

Superior Court of California  
County of Orange

**HONORABLE MARTHA K. GOODING**

**DEPARTMENT C31**

(Rev. 7/29/2022)

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Welcome to Department C31. To facilitate the efficient progress of your case, please pay close attention to these procedures.

To help us process your case and paperwork faster, please limit telephone calls to the court. Most questions can be answered by referring to the relevant California Codes, California Rules of Court, Local Rules, and the Court's website ([www.occourts.org](http://www.occourts.org)). If you do have to call the court, please have your case name and number available.

**I. GENERAL CALENDAR**

**A. Trials** – Trial calls on Monday at 9:00 a.m.; Trials on Tues., Wed. and Thurs. at 9:00 a.m. †

**B. Law and Motion Hearings** – Monday at 1:30 p.m.\* (Counsel must reserve a hearing date online. Counsel shall take note of the special provisions regarding reserving a hearing for motions for summary judgment/adjudication – see below.) See the Court's website at: <https://www.occourts.org/tentativerulings/mgoodingrulings.htm> for tentative rulings and information regarding Law and Motion.

**C. Case Management Conferences** – Monday at 9:00 a.m. \*

**D. Order to Show Cause Hearings** – Monday at 9:00 a.m. \*

**E. ADR Review Hearings** – Monday at 9:00 a.m. \*

**F. Default Prove-Up Hearings** – Friday at 9:00 a.m. †

**G. Debtor Exams** – Friday at 9:30 a.m. †

**H. Small Claims** – Friday at 9:00 a.m. †

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\* Remote proceeding per CCP 367.75 and CRC 3.672(e)(5)

† In-Person proceeding per CCP 367.75 and CRC 3.672 (e)(5)

**I. Mandatory Settlement Conferences** – Friday at 9:00 a.m.

**J. Ex Parte Matters** – Tuesday through Friday at 8:45 a.m. (Counsel must call the Clerk in Department C31 to reserve a hearing date. See ¶ III below.)

## **II. GENERAL PROCEDURES**

**A. Remote and In-Person Proceedings:** Parties are referred to the Court’s “Appearance Procedures and Information - Civil Unlimited and Complex” and “Guidelines for Remote Appearances” available on the public website.

**B. Compliance with Rules:** All counsel and self-represented litigants (collectively, “Counsel” or “Parties”) must read and be familiar with the most current version of Division 3 of the Orange County Superior Court Local Rules (“Local Rules” or “L.R.”), as well as all applicable California Rules of Court (“CRC”). Failure to comply with applicable rules may result in sanctions.

**C. Cooperation, Civility and Courtesy:** The Court expects all Counsel to cooperate with each other to the fullest extent and to treat everyone – including one another and courtroom staff – with genuine civility and courtesy. See State Bar Cal. Atty Guidelines of Civility & Professionalism; Orange County Bar Assn. Civility Guidelines. A copy of the Orange County Bar Association Civility Guidelines is attached. A copy is also posted outside of this Department and is available at: [http://www.ocbar.org/Portals/0/pdf/news/2017/civility\\_guidelines.pdf](http://www.ocbar.org/Portals/0/pdf/news/2017/civility_guidelines.pdf)

**D. Local Rule 315 Meet and Confer:** Counsel must comply fully with Local Rule 315, which (among other things) requires an early meet and confer on the enumerated subjects and the filing of a Joint Meet and Confer Statement, all within specified time limits.

**E. Case Management Conference (“CMC”):** All Parties must timely file a CMC Statement pursuant to CRC 3.725(a) and comply with all other rules regarding CMCs. See CRC 3.730 through 3.734.

**F. Mandatory Settlement Conference (“MSC”):** MSCs are conducted on Fridays at 9:00 a.m. To ensure a meaningful MSC, strict compliance with Local Rule 316 is required, including (for example) requirements regarding the filing of MSC Statements, who must attend the MSC, and the settlement authority required for MSC participants. Failure of all required persons to attend an MSC will likely result in sanctions against counsel and/or the parties.

**G. Ex Parte Applications:** See ¶ III below.

**H. Law and Motion:** Law & Motion matters are heard Mondays at 1:30 p.m. If a court holiday falls on a Monday, there typically will be no Law & Motion hearing that week.

**1. Reserving Motion Dates:** Motion dates must be reserved on the Court website at [www.occourts.org](http://www.occourts.org). All motion papers must be filed within 24 hours of the reservation, except for Motions for Summary Judgment. See ¶ II(G)(9) below. Counsel should not wait until the last possible date to reserve a hearing date and file a motion; the Court limits the number of hearings on each Law & Motion day, and your preferred hearing date might not be available.

Self-represented litigants are not required to reserve a hearing date in advance. A motion filed by a self-represented litigant will be set for hearing on the first hearing date that is available on the court’s calendar at the time the motion is filed.

