

CALIFORNIA CODES
CODE OF **CIVIL PROCEDURE**
SECTION **1258.210-1258.300**

1258.210. (a) Not later than the 10th day after the trial date is selected, any party may file and serve on any other party a demand to exchange lists of expert witnesses and statements of valuation data.

Thereafter, the court may, upon noticed motion and a showing of good cause, permit any party to serve such a demand upon any other party.

(b) The demand shall:

(1) Describe the property to which it relates, which description may be by reference to the complaint.

(2) Include a statement in substantially the following form: "You are required to serve and deposit with the clerk of court a list of expert witnesses and statements of valuation data in compliance with Article 2 (commencing with Section **1258.210**) of Chapter 7 of Title 7 of Part 3 of the Code of **Civil Procedure** not later than the date of exchange to be set in accordance with that article. Except as otherwise provided in that article, your failure to do so will constitute a waiver of your right to call unlisted expert witnesses during your case in chief and of your right to introduce on direct examination during your case in chief any matter that is required to be, but is not, set forth in your statements of valuation data."

1258.220. (a) For the purposes of this article, the "date of exchange" is the date agreed to for the exchange of their lists of expert witnesses and statements of valuation data by the party who served a demand and the party on whom the demand was served or, failing agreement, a date 90 days prior to commencement of the trial on the issue of compensation or the date set by the court on noticed motion of either party establishing good cause therefor.

(b) Notwithstanding subdivision (a), unless otherwise agreed to by the parties, the date of exchange shall not be earlier than nine months after the date of commencement of the proceeding.

1258.230. (a) Not later than the date of exchange:

(1) Each party who served a demand and each party upon whom a demand was served shall deposit with the clerk of the court a list of expert witnesses and statements of valuation data.

(2) A party who served a demand shall serve his list and statements upon each party on whom he served his demand.

(3) Each party on whom a demand was served shall serve his list and statements upon the party who served the demand.

(b) The clerk of the court shall make an entry in the register of actions for each list of expert witnesses and statement of valuation data deposited with him pursuant to this article. The lists and statements shall not be filed in the proceeding, but the clerk shall make them available to the court at the commencement of the trial for the limited purpose of enabling the court to apply the provisions of this article. Unless the court otherwise orders, the clerk shall, at the conclusion of the trial, return all lists and statements to the attorneys for the parties who deposited them. Lists or statements ordered by the court to be retained may thereafter be

destroyed or otherwise disposed of in accordance with the provisions of law governing the destruction or disposition of exhibits introduced in the trial.

1258.240. The list of expert witnesses shall include the name, business or residence address, and business, occupation, or profession of each person intended to be called as an expert witness by the party and a statement of the subject matter to which his testimony relates.

1258.250. A statement of valuation data shall be exchanged for each person the party intends to call as a witness to testify to his opinion as to any of the following matters:

- (a) The value of the property being taken.
- (b) The amount of the damage, if any, to the remainder of the larger parcel from which such property is taken.
- (c) The amount of the benefit, if any, to the remainder of the larger parcel from which such property is taken.
- (d) The amount of any other compensation required to be paid by Chapter 9 (commencing with Section 1263.010) or Chapter 10 (commencing with Section 1265.010).

1258.260. (a) The statement of valuation data shall give the name and business or residence address of the witness and shall include a statement whether the witness will testify to an opinion as to any of the matters listed in Section 1258.250 and, as to each matter upon which the witness will give an opinion, what that opinion is and the following items to the extent that the opinion is based on them:

- (1) The interest being valued.
- (2) The date of valuation used by the witness.
- (3) The highest and best use of the property.
- (4) The applicable zoning and the opinion of the witness as to the probability of any change in zoning.
- (5) The sales, contracts to sell and purchase, and leases supporting the opinion.
- (6) The cost of reproduction or replacement of the existing improvements on the property, the depreciation or obsolescence the improvements have suffered, and the method of calculation used to determine depreciation.
- (7) The gross income from the property, the deductions from gross income, and the resulting net income; the reasonable net rental value attributable to the land and existing improvements, and the estimated gross rental income and deductions upon which the reasonable net rental value is computed; the rate of capitalization used; and the value indicated by the capitalization.
- (8) If the property is a portion of a larger parcel, a description of the larger parcel and its value.
- (9) If the opinion concerns loss of goodwill, the method used to determine the loss, and a summary of the data supporting the opinion.

