

Superior Court of California  
County of Orange

**HONORABLE MARTHA K. GOODING**

**DEPARTMENT C34**

(Rev. 2/17/2017)

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Welcome to Department C34 Civil Calendar. We want your time in C34 to be a professionally satisfying experience.

To facilitate the progress of your case and assure its timely disposition, the Court has established the following procedures. Counsel will avoid many pitfalls by reviewing them carefully and ensuring that you, your colleagues, and your staff comply with them.

Limiting telephone calls to the Court will help us process your case and paperwork faster. If you must telephone the Court, however, please have your case number and case name 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 a.m. (Counsel shall reserve a hearing date online and shall take note of the special provisions regarding reserving a hearing date for motions for summary judgment/adjudication – see below.)

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

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

**E. Post-Arbitration Hearings and Review Hearings** – Monday at 9:00 a.m.

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

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

**H. Ex Parte Matters** – Monday through Friday at 8:45 a.m.

## II. GENERAL PROCEDURES

- A. Compliance with Rules:** All counsel and self-represented litigants (collectively, "Counsel" or "Parties") must read and be familiar with Division 3 of the Orange County Superior Court Local Rules ("Local Rules"), as well as all applicable California Rules of Court ("CRC"). Failure to comply with applicable rules may result in sanctions.
- B. 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.
- C. 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.
- D. Case Management Conference ("CMC"):** All Parties must timely file a Case Management Statement pursuant to CRC 3.725(a) and comply with all other applicable rules regarding CMCs. *See* CRC 3.730 through 3.734.
- E. 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 CMC, and the settlement authority required for CMC participants. Failure of all required persons to attend an MSC will likely result in sanctions. MSC Statements must be e-filed; if properly identified in the e-filing as an MSC Statement, they will be kept confidential.
- F. Ex Parte Applications:** *See* ¶ III below.
- G. 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.
  - 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 Court's Tentative Ruling page on the Court's website, [www.occourts.org](http://www.occourts.org).
  - 3. Taking Motions Off Calendar:** If for any reason Counsel wish to take a Law & Motion matter off calendar (e.g., the case settled while the motion was pending or the issue addressed in 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 issuing a ruling on a motion that is moot.
  - 4. Declarations and Exhibits:** The Court's courtesy copies of declarations and exhibits should include exhibit tabs identifying each exhibit. 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, must attach a copy of the document(s) for which notice is requested, and must specify (with appropriate legal citation) the legal basis on which judicial notice is sought.
6. Proposed Orders: All proposed orders submitted to the Court, or any other documents submitted to the Court for signature (e.g., proposed form of Judgment), must be submitted in editable, word-processing 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 75 pages (including the Notice of Motion & Motion, MPA, Declarations and Exhibits), the party filing the papers also must deliver a courtesy copy of the papers to Department C34.
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); consequently, Counsel may reserve a hearing date for a motion for summary judgment/adjudication without filing all papers in support of the motion 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 the reserved 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 shall be separately filed – i.e., not attached to or made a part of the notice of motion and motion or the memorandum of points and authorities.

**H. Trial Continuances: Trial dates are firm. Continuances are strongly disfavored.** A trial continuance will be granted only on motion and only on a proper showing of good cause. CRC 3.1332. It is presumptively NOT good cause if the continuance is necessitated by a lack of diligence by one or more Parties in moving the case forward or preparing it for trial.

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

- A. **Ex Parte Hearings**: Ex parte applications generally are heard Monday through Friday at 8:45 a.m. The hearing of ex parte matters 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 by 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 C34 – no later than 2:00 p.m. the business day prior to the ex parte hearing. The e-filing transaction number must be written 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 to the case will 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.
- D. Content of Ex Parte Application:** Applications must comply with CRC 3.1200 through 3.1207. Applications must be in writing and include all of the following:
1. A declaration setting forth details of the notice given to opposing counsel of the Ex Parte hearing and stating whether the application will be opposed;
  2. A declaration, based on personal knowledge, describing the irreparable harm that will occur if the relief requested is not granted;
  3. A brief, concise memorandum of points and authorities in support of the Application; and
  4. A separate Proposed Order in Word format.
- 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 competent, admissible evidence. Counsel’s failure to exercise diligence – e.g., in moving the case forward, conducting discovery in accordance with discovery deadlines, bringing motions, reserving motion hearing dates, or otherwise preparing the case for trial – is presumptively not a legitimate emergency. Although it is not a state court decision, the Court recommends counsel read Mission Power Engineering 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 all discovery disputes. Exchanging vituperative, accusatory, or nasty letters or phone calls is not meeting 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 4:20 p.m.
- B. Counsels’ and Parties’ Conduct:** Counsel and Parties shall review and comply with the attached “Rules for Jury Trials.” Courtesy, cooperation and civility are expected of all parties and attorneys at all times.
- 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 absolve the parties of the need to e-file all trial-related documents.) The Court’s Trial Notebook shall be