2. Tentative Rulings: The Court endeavors to post tentative rulings by 5:00 p.m. the Friday before the hearing. For further information, including information about the Court's tentative rulings and how to submit on a tentative ruling, see the Tentative Ruling page on the Court's website, [www.occourts.org](http://www.occourts.org).
3. Taking Motions Off Calendar: If Counsel wish to take a Law & Motion matter off calendar (e.g., the case settled while the motion was pending or the motion has been resolved), Counsel must advise the Court immediately, to avoid causing the Court and its staff to unnecessarily expend effort analyzing and ruling on a motion that is moot.
4. Declarations, Exhibits (and Electronic Bookmarks): Counsel should take care to comply with CRC 3.110(f)(4). Among other things, it provides that, unless submitted by a self-represented party, "[e]lectronic exhibits must include electronic bookmarks with links to the first page of each exhibit and with bookmark titles that identify the exhibit number or letter and briefly describe the exhibit." Compliance with this requirement is important. Further, the Court's courtesy copies of declarations and exhibits should include exhibit tabs. This greatly assists the Court and its staff in locating the evidence Counsel is citing in support of or in opposition to a motion.
5. Requests for Judicial Notice: All requests for judicial notice must be set forth in a separate document, attach a copy of the document(s) for which notice is requested, and specify (with legal citation) the legal basis on which judicial notice is sought. *See* CRC 3.1306(c).
6. Proposed Orders and Judgments: All proposed orders submitted to the Court, or any other documents submitted for the Court's signature (e.g., proposed Judgment), must be submitted in editable format, to enable the Court to revise it as necessary. *See* CRC 3.1312(c). PDF versions are not acceptable.
7. Voluminous Papers: If the papers filed in support of or in opposition to a motion exceed a total of 50 pages (including the Notice of Motion & Motion, MPA, Declarations, and Exhibits), the party filing the papers must deliver a courtesy copy to Department C31.
8. Evidentiary Objections: All written evidentiary objections submitted in connection with any law and motion matter shall strictly comply with the format set forth in CRC 3.1354.
9. Motions for Summary Judgment/Summary Adjudication:
  - a. Reserving a Hearing Date: Motions for Summary Judgment/Adjudication are not subject to the 24-hour filing rule (*see* ¶ II(G)(1) above); Counsel may reserve a hearing date for a motion for summary judgment/adjudication without filing all moving papers within 24 hours of making the reservation. **HOWEVER, under no circumstances may Counsel reserve more than one date for the same motion. Reserving multiple dates for the same motion is, at minimum, inconsiderate of the Court and other litigants and may subject Counsel to sanctions.** Counsel are urged to reserve a date for a summary judgment/adjudication motion as soon as they believe there is a good faith basis to bring such a motion. **FURTHER, a party who reserves a hearing date for a motion for summary judgment/adjudication and then decides not to file such a motion must advise the Court's Clerk immediately, so another litigant can use that date.**
  - b. Separate Statement: Separate Statements must strictly comply with CRC 3.1350.
  - c. Written Evidentiary Objections: Written evidentiary objections must strictly comply with CRC 3.1354.

- d. **Declarations:** Declarations filed in support of or in opposition to a motion for summary judgment/adjudication must be separately filed – i.e., not attached to or made part of the notice of motion or the memorandum of points and authorities.

**I. Trial Continuances:** Trial dates are firm. Continuances are strongly disfavored. A trial continuance will be granted only on either a noticed motion or an ex parte application and only on a showing of good cause, supported by declaration(s). See CRC 3.1332. It presumptively is NOT good cause if the continuance is necessitated by a lack of diligence in moving the case forward or preparing it for trial.

### **III. EX PARTE MATTERS**

**A. Ex Parte Hearings:** Ex Parte applications generally are heard Tuesday through Friday at 8:45 a.m. The hearing of Ex Parte applications will not interfere with or delay a trial in progress; Counsel may have to wait.

**B. Telephonic Notice to Courtroom:** Telephone notice to the Courtroom Clerk must be given no later than noon the day before the ex parte hearing.

**C. Filing and Delivery of Ex Parte Papers:** All papers in support of an ex parte application (including the proposed order) must be e-filed – and a courtesy copy delivered to C31 – no later than 2:00 p.m. the business day prior to the ex parte hearing. The e-filing transaction number must be on the first page of the Court's courtesy copy. The moving papers must not only demonstrate with admissible evidence that proper notice was given, but also must state whether the other parties oppose the application. Counsel for the moving party must make good faith efforts to speak with opposing counsel to determine their position on the ex parte application. Failure to deliver ex parte application papers to C31 by 2:00 p.m. will likely result in the matter not being heard the following day.

**D. Content of Ex Parte Application:** Applications must comply with CRC 3.1200 through 3.1207.

**E. Opposition to Ex Parte Application:** Oppositions to ex parte applications must be e-filed – and a courtesy copy provided to the Court – no later than the day and time of the hearing.

