SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT TWO

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IN RE THE MATTER OF ALL JURY TRIALS IN DEPT 2,	)	**GENERAL ORDERS FOR ALL JURY TRIALS (CRIMINAL)**

The following general orders are issued in all criminal trial matters in Department 2 of the Solano County Superior Court:

COURT SCHEDULE

Unless otherwise noted (as a result of holidays or scheduling conflicts), all jury trials shall be heard Monday through Wednesday. Usual court hours for jury trials are 9:00 a.m. until 12:00 noon, and 1:30 p.m. until 4:00 p.m., with one 15-minute recess during each morning and afternoon session.

Due to the potential heavy volume of scheduled jury trials, multiple matters may be set for trial. Counsel should expect that their matter will proceed to trial on the date set, either in this department or in other departments as they become available. Priority will first be given to cases set on a "no-time-waiver" basis, then followed by older cases.

COURT CONDUCT / ETIQUETTE

1. Counsel are expected to be civil and polite towards opposing counsel, witnesses, and court staff.
2. Counsel, parties and witnesses are expected to appear on time and be prepared to commence proceedings as scheduled.
3. Counsel, parties and witnesses are expected to turn off all pagers and cellular phones or have them on vibration mode.
4. Counsel are to meet and confer on all disputed issues in an effort to resolve them before presenting issues to the Court for resolution.

TRIAL MANAGEMENT: Each case set for jury trial shall hold a trial management conference. Trial management conference statements shall be filed by all parties no later than **5** business days before the scheduled conference. The statement shall include:

1. **WITNESS LISTS.** All witnesses, including full name and title (officer, Dr., etc), along with known contact information (address, phone number) shall be listed. Only witnesses that a party expects to actually call should be listed. Counsel should include in their witness list the amount of time they expect to spend on direct examination of each witness. The amount of time should be stated in minutes (*not* days or hours). Failure to list a witness may result in an order precluding that witness from testifying at trial, unless the Court finds that the party failing to identify the witness had a good faith basis for failing to do so.

2. **EXHIBIT LISTS.** The parties shall provide a list of all items of physical evidence. Copies of all documents, photographs, recordings, or other items that can be easily replicated shall be provided to all other parties on or before the date of exchange of trial management statements.

3. **MOTIONS IN LIMINE.** Any party wishing to file a motion in limine is encouraged to meet and confer with the other parties to see if they can reach agreement without the necessity of a motion. If the meet and confer does not resolve the matter, then any party wishing to file any motions in limine is to file and serve those motions in limine along with their trial management conference statement. Opposition to any motions shall be filed and served 2 court days before the conference. Both the motions and opposition should consist only of a brief synopsis of the parties' positions.

4. **JURY INSTRUCTIONS.** Counsel must meet and confer before submitting requested instructions to the Court regarding instructions. As to standard, unmodified CALCRIM instructions, parties need only submit an index of requested instructions, as opposed to copies of the instructions. Proposed "special" instructions should be on a separate sheet per instruction, accompanied by any legal authorities supporting the use of the instruction. The request for jury instructions should include any requests for lesser-related or lesser-included instructions that *may* be sought.

TRIAL ORDERS

The following general orders are issued in for all matters to be tried in Department 2 of the Solano County Superior Court:

1. At each recess, the Court will announce the duration of the recess. Counsel and all parties shall return to the Court and be prepared to proceed before the end of the recess.

2. All adult witnesses shall be referred to by their last names absent specific approval of the Court to refer to the witness by his or her first name. All witnesses under the age of 18 may be referred to by their first name.

3. Questioning shall be from counsel table or the lectern unless it is necessary to question a witness from some other location, including the witness stand.

4. Should questioning be conducted at the witness stand, do not block the view of any members of the jury.

5. Should any questioning be conducted at the witness stand, ensure that the voices of both the questioner and the witness can be heard by everyone in the courtroom.

6. Objections shall be directed to the Court in legal form without argument. Any further argument shall occur at side bench, and counsel shall refrain from "speaking objections".

7. Either counsel may approach a witness without asking for permission to do so from the Court as long as there is an appropriate reason to approach the witness.

8. Side-bar conferences are strongly discouraged. It is expected that if there are evidentiary or procedural questions, they are to be brought to the court as in limine or at a recess.