(b) With respect to each sale, contract, or lease listed under paragraph (5) of subdivision (a), the statement of valuation data shall give:

- (1) The names and business or residence addresses, if known, of the parties to the transaction.
- (2) The location of the property subject to the transaction.
- (3) The date of the transaction.

(4) If recorded, the date of recording and the volume and page or other identification of the record of the transaction.

(5) The price and other terms and circumstances of the transaction. In lieu of stating the terms contained in any contract, lease, or other document, the statement may, if the document is available for inspection by the adverse party, state the place where and the times when it is available for inspection.

(6) The total area and shape of the property subject to the transaction.

(c) If any opinion referred to in Section 1258.250 is based in whole or in substantial part upon the opinion of another person, the statement of valuation data shall include the name and business or residence address of that other person, his business, occupation, or profession, and a statement as to the subject matter to which his or her opinion relates.

(d) Except when an appraisal report is used as a statement of valuation data as permitted by subdivision (e), the statement of valuation data shall include a statement, signed by the witness, that the witness has read the statement of valuation data and that it fairly and correctly states his or her opinions and knowledge as to the matters therein stated.

(e) An appraisal report that has been prepared by the witness which includes the information required to be included in a statement of valuation data may be used as a statement of valuation data under this article.

1258.270. (a) A party who is required to exchange lists of expert witnesses and statements of valuation data shall diligently give notice to the parties upon whom his list and statements were served if, after service of his list and statements, he:

(1) Determines to call an expert witness not included in his list of expert witnesses to testify on direct examination during his case in chief;

(2) Determines to have a witness called by him testify on direct examination during his case in chief to any opinion or data required to be listed in the statement of valuation data for that witness but which was not so listed; or

(3) Discovers any data required to be listed in a statement of valuation data but which was not so listed.

(b) The notice required by subdivision (a) shall include the information specified in Sections 1258.240 and 1258.260 and shall be in writing; but such notice is not required to be in writing if it is given after the commencement of the trial.

1258.280. Except as provided in Section 1258.290, upon objection of a party who has served his list of expert witnesses and statements of valuation data in compliance with Section 1258.230:

(a) No party required to serve a list of expert witnesses on the objecting party may call an expert witness to testify on direct examination during his case in chief unless the information required by Section 1258.240 for such witness is included in the list served.

(b) No party required to serve statements of valuation data on the objecting party may call a witness to testify on direct examination during his case in chief to his opinion on any matter listed in Section 1258.250 unless a statement of valuation data for such witness was served.

(c) No witness called by a party required to serve statements of valuation data on the objecting party may testify on direct examination during the case in chief of the party who called him to

any opinion or data required to be listed in the statement of valuation data for such witness unless such opinion or data is listed in the statement served except that testimony that is merely an explanation or elaboration of data so listed is not inadmissible under this subdivision.

1258.290. (a) The court may, upon such terms as may be just (including but not limited to continuing the trial for a reasonable period of time and awarding costs and litigation expenses), permit a party to call a witness, or permit a witness called by a party to testify to an opinion or data on direct examination, during the party's case in chief where such witness, opinion, or data is required to be, but is not, included in such party's list of expert witnesses or statements of valuation data if the court finds that such party has made a good faith effort to comply with Sections **1258.210** to **1258.260**, inclusive, that he has complied with Section **1258.270**, and that by the date of exchange he:

(1) Would not in the exercise of reasonable diligence have determined to call such witness or discovered or listed such opinion or data; or

(2) Failed to determine to call such witness or to discover or list such opinion or data through mistake, inadvertence, surprise, or excusable neglect.

(b) In making a determination under this section, the court shall take into account the extent to which the opposing party has relied upon the list of expert witnesses and statements of valuation data and will be prejudiced if the witness is called or the testimony concerning such opinion or data is given.

1258.300. The superior court in any county may provide by court rule a **procedure** for the exchange of valuation data which shall be used in lieu of the **procedure** provided by this article if the Judicial Council finds that such **procedure** serves the same purpose and is an adequate substitute for the **procedure** provided by this article.