**F. Ex Parte Applications Are Only for Emergencies:** Ex parte applications are for legitimate emergencies only; irreparable harm must be shown with admissible evidence. Counsel's failure to exercise diligence – e.g., in conducting discovery per discovery deadlines, bringing motions, reserving motion hearing dates, or otherwise preparing the case for trial – is presumptively not a legitimate emergency. The Court recommends counsel read Mission Power Eng. Co. v. Continental Casualty Co., 883 F.Supp. 488 (C.D.Cal. 1995), regarding the overuse of ex parte applications and the importance of reserving such applications for genuine emergencies.

**IV. DISCOVERY MOTIONS:** A good faith meet and confer process generally is required for discovery disputes. Exchanging vituperative or accusatory letters or phone calls is not meeting and conferring in good faith. If the Parties are going to ask the Court to resolve a discovery dispute, it must be evident from the papers that the Parties have genuinely tried to resolve it first.

### **V. TRIAL PROCEDURES**

**A. Trial Dates:** Trials are called Mondays at 9:00 a.m.; normal trial days are Tuesday through Thursday, beginning each day at 9:00 a.m. and concluding at approximately 4:30 p.m. The Court does not conduct trials on Monday, so Counsel do not need to have witnesses available on the day

of the Monday trial call; however, Counsel should be prepared at the Monday trial call to discuss the details and logistics of the trial (including, e.g. the status of all motions in limine, any witness availability issues, the need for interpreters, the size of the voir dire panel proposed by the parties, the number of alternate jurors requested) and should be prepared to begin trial on the next court day after the Monday trial call. **The Court expects and assumes all parties will be completely prepared for trial – with all necessary documents submitted in advance of trial as required by Local Rule 317 – at the time of the Monday trial call, even if counsel believe the Court is already engaged in another trial.** Failure to be fully prepared may result in sanctions.

**B. Counsel's and Parties' Conduct:** Counsel and Parties shall comply with the attached "Rules for Jury Trials." Courtesy, cooperation and civility are expected of all parties and attorneys at all times. See attached OC Bar Association Civility Guidelines.

**C. Trial Notebook for the Court:** In addition to the Exhibit Binders required for trial exhibits (*see* ¶ V(O)(4) below), Counsel shall jointly prepare a Trial Notebook for the Court. (NOTE: The Court's Trial Notebook is effectively a courtesy copy for the Court's use; it does not eliminate the need to e-file all trial-related documents.) Three-ring binders shall be no wider than 3"; it's OK if more than one binder is needed. The Court's Trial Notebook shall be delivered to Department C31 no later than noon on the Wednesday before trial. See L.R. 317(B). The Court's Trial Notebook shall contain the following documents, each separately tabbed:

1. Joint Statement of the Case
2. Executed Statement of Compliance
3. Joint List of Stipulated Facts
4. Joint List of Controverted Issues
5. Joint Exhibit List
6. Joint Witness List
7. Proposed Voir Dire Questions (if any) for the Court's Voir Dire
8. Procedural Stipulations
9. Factual Stipulations
10. Proposed Verdict Form
11. Motions in Limine (with opposition briefs), each separately numbered and tabbed in accordance with ¶ V(E) below.

**D. Issue Conference and Statement of Compliance**

1. Local Rule 317 Compliance: The Parties must conduct an Issue Conference in full compliance with Local Rule 317 and prepare and file all items required by that Rule. Note that Rule 317 requires the Issue Conference to take place **in all cases at least 14 days prior to the date set for trial.**
2. Statement of Compliance: A Statement of Compliance (and required attachments) must be e-filed and a copy included in the Court's Trial Notebook. See L.R. 317.
3. Deposition Designations: A party expecting to present one or more witnesses at trial by deposition shall, no later than the Issue Conference, provide opposing counsel with its written deposition designations. This shall be done by providing a hard copy of the deposition transcript with that party's designations highlighted. The other party shall, on the same hard copy of the document, mark its counter-designations (by highlighting them in a different color) and also indicate, in the margin next to any testimony designated by the other side, any objections to the admissibility of the designated testimony. Once both sides have annotated the transcript with their designations/counter-designations and objections, it shall be submitted to the Court **no**