delivered to Department C34 no later than noon on the Friday before trial. 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 required items pursuant to that Rule. Note that Rule 317 requires the Issue Conference to take place **in all cases at least 10 days prior to the date set for trial**. See attached Statement of Compliance.
2. Statement of Compliance: A Statement of Compliance and its required attachments shall be e-filed and a courtesy copy provided to the Court as part of the Trial Notebook for the Court, which must be delivered to the Court no later than noon on the Friday before trial.
3. Deposition Designations: A party that expects to present one or more witnesses at trial by deposition shall, no later than the Issues 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 to the other side's designations, it shall be submitted to the Court **no later than noon on the Friday before trial**, so the Court will have an opportunity to 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 Local Rule 317. The Court expects Counsel to genuinely meet and confer in a good faith effort to resolve as many in limine motions as possible before trial and 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 strongly disfavored and 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 are cautioned against using 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.4<sup>th</sup> 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.4<sup>th</sup> 1582, 1588 (expressing concern with “shortcut” procedure of using in limine motions as a substitute for dispositive motions authorized by statute; “[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.4<sup>th</sup> 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 setting forth, 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 to the motions) shall be put into a 3-ring binder, with tabs corresponding to the numbered motions in limine, and delivered to the Court’s Clerk no later than noon on the Friday before trial, along 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 the motion and opposition.**

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.
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, of course, is 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.
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 Court, then Counsel, voir dire 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 precondition the jurors or are repetitive of the Court’s questioning. For a more complete description of improper questions, *see* Standards of Judicial Administration, Standard 3.25(f).
8. A party may object to any improper questioning by Counsel during voir dire. In addition, 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 Friday 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 Friday before trial.**
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 to the Court’s Clerk in Word format.
4. CACI vs. Special Instructions: The Court generally discourages special instructions and favors the exclusive use of CACI. Counsel proposing special instructions must be prepared to specifically explain, with appropriate 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 at the outset of the case, they must advise the Court, and e-file and provide the Court a copy of the proposed preliminary instruction(s), before the conclusion of jury selection.
- H. Verdict Forms:** Counsel must meet and confer at the Issues Conference regarding an appropriate verdict form.
- 1. Stipulated Verdict Form:** If the Parties agree on the verdict form, they shall e-file the agreed-upon verdict form and include a copy in the Court's Trial Notebook.
  - 2. Disputed Verdict Form:** If the parties are not able to agree on a verdict form, each side shall e-file its proposed verdict form (titled "Plaintiff's [Defendant's] Proposed Verdict Form"), and both versions shall be included in the Court's Trial Notebook. Both disputed verdict forms shall be submitted to the Court's clerk in Word format.
  - 3. Content of Verdict Form:** Verdict forms are important and should not be an afterthought. Counsel should give careful attention to the form and content of special verdict forms. Verdict forms must not list Doe defendants or contain the identity or 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.
- 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 Friday 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 also 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 the Parties' respective objections to the designations and counter-designations) shall be submitted no later than noon on the Friday 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 Friday before trial. 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 Friday 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 include a realistic schedule for when each of the witnesses will be called, the estimated total 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 all 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 Court expects the next witness to 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 in court. 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.
- b. At the outset of the case, blocks of numbers should be agreed to by Counsel for this purpose; it does not matter that this will result in unused numbers. (For example, Plaintiff can be assigned numbers 001 through 500 and Defendant can be assigned numbers 501 through 999.) Only numbers should be used. Exhibits should not be designated as "Plaintiff's" or "Defendant's" exhibits.
- c. Page numbers shall be placed on all pages of multi-page documents. Do not shortcut by grouping a number of different documents together under a single exhibit number, merely using different page numbers to differentiate documents. However, if a document is produced with one or more other documents attached to it, the attached documents may be left together and designated as a single exhibit.

