

PRELIMINARY CONFERENCE

Preliminary Conference set for: (tbd)

**Doctors Hospital of Manteca, et al. vs. Kaiser Foundation Health Plan, Inc., et al.
JAMS Reference Number 1130006812**

Arbitrator(s):

Zela G. Claiborne

Richard Chernick

George H. King

Counsel:

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Counsel for _____

Counsel for _____

AGENDA

1. Identify the arbitration provision
2. Is there a party not specifically named in the clause?
 - Do the parties object to inclusion of that party?
 - Process for determination of this issue if not agreed
3. Identify the claims asserted by Claimant:
 - Demand dated? Response filed?
 - Is each claim arbitrable?
 - What is the remedy sought?
 - Is there any need to supplement or amend the claim?

4. Is there a counterclaim? If so, see questions at #3.
5. Appointment of Arbitrator and status of Party Arbitrators, if applicable
 - Disclosures and supplemental disclosures
 - Are Party Arbitrators to be neutral?
 - If non-neutral, *ex parte* communications after prelim.?
 - Disclosures as to prior *ex parte* communications, if applicable
6. What substantive law applies to the merits?
7. What arbitration law applies: FAA, Cal. Arb. Act, Cal. Int'l Arb. Act?
8. What rules apply: JAMS, AAA, CPR, other?
9. Will the parties agree to use the JAMS expedited procedures?
10. Do the parties wish to conduct discovery or exchange information informally?
11. Does any party assert the right to conduct discovery? Date for counsel to provide a discovery plan for review by the Arbitrators?
 - What discovery is authorized by the arbitration agreement or applicable rules?
 - Nature of discovery sought—document exchange, depositions?
 - Exchange witness lists identifying percipient witnesses
 - Expert designation/exchange of reports
 - Will any percipient witnesses also give expert opinions?
 - Witness statements in lieu of direct testimony with live cross-examination at hearings?
 - Timing
 - Protective order?
 - Discovery cut-off date
12. Are motions to be filed?
 - Identify, state the basis for the motion, and request permission to file
 - Briefing schedule and hearing date
 - Last day to file before hearings
13. Prehearing matters
 - Referral of routine matters to the Chair of the Arbitration Panel?
 - Bifurcation of issues?
 - Exchange of exhibits (non-impeachment)
 - Preparation and pre-marking of single exhibit list
 - Identify exhibits as to which objection will be made (remainder are deemed admitted)

- Other exchanges?
- Stipulation of facts?

14. Hearing procedure

- Dates of hearing
- Place and time of hearing
- Filing of pre-hearing briefs
- Reporter? cost sharing and allocation in award
- Will any witness testify other than in person? By video, Skype, other?
- Disclosure date:
- Objection date:
- Closing argument and/or post-hearing briefs?

15. Form of award

- Timing of issuance (30 days or more?)
- Attorneys' fees and costs?
- Interim/final awards?

16. International arbitrations

- Translation of documents? Interpreter?
- Need for identity of interpreter to be agreed upon before hearings

17. Administrative matters

- Identification of Case Manager: Kathleen Hanley, khanley@jamsadr.com
- Communications with Arbitrators directly by email with copies to opposing counsel and Case Manager
- The parties are encouraged to use **Case Anywhere**, the JAMS electronic filing system: The costs are about \$40 per firm per month plus \$5 per filing. Hard copy filing and service costs (copying, postage, and messenger fees) are avoided, as are arbitrator fees for file organization and administration. Documents are easily submitted and filed with just a few computer key strokes. A highly user-friendly, accessible, reliable, and authoritative file is created which greatly helps the arbitrators and saves the parties money. The system includes a convenient message board for easy informal communication among lawyers, arbitrators, and Case Manager. It also features a capability for online storage of and access to deposition and hearing transcripts. (Hearing exhibits are not lodged on Case Anywhere but may be submitted on a thumb drive.)
- Briefs are to be posted on Case Anywhere but, if the materials are lengthy with numerous tabs, it is a good idea to hand-deliver or mail them as well.