following: the moving party(ies), joining party(ies) and opposing party(ies). The Court may limit the attendees to the IDC. The DDC must be advised prior to the IDC if prior Court order or the LRSF require the action of the DDC on any issue in dispute.

If the IDC becomes unnecessary after the Court schedules it because the issues have been resolved, the potential moving party must immediately advise the Court. If a discovery motion was filed, and it is no longer needed, the moving party must promptly take the motion off calendar.

If the parties reach a Stipulation concerning the subject discovery dispute at the IDC and before the Discovery Motion hearing, the parties are to memorialize the terms of the agreement and provide the same to the Court. Parties may set an additional IDC if assistance is requested regarding any discovery Stipulation.

The IDC does not bind the parties or the Judge, unless there is a stipulation or agreement by the parties resolving the discovery dispute at issue. Further, the parties cannot quote any statements made in the IDC in any subsequent formal Discovery Motion. The IDC is intended to resolve discovery disputes before a hearing or before a motion is filed, but the parties always have the right to a formal Discovery Motion hearing before the Court. This Rule applies to all discovery disputes whether or not a Discovery Motion has been filed with the Court.

20.2 Mandatory Settlement Conferences in Asbestos Cases.

When the Court sets a Mandatory Settlement Conference (“MSC”) with the SAJ, Asbestos Settlement Officer (“ASO”), or any other Judge assigned by the SAJ, all Parties must submit a settlement conference statement (“Settlement Statement”), as required below, in compliance with CRC, Rule 3.1380 and LRSF 5.0, unless otherwise excused by the Court for good cause shown. MSC and all Settlement Statements are confidential pursuant to Cal. Evid. Code § 1119

A. MSC with the Supervising Asbestos Judge.

- 1) No later than ten (10) days prior to the date set for the MSC, or as otherwise ordered by the SAJ, Plaintiff’s counsel must provide to each remaining defendant a demand and identify all previously undisclosed, remaining defendants.
- 2) Within five (5) days prior to the date set for the MSC, or as otherwise ordered by the SAJ, each party must lodge with the SAJ a Settlement Statement that discloses the essential facts supporting claimed liability and defenses thereto. Each plaintiff’s Settlement Statement must also state the following: the total amounts of settlements obtained or negotiated in the case, including bankruptcy trust payments; and all factors that bear upon plaintiff’s likelihood to settle (excluding trial related factors, e.g., judge assignment, type of jury, etc.). Each defendant’s Settlement Statement must also state the following: the name, position/title, phone number(s) and email address of each person who must approve an offer and has final settlement authority; and all factors that bear upon defendant’s likelihood to settle (excluding trial related factors, e.g., judge assignment, type of jury, etc.).
- 3) Plaintiff must attend in person or, after the Court grants permission for good cause shown, be available by phone.

- 4) Each defendant's principal, possessing final decision-making authority must attend in person or, after the Court grants permission for good cause shown, be available by phone.
- 5) Request for relief from attendance at the Settlement Conference must be made through the Asbestos Settlement Officer or the SAJ's designee who must notify the requesting party no later than two (2) court days before the settlement conference whether the request has been granted by the Asbestos Judge.

B. MSC with the Asbestos Settlement Officer or the Asbestos Judge's Designee.

- 1) Unless requested by the ASO or the SAJ's Designee, a Settlement Statement is *not* required prior to the scheduled MSC.
- 2) Parties participating in the MSC must have full and final settlement authority, a thorough understanding of the factual and legal basis of the cases, and knowledge of all factors that bear on the parties' likelihood to settle.
- 3) Unless excused by the SAJ, two (2) court days prior to the MSC, parties must provide the ASO or the SAJ's Designee the name, position/title, phone number and electronic mail address of each person who is required to approve an offer/demand and who has final settlement authority.
- 4) Plaintiff must attend in person or, after the Court grants permission for good cause shown, be available by phone.
- 5) Each defendant's principal, possessing final decision-making authority must attend in person or, after the Court grants permission for good cause shown, be available by phone.
- 6) Request for relief from attendance at the Settlement Conference must be made through the Asbestos Settlement Officer or the SAJ's designee who must notify the requesting party no later than two (2) court days before the settlement conference whether the request has been granted by the SAJ.

C. MSC for Non-Preference Cases.

MSC is set no later than two (2) weeks prior to said case's trial date. Parties may request setting the MSC in advance of said time frame. For cases where preference is granted under CCP § 36, the MSC may be either set at the time of granting preference or at least one week prior to the trial date. If the parties agree that the date for a scheduled MSC is occurring before the case is ready for settlement, the parties must notify the ASO or the SAJ's Designee by electronic mail. The Court will then notify the parties of a new MSC date.

D. Confidential disclosures to Court prior to MSC.

- 1) No later than two (2) weeks prior to the trial date, plaintiff's counsel must provide a list of remaining defendants and the current demands and/or settlement status to the ASO or the SAJ's Designee.
- 2) Plaintiff's counsel will also confidentially provide current total amounts of settlements obtained or negotiated in the case, including bankruptcy trust payments. If requested by the ASO or the SAJ's Designee, plaintiff's counsel must specify the total amounts of settlements obtained for each of the following categories: personal injury, action, the loss of consortium action, and the prospective wrongful death claims.