9. No evidence of uncharged misconduct of the Defendant or any witness will be presented without first discussing the admissibility of such evidence outside the presence of the jury. Any party seeking to use such evidence shall disclose such evidence upon receipt, or as part of the trial management conference packet.

10. Evidence of, or reference to, plea or settlement negotiations shall not be allowed in the presence of the jury.

11. There will be no offers of stipulation in the presence of the jury without a good faith belief that the parties have already reached a stipulation.

12. Opening statement is <u>not</u> argument. State only the expected evidence; do not state your opinions as to its force or an expected verdict.

13. On any contested issue, counsel should direct comments directly to the Court and not to each other.

14. During the examination of witnesses, counsel should not argue, testify, or add their own commentary during the presentation of evidence.

15. Do not admonish a witness while the witness is testifying; if needed, the Court should be requested to do so, without further argument or comment.

16. Counsel are directed to admonish all of their prospective witnesses to refrain from discussing with any other witness their testimony or that of any other witness until the conclusion of trial.

17. Should the Court grant any motion to exclude or limit evidence, counsel are directed to advise each of their prospective witnesses of each such ruling and admonish them to refrain from referring to such precluded evidence.

18. The defendant shall be personally present during the jury trial. The court may direct that the defendant be personally present at any other proceeding or portion thereof.

<u>VOIR DIRE</u>

Counsel shall be familiar with Code of Civil Procedure §223.

The "six-pack" method of jury selection will be used. 18 prospective jurors will be seated in and directly in front of the jury box, using the previously-randomized jury list. A copy of that list will be provided to counsel at the time that jurors are initially seated.

Generally, a one page written questionnaire will be completed by each juror, copies of which will be provided to counsel as jurors are seated. The court will consider allowance of a larger jury questionnaire in certain cases, provided that the party making such request is prepared to assume responsibility for the copying and costs of these questionnaires in a manner that does not unreasonably delay the proceedings.

The Court will conduct initial voir dire. Defense counsel, then the District Attorney, shall then be allowed to conduct oral voir dire. Unless prior consent from the Court is obtained prior to commencement of voir dire, it is expected that each counsel shall complete the initial round of questioning in 30 minutes or less. The Court may, in its discretion, terminate voir dire if counsel unreasonably exceeds these time limits.

Challenges for cause should be initially made by counsel by simply indicating a juror number, without further argument. If opposing counsel stipulates to that challenge, the Court may excuse that juror without further discussion. If further discussion is required, counsel shall approach and make any argument at side bench.

Peremptory challenges to the 12 jurors in the jury box shall commence with the District Attorney and shall be done in open court with counsel asking to "thank and excuse" a juror, without further comment. As jurors are excused, the six jurors seated in front of the jury box shall be asked to assume each vacant seat.

EXHIBITS

At the time the parties exchange trial management conference packets they should also provide to opposing counsel copies of all exhibits which may be offered into evidence. Prior to commencement of trial counsel for parties should confer with the court clerk and, if requested, pre-mark all exhibits which may be offered in evidence. It is assumed that any exhibit referred to by either side during trial will have already been produced for inspection to the opposite side.

If any weapon is brought into the courtroom, it must be shown, examined and secured by the bailiff before it can be marked.

WITNESSES

Counsel should instruct all witnesses, parties, and their friends who are or will be attending the trial not to communicate in any manner with the jurors. Further, these persons are to be instructed that they are not to converse in any manner within the hearing distance of the jurors. Counsel are to assure that all witnesses are aware of the time and location of trial and are familiar with all rules and orders of the court, especially any rulings on motions in limine regarding testimony and evidence.

ARGUMENT

Unless prior authorization for longer argument is obtained from the Court, it is presumed that each side's / parties' opening statement will last no longer than 30 minutes, and each closing argument (including rebuttal) will last no longer than 45 minutes.

JURY INSTRUCTIONS / VERDICT

Based upon the requests considered during trial management, the Court will prepare the final jury instructions and proposed verdict form. The Court will meet with parties prior to closing arguments and instruction to discuss final approval of the instructions.

The Court will pre-instruct the jury prior to opening statements with a modified version of CALCRIM 100, and CALCRIM 101, 102 and 103 and a special instruction regarding housekeeping matters. Prior to closing argument the Court will instruct the jury regarding the applicable law and will offer concluding instructions (CALCRIM 3550) at the conclusion of closing arguments.

Dated: _____, 2013

HON. DANIEL J. HEALY
Judge of the Superior Court