**later than noon on the Wednesday before trial**, so the Court may review and rule on the objections.

## **E. In Limine Motions**

1. Exchange of In Limine Motions: In limine motions must be exchanged and discussed no later than the Issue Conference. See L.R. 317. The Court expects Counsel to meet and confer in a good faith effort to resolve as many in limine motions as possible before raising them with the Court.
2. Improper In Limine Motions: Counsel should avoid broad, general motions, such as motions to exclude “all hearsay evidence” or “all cumulative evidence” or “evidence not disclosed in discovery.” Such motions are not likely to be granted. See *Kelly v. New West Federal Savings*, 49 Cal. App. 4th 659 (1996). Motions in limine are usually intended to exclude specific items of evidence, not broad categories of evidence. Be specific and concrete in what you want excluded. Further, “[m]atters of day-to-day trial logistics and common professional courtesy” are not proper subjects of in limine motions. *Id.* at 671.
3. In Limine Motions vs. Motions for Summary Judgment/Adjudication: Counsel should not use in limine motions as substitutes for summary adjudication motions, motions for judgment on the pleadings, or other dispositive motions. See, e.g., *Johnson v. Chiu* (2011) 199 Cal.App.4th 775, 777 (use of in limine motion as a substitute for a motion to dismiss is improper); *Amtower v. Photon Dynamics* (2008) 158 Cal.App.4th 1582, 1588 (expressing concern with “shortcut” procedure of using in limine motions as a substitute for dispositive motions; “[t]he better practice in nearly every case is to afford the litigant the protections provided by trial or by the statutory processes” for dispositive motions); *R&B Auto Center, Inc. v. Farmers Group, Inc.* (2006) 140 Cal.App.4th 327, 333 (“we caution against the wholesale disposition of a case through rulings on motions in limine”).
4. Numbering In Limine Motions: Where there are a total of more than 3 in limine and other pretrial motions, each motion shall be assigned a number, which must be set forth on the face page of the motion, along with the identity of the party bringing the motion and a short description of the motion (e.g., Plaintiff’s Motion In Limine No. 1 to Exclude Reference to Plaintiff’s 2013 Theft Conviction). Counsel shall create a Joint Index containing, for each motion, the number and title of the motion, the name of the moving party, and the names of all parties who join in the motion. A courtesy copy of the Joint Index and the in limine motions (including oppositions) shall be put into a 3-ring binder, with tabs for each numbered motion, and delivered to the Court’s Clerk no later than noon on the Wednesday before trial, with the Court’s Trial Notebook. **The tab for each motion in limine shall include both the motion and any opposition, with a colored sheet of paper separating them.**

If there are a total of 3 or fewer in limine or other pretrial motions, the motions need not be numbered but nevertheless shall be included (together with the opposition papers) in the Trial Notebook prepared for the Court pursuant to Paragraph V(C) above.

5. Untimely Motions in Limine: Untimely-filed in limine motions or oppositions may not be considered by the Court.
6. Evidentiary Issues Not Addressed in In Limine Motions: If Counsel become aware during trial of an evidentiary issue that was not addressed in limine, they shall bring that issue to the Court’s attention at the earliest possible opportunity – preferably early in the morning before the jury is seated or at the end of the day, after the jury is excused for the day – to give the Court an opportunity to hear and consider the issue without keeping jurors waiting. The Court generally

is in chambers at least 30 minutes before trial begins each day and available for discussion with counsel after the jury has been excused for the day.

## **F. Jury Selection**

1. The Court will use a "seven pack" method (21 prospective jurors) to select 14 jurors, including two non-designated alternates. Alternates are selected by lot at the conclusion of closing arguments. (In longer trials, more alternates may be selected.)
2. The Clerk will call 21 names at random to fill 14 chairs in the jury box and seven chairs in front of the jury box.
3. After the Court concludes its voir dire, Counsel will voir dire all 21 prospective jurors for a reasonable period of time, as determined by the Court. "For cause" challenges then will be made in chambers or otherwise outside the hearing of the jury.
4. After the "for cause" challenges have been ruled on, Counsel will exercise their peremptory challenges only on prospective jurors #1-14 in the jury box. Jurors from seats #15 through #21 will, in that order, fill empty seats in the jury box. (For example, if seat #5 becomes empty, prospective juror #15 will fill it; if seat #10 then becomes empty, prospective juror #16 will fill it, and so on.)
5. Peremptory challenges will continue until there are no prospective jurors remaining in seats #15 through #21 and only 13 prospective jurors remain in the jury box.
6. The Clerk will then call 8 more names to fill the empty seats. Further voir dire by the Court, and then by Counsel, will be conducted only as to the 8 new prospective jurors. After any "for cause" challenges have been ruled on for the 8 new prospective jurors, Counsel will resume peremptory challenges until all peremptory challenges have been exhausted or until both sides pass in succession.
7. Counsel's voir dire must be in conformance with the Standards of Judicial Administration. Counsel may not ask questions that attempt to pre-condition the jurors or are repetitive of the Court's questioning. For a more complete discussion of improper questions, see Standards of Judicial Administration, Standard 3.25(f), and the Court's Standing Trial Order re: Conduct of Voir Dire. A copy of the Standing Order is attached.
8. A party may object to any improper questioning by Counsel during voir dire. The Court may *sua sponte* halt any improper questioning, argument, or other conduct during voir dire.

