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18 **ATTORNEYS FOR PLAINTIFFS**

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **COUNTY OF CONTRA COSTA**

21
22 **COORDINATION PROCEEDING**
SPECIAL TITLE (RULE 3.550)

23 **PARAQUAT CASES**

24
25 This document relates to:
26 All Coordinated Actions

Case No. JCCP 5031
CIVMS 5031

**[PROPOSED] CASE MANAGEMENT
ORDER NO. 2 RE: PREFERENCE
PROTOCOL**

**Assigned for All Purposes to:
Hon. Edward G. Weil, Dept. 39**

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 This Case Management Order shall govern all cases filed in or transferred to
3 Paraquat Cases, JCCP 5031, including all cases currently in this proceeding and any
4 cases subsequently added to this proceeding. The Court anticipates, given the large
5 number of filings in this JCCP and the factual nature and complexity of the claims at
6 issue, that multiple plaintiffs may be interested in pursuing preferential trial setting.
7 The purpose of this Case Management Order (“CMO”) is to establish a preference
8 case protocol to facilitate the exchange of information related to cases potentially
9 eligible for preferential trial setting.

10 The Court hereby ORDERS as follows:

11 1. A Preference Committee for Plaintiffs is hereby established to review
12 potential preference cases and to meet and confer with the submitting Plaintiffs’
13 counsel as to the viability and sequence of any potential filings. The Preference
14 Committee shall consist of the following members: Michael Kelly, Amy Eskin, Majed
15 Nachawati, Alicia O’Neill, and Steve Brady.

16 2. The input of the Preference Committee will ensure that all plaintiffs
17 who may qualify for preference have the benefit of the input of an objective group of
18 counsel who collectively and transparently provide input on whether: a) the plaintiff
19 seeking preference can demonstrate “a substantial interest in the action as a whole”
20 per Code of Civil Procedure §36(a); b) the plaintiff meets the criteria for probable
21 Parkinson’s disease and genuine paraquat exposure; c) the plaintiff’s case is
22 procedurally ready to make and support a motion for preference and; d) the plaintiff’s
23 case is capable of trial readiness on the shortened time afforded to a preference case.
24 (See Code Civ. Proc. §36(f).)

25 3. The Preference Committee shall meet regularly and report to Co-Lead
26 and Co-Liaison counsel for Plaintiffs and shall be available for consultation as a
27 group with any individual plaintiff’s counsel. For the purposes of compliance with
28 this Order, the Preference Committee’s obligations are to all plaintiffs in the

1 litigation and the litigation as a whole.

2 4. The Preference Committee shall be responsible for meeting and
3 conferring with the defendants regarding potential preference cases, including
4 briefing scheduling, setting of hearings, and coordination of discovery. These meet
5 and confer efforts with Defendants will also include the attorney for the Plaintiff
6 moving for preference.

7 5. The Preference Committee shall submit to all counsel a preference
8 questionnaire which shall be completed by the submitting Plaintiff's counsel who
9 seeks to present a case to this Court for preferential trial setting. Given the large
10 number of cases potentially eligible for preferential trial setting, counsel for any
11 individual plaintiff seeking preference shall complete the preference questionnaire
12 and provide it to the Preference Committee.

13 6. Any Plaintiff's counsel who, at any time, represents a Plaintiff that has
14 a good faith basis for asserting entitlement to a preferential trial setting under Code
15 of Civil Procedure §36 must provide written notice to the Preference Committee of
16 their potential claim of preferential trial setting eligibility at least 21 days before a
17 motion for preference can be filed. At the time this notice is given, the submitting
18 Plaintiff's counsel shall also produce to the Preference Committee the following:

- 19 a. Grounds for Preference – A written statement setting forth in
20 detail the grounds for preferential trial setting and the facts
21 supporting preference, including the name of the plaintiff;
- 22 b. Records – Any medical and/or other records which the Plaintiff
23 moving for Preference intends to submit to the Court to support
24 the request for preferential trial setting,
- 25 c. Declarations – Any and all Declarations in support of the request
26 for preferential trial setting;
- 27 d. Preference Questionnaire – A completed preference questionnaire
28 as set forth in paragraph 5 above.

1 If the plaintiff moving for preference has exigent circumstances that warrant
2 an expedited assessment process, these circumstances are to be presented to the
3 Preference Committee at the earliest opportunity. If good cause exists, the attorney
4 for the Plaintiff moving for preference, lead Plaintiffs' counsel, and Defendants'
5 counsel will meet and confer as soon as practical.

6 7. Upon receipt of notice(s) of potential claim(s) for preferential trial
7 setting, the Preference Committee shall convene, review, and confirm that each
8 request is complete and compliance with the preference protocol pursuant to Code of
9 Civil Procedure §36 and ready for meet and confer with Defendants. The Preference
10 Committee shall provide written communications regarding the findings of their
11 review to the submitting Plaintiff's Counsel within 7 days of receipt of the notice.

12 8. Once a review of a request for preferential trial setting is deemed
13 complete, pursuant to the above, the Preference Committee, or the submitting
14 Plaintiff's counsel if they disagree with the Preference Committee's findings, shall
15 provide Defendants with notice regarding the preferential trial setting request(s) and
16 the supporting materials to be submitted with the anticipated preference motion(s),
17 including any medical records and/or declarations that will be submitted. Plaintiffs
18 and Defendants shall meet and confer within 7 days regarding the briefing and
19 potential deposition schedule for each request for preferential trial setting. Any
20 unresolved disputes amongst the parties regarding preferential trial settings will be
21 decided by the Court upon the filing and hearing of a Motion for Preferential Trial
22 Setting pursuant to Code of Civil Procedure §36.

23 9. Counsel for the Plaintiff bringing the preference motion shall be in
24 compliance with all Case Management Orders of this Court.

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1 10. After the procedure followed in this Preference Protocol is completed,
2 any attorney representing a Plaintiff in this case may proceed with the filing of a
3 motion for preference under Code of Civil Procedure §36 if that attorney believes it is
4 appropriate to do so.

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IT IS SO ORDERED.

DATED:

HON. EDWARD G. WEIL
JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE**

2 **Coordination Proceeding Special Title (Rule 3.550) - Paraquat Cases**
3 **Case No. JCCP 5031, CIVMS 5031**

4 At the time of service, I was over 18 years of age and not a party to this action.
5 I am employed in the county where the mailing took place, My business address is
6 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

7 On the date set forth below, I caused to be served true copies of the following
8 document(s) described as

9 **[PROPOSED] CASE MANAGEMENT ORDER NO. 2 RE: PREFERENCE**
10 **PROTOCOL**

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22 **BY ELECTRONIC SERVICE:** I electronically served the document(s)
23 described above via File & ServeXpress, on the recipients designated on the
24 Transaction Receipt located on the File & ServeXpress website
(<https://secure.fileandservexpress.com>) pursuant to the Court Order establishing the
25 case website and authorizing service of documents.

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1 I declare under penalty of perjury under the laws of the State of California
2 that the foregoing is true and correct.

3 Executed on September 7, 2021, at San Francisco, California.

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6 Lily Connors

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