20.3 Trial Management.**A. Motions in Limine.**

Before any motions in limine (MIL) are filed with the Court, the parties must meet and confer on each MIL. Each side is initially limited to five (5) joint MILs not to exceed five (5) pages per motion. Each joint MIL must be restricted to one issue and may not have subparts addressing additional issues. Parties opposing the initial MIL are limited in submitting five (5) oppositions which cannot exceed five (5) pages per motion. Only one declaration is permitted per MIL absent leave of Court. Declarations may not exceed three (3) pages in length absent leave of Court. These limitations do not apply to motions under CAL. EVID. CODE. §§ 402 and 403. However, if more than one defendant seeks to address the same expert, the request must be submitted as a joint motion supported by no more than one declaration which must not exceed three (3) pages, absent leave of Court.

All joint defense MILs are deemed joined by all defendants unless a defendant specifically indicates otherwise.

All initial joint defense MILs and plaintiff's MILs must be served on all parties no later than two (2) court days after assignment of the case to a trial judge, or within two (2) court days of receiving notice from the SAJ of an impending trial assignment, whichever is earlier.

Defendants must provide the trial department with courtesy copies of the initial joint defense MILs in a single submission containing all of the initial joint defense MILs accompanied by the respective Oppositions in an indexed, tabbed binder.

Plaintiffs must provide the trial department with courtesy copies of plaintiffs' MILs in a single submission containing all of the plaintiffs' MILs accompanied by the respective Oppositions in an indexed, tabbed binder.

Before additional MILs are filed, a party must request leave to file additional MILs by submitting to the trial judge or the SAJ a declaration, which does not exceed three (3) pages demonstrating good cause and a brief description of the evidence sought to be addressed and an explanation as to why the additional MIL is required.

Any party whose request for additional MILs has been granted must provide the trial department with courtesy copies of the additional MILs in a single submission containing all of the additional MILs accompanied by the respective Oppositions in an indexed, tabbed binder. If the right to bring additional MILs is denied, any party may still make a trial objection in the trial.

B. Witness and Exhibit Lists.

No later than two (2) court days after the date on which the case was assigned to a trial department, all parties must submit witness lists and exhibit lists to the trial department.

C. Jury Instructions.

No later than two (2) court days after the date on which the case was assigned to a trial department, the parties must submit joint standard jury instructions (without prejudice to submitting further instructions at a later date) to the trial department.

D. Designation of Former Testimony.

No later than seven (7) calendar days before the actual trial date, the parties must serve on all parties a list of all former testimony that will be used at trial, except transcripts to be used for cross-examination. The list must include the name of the witness (first and last name), the caption of the case in which the testimony was taken, the date(s) of the deposition or trial testimony, and the court reporter's contact information, if known. If a party in good faith does not possess the transcript, the party may request the transcript from the designating party who must provide it within two (2) calendar days of the request.

No later than two (2) court days after the date of the assignment of a case to a trial judge, page: line designations of the former testimony must be served on all parties. Absent leave of court for good cause shown, designations for any witness must not be made from more than five (5) former cases.

Within three (3) court days of the receipt of said page: line designations, any counter designations or objections must be served on all parties. Within one (1) court day of the receipt of any counter designations or objections, counsel with full authority for each party must meet and confer in good faith to resolve any disputes regarding the page: line designations of the testimony. The parties must then promptly provide to the Court

in a single submission a marked transcript containing those portions of testimony that remain in dispute. The testimony will be marked in contrasting colors, with designated testimony in one color, counters in another color, and objections in the margin, identifying the party asserting them. No party may use former testimony at trial without a minimum of 48 hours advance notice to all parties.

If the proposed page: line designations are especially voluminous, the responding party may request relief from these deadlines upon a good cause showing to the trial judge.

E. Trial Briefs.

On the day of trial assignment or by the first trial appearance, whichever date is earlier, parties must submit a trial brief. The trial brief must include a succinct summary of the facts of case, Plaintiff(s)' claim(s) against the defendant, and Defendant(s) asserted defenses. Plaintiff's trial brief may not exceed ten (10) pages and no exhibits are permitted. Defendant's trial brief may not exceed five (5) pages, and no exhibits are permitted. The trial brief may not be another form of a MIL.

If a party has good cause to exceed the page limit, that party may request said leave by submitting a declaration to the trial judge or the SAJ with a brief description as to the good cause basis for relief.

The SAJ has discretion to revise any deadlines set forth above in cases in which expedited trial dates have been ordered pursuant to CCP § 36, or as required to expedite the trial.

F. Jury Questionnaires.

See the Court's website for a template for a jury trial questionnaire in an asbestos trial. Each trial judge has the discretion whether or not to allow a jury questionnaire in an asbestos trial. The trial judge also has discretion to modify said template for the specific case in trial as deemed appropriate.

Adopted: January 1, 2016

Last Revised: January 1, 2018