## **G. Jury Instructions**

1. Filing and Delivery of Proposed Jury Instructions: By noon on the Wednesday before trial, Counsel must e-file and deliver to the Court: (a) a full copy of the proposed jury instructions on which the Parties agree, as they propose them to be read to the jury, with no blanks or bracketed material; (b) a copy of the jury instructions (whether CACI or special instructions) that Plaintiff proposes on which the Parties do not agree; and (c) a copy of the jury instructions (whether CACI or special instructions) that Defendant proposes on which the Parties do not agree. **IMPORTANT: The format of the jury instructions must comply with CRC 2.1055. The proposed jury instructions must be e-filed and delivered to the Court's Clerk no later than noon on the Wednesday before trial.** See L.R. 317.
2. Format of Proposed Jury Instructions: Each proposed jury instruction shall be on a separate page and shall not include a disposition table. Each CACI instruction (whether agreed upon or disputed)

must include the CACI number and title at the top. Each special or modified CACI instruction shall state at the top of the page "Plaintiff's [or Defendant's] Special Instruction No. \_\_\_\_" or "Plaintiff's [or Defendant's] Modified CACI Instruction No. \_\_\_\_". Special or Modified Instructions must include, at the bottom of the proposed instruction, citation to authority supporting the propriety of the instruction and a short explanation of why the special or modified instruction is necessary and appropriate. Substantively modified CACI instructions must specify exactly what has been modified.

3. **Special or Modified Instructions:** Special or Modified Instructions must be submitted in Word format.
4. **CACI vs. Special Instructions:** The Court generally favors the use of CACI. Counsel proposing special instructions must specifically explain, with citation to authority, why the special instructions are necessary and appropriate.
5. **Jury Instructions re Preliminary Matters:** The Court will pre-instruct the jury on preliminary matters immediately before opening statements. The Court generally will read CACI 100, 101, 102, 106, 107, 113, 114, 200, 202 and, if applicable, 103 and 104. If Counsel believes any of these instructions is inappropriate or wishes the Court to give additional preliminary instructions, they must advise the Court, and e-file and provide the Court a copy of the proposed preliminary instruction(s), before conclusion of jury selection.

**H. Verdict Forms:** Counsel must meet and confer at the Issue Conference regarding an appropriate verdict form.

1. **Stipulated Verdict Form:** If the Parties agree on the verdict form, they shall e-file the verdict form and include a copy in the Court's Trial Notebook.
2. **Disputed Verdict Form:** If the parties cannot agree on a verdict form, each side shall e-file its proposed verdict form (titled "Plaintiff's [Defendant's] Proposed Verdict Form"). Both versions shall be included in the Court's Trial Notebook and shall be submitted to the Court's clerk in Word format.
3. **Content of Verdict Form:** Verdict forms are important. Counsel should give careful attention to the form and content of special verdict forms. Verdict forms must not list Doe defendants or reflect the name/address of any attorney.

**I. Factual Stipulations:** All factual stipulations must be discussed and agreed upon by all Counsel before being called to the attention of the jury. Counsel must not offer to stipulate to any matter within the hearing of the jury. All factual stipulations shall be in writing and shall be e-filed, with a copy included in the Court's Trial Notebook. See L.R. 317.

**J. Procedural Stipulations:** Counsel shall review the attached Procedural Stipulations form and e-file a single, signed copy of the form no later than noon of the Wednesday before trial, indicating those stipulations to which both Parties agree. A copy also shall be included in the Court's Trial Notebook. If the Parties have agreed upon other procedural stipulations, they must be in writing and e-filed, with a copy included in the Court's Trial Notebook.

**K. Depositions:** On the day of trial, Counsel shall lodge with the Court's Clerk all depositions to be used in trial and advise the Court in writing – in an e-filed Notice of Lodging of Depositions, with a courtesy copy provided to the Court – if any of the depositions is unsigned.

- L. Deposition Designations:** Deposition designations shall be prepared and submitted as provided in Paragraph V(D)(3) above. The completed deposition designations (including counter-designations and objections) shall be submitted no later than noon on the Wednesday before trial.
- M. Objections at Trial:** Speaking objections are strictly prohibited. Counsel shall simply state the objection and the legal grounds (e.g., "Objection. Hearsay."). If Counsel wish to argue about an objection and the Court wishes to entertain such argument, it will be done either at sidebar or on the record outside the presence of the jury, likely at a break.