**2. Preparing Exhibits for Trial:** Counsel shall give careful attention to the identification of trial exhibits, the preparation of a Joint Exhibit List for trial, the use of exhibit tags, and the preparation of exhibit binders for use by the Court and witnesses at trial. See below.

**3. Joint Exhibit List and Exhibit Numbering**

- a.** At (or, preferably, before) the Rule 317 Issues Conference, the Parties must cooperate in preparing a Joint Exhibit List for trial. The parties may, but are not required to, use the Joint Exhibit List form attached to these Policies & Procedures. The Joint Exhibit List shall include the exhibit number and a brief description of each exhibit, including the date of the document or a notation that the document is undated (e.g., Exhibit 100, Letter from J. Jones to C. Clark dated 1/12/2000.) Pursuant to Local Rule 317, the parties need not exchange or include on the Joint Exhibit List those exhibits contemplated to be used for impeachment or rebuttal.
- b.** Copies of the Joint Exhibit List shall be e-filed, with a copy provided to the Court in its Trial Notebook, no later than noon on the Friday before trial. An additional copy of the Exhibit List shall be provided to the Court's Clerk by the same deadline for use by the court reporter.
- c.** If the numbering protocol set forth in Paragraph V(O)(1) above was followed throughout discovery, the Joint Exhibit List shall use, for each exhibit, the number that was assigned and used throughout discovery. If the case was transferred to this Court after the commencement of discovery, or for some other legitimate reason the Parties did not follow the numbering protocol set forth above throughout discovery, the following protocol shall be used for numbering exhibits on the Joint Exhibit List:
  - i.** In a two-party case, Plaintiff shall number its exhibits starting with 001. Defendant shall number its exhibits starting with 200. If, in any given case, these numbers are not sufficient to accommodate all exhibits, the Parties shall cooperate in agreeing upon an appropriate number range for each party (e.g., Plaintiffs uses 001-499; Defendant uses 500-999).
  - ii.** If there are more than two parties, the Parties shall cooperate in agreeing upon a number range for each party, so that no two parties use the same exhibit numbers. Duplicate exhibits are to be avoided.
  - iii.** Only exhibit numbers (NOT letters) are to be used. Each page of each exhibit must be separately numbered.

**4. Exhibit Binders and Exhibit Tags for Trial**

- a.** If there are more than six exhibits on the Joint Exhibit List, and to the extent the exhibits are standard size 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. Each tab shall bear the corresponding exhibit number and shall be placed in front of the corresponding exhibit.
- 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 exhibit in the upper right hand corner of the first page of the exhibit. This is extremely important. Please make copies of and use the exhibit tags that are attached to these Procedures. Exhibit tags shall be printed on green paper.
- 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 can be made 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 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; 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 the demonstrative to

be used, to give opposing counsel an opportunity to review it and, if necessary, 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. 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 C34 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  
Joint Exhibit List  
Exhibit Tags  
Statement of Compliance  
Procedural Stipulations  
Joint Witness List

## **RULES FOR TRIALS**

### **The Honorable Martha K. Gooding – C34**

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 behavior in the courtroom, the proper manner of testifying, and all rulings that apply to or 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, of course, 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 re sidebars.*
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 needs, ADA needs), summary of expected facts and defenses, and pretrial motions. The Court dislikes – and 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. Good advocacy requires that any personal differences be kept outside of the courtroom, away from the jury, court staff, and witnesses.
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)

<input type="checkbox"/> Plaintiff/People	<input type="checkbox"/> Defendant	<input type="checkbox"/> Joint
<input type="checkbox"/> Petitioner	<input type="checkbox"/> Respondent	<input type="checkbox"/> Court
<input type="checkbox"/> (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)

<input type="checkbox"/> Plaintiff/People	<input type="checkbox"/> Defendant	<input type="checkbox"/> Joint
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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
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				