

Department CX 101 CMC and Status Conference Procedures

Please refer to the Complex Civil Department Guidelines and the procedures specifically posted for Department CX 101. Counsel must comply with the Meet and Confer Requirements of CRC 3.724 and 3.727.

Wherever possible, parties should submit a joint CMC Statement, but the Judicial Council form should **not** be used. Counsel should include in the Statement a discussion of the subjects set forth in CRC 3.727, including a summary of the status of the pleadings and parties, and advise the court of any issues which need to be addressed by the court. The Statement should also indicate that counsel have met and conferred regarding ADR, including Early Neutral Evaluation, Mediation and Arbitration. The Statement should not reveal the content of any settlement discussions but should advise the court if the parties are willing to utilize one or more forms of ADR to aid in the resolution of all or part of the case.

Pursuant to CRC 3.724(8), prior to the case management conference, counsel must meet and confer regarding any anticipated issues related to the discovery of electronically stored information (ESI). The Statement should confirm that this conference has taken place.

The initial CMC Statement should be submitted 5 days prior to the CMC unless otherwise ordered by the court. For subsequent case management conferences and status conferences, joint statements should be submitted at least 5 court days prior to the conference unless otherwise ordered by the court, and should provide an update on the subjects set forth in CRC 3.727 including the status of the attempts to identify and serve parties, anticipated amendments to the pleadings, anticipated law and motion, and progress toward resolution, without divulging the content of settlement discussions. Counsel should confirm that there has been a cooperative informal exchange of information, or that such is being discussed. If formal discovery is contemplated, counsel should confirm that they have met and conferred regarding a timeline for conducting and completing discovery, including a timeline for depositions.

Additional case management conferences or status conferences will be set as determined by the court. Additionally, counsel are encouraged to set up a web page for the case through a third party provider to host a bulletin board for communications about the case, and in order to effectuate e-service. However, all documents must still be filed electronically with the Orange County Superior Court as required by Orange County Superior Court policy.

Department CX 101 Ex Parte Procedures

Please refer to the procedures specifically posted for Department CX 101. Often, ex parte applications are used to bring issues before the court which do not present exigent circumstances, but nevertheless present issues which the parties view as important and time-sensitive. However, ex parte applications may impose an undue expense or burden on opposing parties due to the minimal time to respond and the disruption to the practice of opposing counsel. As an alternative, by agreement of all counsel, the parties may contact the courtroom clerk to arrange for an informal conference with the court, either

telephonic or in person, at which time Judge Sanders will engage counsel in an interactive discussion designed to promote resolution of the specific dispute.

In cases which present true emergencies, not caused by the lack of diligence of counsel, parties may present an ex parte application which complies with all applicable rules including the procedures specifically posted for Department CX 101. Such rules require moving party to call and notify the courtroom clerk no later than 10:00 AM the day before the matter is to be heard, and, all moving papers must be filed no later than noon the day before the matter is to be heard. In addition to notifying all other parties as required by law, the moving party **MUST** provide notification that any opposition must be in writing. The court may, in its discretion, decide the matter in chambers based on the moving papers and any written opposition, without oral argument.

Department CX 101 Law and Motion Procedures

Please refer to the Complex Civil Department Guidelines and the procedures specifically posted for Department CX 101.

Argument should not be placed in footnotes or in a Notice of Motion or Declaration. Footnotes, if used, should only indicate the case cite (e.g., Doe v Roe (1999) 23 Cal.3d 53) or record cite (e.g., AR53-122 or RT 6/25/12 p5, ll 12-20). Page limits, font size, line spacing and the other procedural requirements set forth in the CRC, CCP and governing code sections are strictly enforced. Failure to comply with these procedures may result in the court, in its discretion, striking or declining to consider the entire document.

In addition, **each** motion must be supported by a **separate** notice and memorandum of points and authorities, and, where applicable, separate supporting evidence. Unless specifically authorized by Judge Sanders, no combined or “omnibus” motions, oppositions, replies, joinders, Requests for Judicial Notice, or supporting declarations may be filed. Each set of moving, opposing, and reply papers must be complete without combining or incorporating by reference the arguments or evidence filed in connection with other motions. As examples, parties may not combine, in one motion, motions to compel responses to interrogatories and motions to compel document production, nor may a party who is subject to demurrers by more than one party file a combined opposition unless specifically authorized by Judge Sanders.

Department CX 101 Trial Procedures

Please refer to the Complex Civil Department Guidelines and the procedures specifically posted for Department CX 101.

In addition, counsel must comply with all requirements set forth in Rule 317 of the Local Rules of the Orange County Superior Court, including but not limited to the timely exchange of exhibits, documents, motions in limine (and oppositions), trial briefs at least 10 days prior to trial.

Additionally, counsel are ordered to meet and confer in this same time frame regarding jury instructions and verdict form(s). The required documents *including* proposed jury instructions and verdict forms must be electronically filed with a courtesy copy submitted to the courtroom clerk in department CX 101 no later than noon of the Friday before trial. The jury instructions and verdict form(s) must be jointly submitted in two packets: one of all agreed upon instructions and verdict form(s), and one of all disputed instructions and verdict form(s). Counsel should not submit separately the instructions and verdict form requested by each party.

As set forth in Rule 317, failure to comply with such Rule may result in the imposition of sanctions pursuant to Rule 381. Additionally, in the discretion of the court, jury instructions and verdict forms not submitted by this deadline may be treated as untimely and may not be considered.

Wherever possible, at the outset of the litigation the parties should agree to use a series of numbers for exhibits during discovery which can be maintained through the litigation and trial so that deposition exhibits can have the same number as trial exhibits. All trial exhibits must have each page numbered; e.g., a 5 page contract marked as exhibit 12 should have each of its pages marked in sequence as 12.1 through 12.5. Counsel should avoid marking as exhibits documents which are duplicates to exhibits marked by other parties. Presentation of the exhibits in electronic form is encouraged.

Once trial has commenced, counsel should not file any briefs or motions unless expressly authorized by the court to do so. The purpose of this procedure is to prevent one party from interrupting the trial preparation of another party by serving non-statutory motions during trial. However, from time to time the court may invite pocket briefs or letter briefs on key issues, and will so advise counsel.