**N. Witnesses**

1. Joint Witness List: Counsel shall e-file a Joint Witness List (and include a copy in the Court's Trial Notebook) no later than noon on the Wednesday before trial. See L.R. 317. An additional courtesy copy of the Joint Witness List shall be delivered to the Court's Clerk for use by the court reporter, also by noon on the Wednesday before trial.
  - a. Counsel may, but are not required to, use the attached Joint Witness List form, so long as the form used contains all the information required by this paragraph.
  - b. The Joint Witness List must separately state the estimated time for direct and cross examination for each witness and the total number of hours the examination of all witnesses is expected to consume. Pursuant to Local Rule 317, the Joint Witness list need not include impeachment or rebuttal witnesses.
2. Witness Availability and Scheduling: It is the responsibility of all Counsel to arrange the appearance of witnesses to avoid delay; to confer and cooperate with one another during trial regarding when witnesses will be needed and are expected to testify; and to advise the Court at the earliest opportunity of any anticipated problems with the presence of witnesses (including, e.g., if any witness availability problem will necessitate taking a witness out of order). The next witness must be available immediately following the conclusion of the prior witness' testimony. No delays will be entertained for unavailable witnesses.
3. 48-Hour Notice: The Court requires Counsel to provide opposing Counsel 48-hour notice of when each witness is expected to testify. Counsel may stipulate to a different notice period, so long as it does not interfere with the orderly conduct of trial or cause delay. The Parties shall notify the Court of any such stipulation.
4. Witness Conduct: Counsel shall advise their witnesses of proper courtroom attire, the appropriate manner of testifying, and the impact of the Court's rulings (including, without limitation, any motion in limine rulings) on the witnesses' testimony.
5. Witnesses Using Unmarked Documents: If a witness will use documents on the stand other than exhibits previously marked for identification with the clerk (e.g., for rebuttal or impeachment), Counsel must avoid delay by marking the documents as an exhibit, if necessary, during the time Court is not in session.

**O. Exhibits**

1. Identifying Exhibits in Discovery

- a. Counsel should agree on an exhibit marking system at the outset of discovery. Once a number has been assigned to a particular document, only that number should be used throughout discovery and the trial. Duplicate exhibits should be avoided.



- a. If there are more than six exhibits on the Joint Exhibit List, and to the extent the exhibits are standard-sized documents, the Parties shall prepare two sets of the exhibits – one original for the witness stand and one copy for the Court – and place them in 3-ring binders with tabbed number dividers. Binders must not be larger than 3”; they are unwieldy and liable to malfunction. See L.R. 317.
- b. If a party proposes to use an exhibit that is not a standard-sized document, it shall discuss exhibit protocol with the Court’s Clerk before trial commences and before the Exhibit Binders are due to the Court.
- c. A copy of the Joint Exhibit List shall be placed in the front of each Exhibit Binder.
- d. All exhibits in the “original” Exhibit Binders shall have the green Court exhibit tags filled out and attached to the first page of each exhibit in the upper right hand corner of the first page of the exhibit. Only the first page of each exhibit requires a green exhibit tag. The tags are extremely important. Please use the exhibit tag forms that are attached to these Procedures. Exhibit tags must be printed on green paper. The Court recommends Counsel bring extra blank green tags to trial in the event a document is marked during trial.
- e. The “original” set of Exhibit Binders (with green exhibit tags affixed) shall be given to the Court’s Clerk on the first day of trial and will remain on the witness stand. The other set of Exhibit Binders also shall be given to the Court’s Clerk on the first day of trial and will be for the Court’s use during trial. Of course, the Parties should prepare a copy of the Exhibit Binders for their own use.

**5. Video Exhibits, Videotaped Depositions, and Trial Presentation Equipment**

- a. If any Counsel plans to use a video exhibit, videotaped deposition, overhead projector, or any other kind of equipment, the Court should be advised at the earliest opportunity. The Court’s permission is required before videos, tape recordings, overhead projectors, or other equipment may be used in trial.
  - b. It is each Counsel’s responsibility to supply the equipment necessary to present its evidence and to ensure it is set up and working properly; this shall be done before trial or during a recess, to avoid any delay of trial. Counsel wishing to consider using the Court’s evidence presentation equipment should contact the Court’s Clerk well in advance of trial to determine what equipment is available and whether it will meet Counsel’s needs, and to familiarize themselves with the equipment that is available. If any Court equipment is used, it is still Counsel’s responsibility to ensure that it is set up and functioning properly before trial. Trial will not be delayed while Counsel learn to operate the equipment or attempt to remedy technical glitches.
  - c. Videotaped depositions must be transcribed and marked as an exhibit. The videotape must be edited prior to being shown to the jury to remove objections and argument by counsel.
- 6. Exhibit Enlargements or Transparencies:** If any Counsel plans to use enlargements of exhibits (“blow-ups”) or transparencies of exhibits (for use with an overhead projector), the blow-ups and transparencies should not be marked as an original exhibit. Instead, an 8-1/2” x 11” paper version of the exhibit should be marked and treated as the official exhibit. Blow-ups and transparencies are informally marked with the same exhibit number and referred to by the same exhibit number during trial.

7. Moving Exhibits into Evidence: Counsel should not wait until the end of its case (or even to the end of a witness' testimony) to move exhibits into evidence. Exhibits should be moved into evidence as soon as a proper foundation has been laid. Counsel may not publish any exhibit to the jury until the exhibit has been admitted.
  8. Exhibits in Opening Statements: Exhibits may not be shown to the jury in opening statements unless Counsel have (1) stipulated in advance that the exhibit is admissible for all purposes; and (2) advised the Court of their stipulation on the record, prior to opening statements.
  9. Demonstratives: Counsel wishing to use a demonstrative aid at trial shall show the demonstrative to opposing counsel at least 24 hours before it expects to use it, to give opposing counsel an opportunity to review it and raise any issues regarding it with the Court.
  10. Exhibit Problems? If Counsel have any questions about, or anticipate any problems with, exhibits that are not addressed in these Procedures, they shall consult with the Court's Clerk well before trial begins.
- P. Court Reporter:** The Court does not provide a court reporter for trial; the parties are responsible for providing (and paying) a properly qualified and/or accredited court reporter and ensuring the same court reporter is available for the entire trial. If the parties have questions about the qualifications for a court reporter for trial, see the Court's public website.
- Q. Judgments:** After the Verdict is read and the jury discharged, counsel for the prevailing party shall prepare a Proposed Judgment, which must include the exact wording of the Verdict. Unless the Court orders otherwise, the Proposed Judgment must be e-filed, served upon opposing counsel, and lodged with the Court in Department C31 within seven (7) calendar days of the reading of the Verdict. The Court will hold the Proposed Judgment for three (3) court days to allow for objections to be filed.

**Attachments:**

Rules for Trials

Exhibit Tags

Statement of Compliance

Procedural Stipulations

Joint Witness List

O.C. Bar Association Civility Guidelines

Standing Order re: Conduct of Voir Dire

## **RULES FOR TRIALS**

### **The Honorable Martha K. Gooding – C31**

1. **Courtesy must be shown to all persons in the courtroom at all times.** Counsel shall use appropriate titles (e.g., Mr., Ms., Dr.) when addressing witnesses, jurors and one another. Only children may be addressed by first name.
2. **Counsel shall advise their witnesses** of proper courtroom behavior, the proper manner of testifying, and all rulings that affect their testimony. Counsel also shall advise witnesses about proper behavior around jurors and potential jurors (collectively, "Jurors") and warn them not to engage in any conversations or other forms of interaction (verbal or non-verbal, e.g., smiles) with Jurors, in the vicinity of Jurors, or in areas of the courthouse where Jurors are likely to be present. Counsel are subject to the same restrictions.
3. **Counsel may not make speaking objections.** Simply state the objection and the legal grounds. If Counsel wish to argue about an objection and the Court wishes to entertain such argument, it will be done either at sidebar or on the record outside the presence of the jury, likely at a break. *See ¶¶ 7, 11 below.*
4. **Objections, statements and arguments are to be addressed only to the Court,** not to opposing counsel or witnesses.
5. **Counsel must not address the jury or jurors directly,** except for voir dire, opening statements, and closing arguments. If Counsel have concerns about any of the jurors' comfort or conduct, it must inform the Court of its concerns outside the presence of the jury.
5. **Counsel shall not make editorial comments during examinations.** Except for appropriate, non-argumentative transitional comments, Counsel must not make any editorial comments before posing a question. (For example, "*We have heard about the defendant's negligent failure to stop at the red light, did you also see him change lanes without signaling?*")
6. **Attorneys must speak from behind the counsel table or lectern** unless the Court gives permission to approach a witness (or a chart or diagram near the witness) for a particular purpose. Counsel shall promptly return to the counsel table or lectern once that purpose is accomplished.
7. **Sidebars are discouraged and will be kept to a minimum.** Anticipated objections should be dealt with *in limine* or otherwise outside the presence of the jury. Requests for sidebar may not be granted.
8. **The Court will conduct a Pretrial Conference on the scheduled trial date.** Counsel should be fully prepared to discuss at least the following issues: jury waiver/selection, exhibits, anticipated evidentiary or jury instruction issues, trial and witness scheduling, witness issues (e.g., child witnesses, availability problems, interpreter and ADA needs), summary of expected facts and defenses, and pretrial motions. Counsel must avoid unnecessary surprises during trial.
9. **Civility and professionalism are expected at all times.** Counsel must be familiar with – and follow – the Standards of Professional Conduct. Any personal differences shall be kept outside of the courtroom, away from the jury, court staff, and witnesses. *See Cal State Bar and Orange County Bar Civility Guidelines.*
10. **No food or beverages** are permitted at counsel table other than water in a sealed container.
11. **Challenges for cause and all motions will be made and discussed at sidebar or otherwise outside the presence of the jury.** If granted, sidebars generally will not be on the record. Counsel can make their record later, at a break, to ensure jurors are not kept waiting by lengthy sidebars.

**EXHIBIT NO.**

ID only (Date)

**IN EVIDENCE** (Date)

Plaintiff/People     Defendant     Joint  
 Petitioner         Respondent     Court  
 (Other)

Signature of Atty/Party Introducing Sensitive Exhibit

**Case No.**

Vs.

David H. Yamasaki, Executive Officer and Clerk

By \_\_\_\_\_, Deputy

**NOTE: THIS ITEM IS A PERMANENT COURT RECORD.  
DO NOT REMOVE FROM THE COURTROOM**

If found please contact: Superior Court of California, County of Orange (657) 622-7809

**EXHIBIT NO.**

ID only (Date)

**IN EVIDENCE** (Date)

Plaintiff/People     Defendant     Joint  
 Petitioner         Respondent     Court  
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ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name &amp; Address</i> ):  Telephone No.: _____ Fax No. (Optional): _____ E-Mail Address (Optional): _____ ATTORNEY FOR ( <i>Name</i> ): _____ Bar No: _____	<i>FOR COURT USE ONLY</i>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> <input type="checkbox"/> Central Justice Center, 700 Civic Center Dr. West, Santa Ana, CA 92701-4045 <input type="checkbox"/> Civil Complex Center, 751 W. Santa Ana Blvd., Santa Ana, CA 92701-4512	
PLAINTIFF/PETITIONER:  DEFENDANT/RESPONDENT:	CASE NUMBER:
<b>STATEMENT OF COMPLIANCE</b> Unlimited Civil	Case assigned to: Judge: Department: Date complaint filed: Hearing/trial date:

This Statement of Compliance shall be executed by all counsel and filed with the court clerk in the department of the judge to whom the case has been assigned for trial.

1. Counsel has inspected all exhibits and diagrams and the exhibits are ready for premarking by the clerk. All stipulations as to admission into evidence or waiver of foundation are submitted with the exhibits(s).
2. Pretrial motions have been exchanged by all parties.
3. If trial is by jury, proposed jury instructions, proposed special findings and/or general verdict and/or special verdicts will be exchanged before the commencement of trial.
4. Joint Statement of the case and joint witness list has been prepared for submission to the court as required.\*\*
5. Counsel has prepared a joint list of controverted issues.\*\*
6. All counsel have prepared a list of stipulated facts and made a good faith effort to stipulate to as many documents, waiver of foundational requirements, etc., as reasonably possible.\*\*
7. Each party agrees that once the trial commences, witnesses shall be available to utilize to the fullest extent possible every trial day.
8. Parties have agreed on a division of jury fees (if applicable) and reporter fees, which are due each day before trial commences.

\_\_\_\_\_, Attorney for Plf/Def/X-Compl/X-Def \_\_\_\_\_ (DATE)  
 (SIGNATURE OF ATTORNEY) (NAME OF PARTY)

\_\_\_\_\_, Attorney for Plf/Def/X-Compl/X-Def \_\_\_\_\_ (DATE)  
 (SIGNATURE OF ATTORNEY) (NAME OF PARTY)

\_\_\_\_\_, Attorney for Plf/Def/X-Compl/X-Def \_\_\_\_\_ (DATE)  
 (SIGNATURE OF ATTORNEY) (NAME OF PARTY)

\_\_\_\_\_, Attorney for Plf/Def/X-Compl/X-Def \_\_\_\_\_ (DATE)  
 (SIGNATURE OF ATTORNEY) (NAME OF PARTY)

\*\*Please attach to this Statement of Compliance: Joint Statement of Case, Joint Witness List, Stipulated Facts, Requested Voir Dire Questions and List of Controverted Issues.

PROCEDURAL STIPULATIONS

Case # \_\_\_\_\_

Case Name \_\_\_\_\_

It is hereby stipulated by and between counsel for the respective parties in the above-entitled action:

	Counsel for Plaintiff	Counsel for Defendant
The Jury Instructions and the Exhibits may go into the jury room during deliberations.		
Counsel and the parties need not be present when, during jury deliberations, the jurors are excused for lunch, return from lunch, and/or are discharged in the evening and resume in the morning.		
During jury deliberations, the jury may recess without further admonition and without assembling in the jury box, and they may resume their deliberations upon the courtroom attendant's determination that all jurors are present.		
In the absence of the trial judge, the verdict may be received by any judge of this court.		
Unless called to the Court's attention, all jurors shall be deemed to be in the jury box and in their proper places upon court reconvening after each recess or adjournment.		
After giving the admonition required by CCP 611, the Court need not repeat or remind the jury of the admonition at each subsequent recess or adjournment.		
Upon order of the Court, all exhibits will be returned to counsel after the trial is completed, for safekeeping until the time for appeal has expired.		
All juror questionnaires, if any, may be destroyed at the conclusion of trial.		
The court reporter will not report the conduct of voir dire or the reading of jury instructions.		

\_\_\_\_\_  
Counsel for Plaintiff

\_\_\_\_\_  
Counsel for Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Case Name \_\_\_\_\_

Case Number \_\_\_\_\_

JOINT LIST OF ANTICIPATED WITNESS TRIAL TESTIMONY

	Witness	Direct Examination Time Estimate	Cross Examination Time Estimate	Total Time	Stip to Admissibility
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					
	<b>TOTAL</b>				