

# DEPARTMENT C26 GUIDELINES

## **HONORABLE GREGORY H. LEWIS**

Central Justice Center  
700 Civic Center Drive West  
PO Box 22014  
Santa Ana, CA 92701  
(657) 622-5226

### **Court Clerk: Becky Chumpitazi**

Court Attendant: Trinity Palabrica

**The Court orders all parties, counsel and carriers, if any, necessary to effect a full and complete settlement present.**

**The Court orders all trial counsel not to engage in any other matters and to be present and prepared to proceed with trial on that date.**

**COURT ORDERS TRIAL COUNSEL TO COMPLY WITH LOCAL RULES OF THE COURT 316 AND 317. FAILURE TO DO SO WILL RESULT IN THE IMPLEMENTATION OF SANCTIONS.**

## **WELCOME TO DEPARTMENT C26**

Read these Guidelines and the Orange County Rules of Court, Division 3.

### **General Information:**

Counsel are to treat each other and courtroom staff with the utmost civility and courtesy.

The Court expects counsel to cooperate with each other to the fullest extent.

The Court expects all counsel to maintain regular communication with each other regarding hearing dates, progress of the case and settlement possibilities.

The Court believes in wide-open discovery and expects counsel to cooperate in all regards to reduce the necessity of discovery motions.

### **Hearings – Resolutions Prior to Hearing:**

In the event a matter set on calendar is resolved prior to the hearing date, counsel for plaintiff/moving party is expected to notify the Clerk immediately.

### **Case Management Conference Hearing:**

Counsel shall appear at the Case Management Conference hearing to discuss the status of the case with the Court. Case Management Statements should be filed with the Court 15 days prior to the scheduled hearing date. The Court may also set the trial date at this time.

### **Tele Conference Appearances**

Teleconference appearances are allowed for all hearings EXCEPT TRIAL, MSC'S AND VSC'S unless otherwise directed by court.

## **Calendars:**

Trials: Mondays, 8:30 a.m.  
See Trial Procedures

Calendars: Mondays, 8:30 a.m.  
(Case Management Hearings, OSC's, Default Prove-ups, Post Arbitration & Bankruptcy Reviews, etc.)  
Mondays, 10:30 a.m.  
(Law & Motion)

Ex Partes: Tuesdays through Fridays, 9:00 a.m.  
**Available for legitimate emergencies only.**  
See Ex Parte Procedures

## **Continuances:**

1. Trial/MSJ continuances are considered through Stipulation and Order if parties are requesting a continuance of no more than 45 days. All other requests must be done through Ex Parte application. Counsel is expected to appear, fully prepared, on the day and time of trial.
2. There are no continuances on hearings re Contempt.
3. All other hearings may be continued, subject to the approval of the Court. Written stipulation **showing good cause**, an attached proposed order.

## **Mandatory Settlement Conference:**

The Court requires strict compliance with **OCRC 316 & 317** regarding presence of parties and appearances of trial counsel at the MSJ. Insurance representatives must also be present.

Counsel and parties must be prepared to participate in good faith settlement negotiations during the MSJ. Failure to comply may result in sanctions.

**If the case settles the court may provide a court reporter should one be available.**

Updated 5/26/17

## **TRIAL PROCEDURES – DEPARTMENT C26**

### **Court requires all Counsel to comply with the following.**

Counsel shall submit at time of trial a fully executed Statement of Compliance.

Counsel shall stipulate that the Judge may engage in settlement discussions with Counsel. The Parties waive objection to the Judge trying the case following such discussions.

The Court expects counsel, parties and witnesses to be prompt and to maintain proper trial demeanor.

Counsel shall not lean upon or sit on the jury box rail.

Objections, statements and arguments are to be addressed to the Court rather than opposing counsel.

If a witness, expert or percipient will use documents (other than Exhibits premarked for identification) while on the stand, counsel shall arrange for the PRIOR EXAMINATION of such documents by all other counsel during a time court is not in session.

Although the Exhibits are premarked for identification, the first time an exhibit is referred to in open court, Counsel shall identify the Exhibit by the premarked number and give a brief description of the Exhibit.

Exhibits in Dept. C26 shall be moved into evidence during the trial as the exhibits are referenced.

### **Trial Fees:**

Please refer to CCP631 re payment of jury fee deposit.

If Counsel has used Arbitration services and now are having a Trial De Novo, unless the party requesting Trial De Novo obtains a more favorable award from the Trial than the Arbitrator's Award, the requesting party is responsible for fees and costs specified in CCP 1141.21 including the reimbursement to the County of Arbitrator's Fees.

**Settlement of Case Prior to a Hearing:** In the event a case settles prior to a hearing, parties must file one of the following:

1. A full Dismissal timely E-Filed.
2. Stipulated judgment, fully executed and timely E-Filed.

**Notice of Settlement, written:** Must be presented to the court before the scheduled hearing date. Form CM-200 Notice of Settlement of Entire Case.

**Notice of Settlement, verbal:** Plaintiff shall telephone the clerk and represent to the Court that the case has settled.

**Notice of Settlement shall contain date when parties expect final payment to be made or when Request for Dismissal(s) will be filed.**

The Court will set an OSC re Dismissal and vacate any future hearing dates. If Dismissal(s) is not filed, counsel are to appear at the OSC re Dismissal date. **If no appearances are made on OSC date, case will be dismissed by the Court and notice will not be given.**

**If documents are not ready and fully executed, Counsel and Parties shall appear at the hearing and put the settlement on the record.**

**Good Faith Settlement – Application for, pursuant to CCP 877.6**

Please review, particularly CCP 877.6(a)(2).

### **Binding Arbitration**

Written stipulation should include the following:

- a. Designated code section. Stipulations for Binding Arbitration may be under CCP 1280 ET SEQ. (Contractual Arbitration) or under CCP 1141.11 et seq. (Judicial Arbitration).
- b. Name of mutually agreed upon arbitrator or procedure for selection of arbitrator.
- c. If the arbitration is pursuant to CCP 1141 there should be a provision for payment of fees (who will pay or how fees are to be divided).
- d. Written Stipulation shall be signed by counsel AND their clients.
- e. Estimated date of completion.

## **Motions in Limine:**

Counsel shall provide the Court with a courtesy copy of each motion.

Opposition, if any, also needs to be E-Filed with the court prior to Trial.

Motions shall be numbered and titled, **i.e., Plaintiff's Motion in Limine No. 1 (Exclusion of Expert Testimony or Value of Partnership Assets)** and E-Filed with the Court.

Orders for Motions in Limine **DO NOT need to be E-Filed** with the Court. Orders may be submitted at time of trial.

**Exhibit List:** Counsel shall submit to the Court one original **Joint Exhibit List** and three copies. Each Exhibit should be listed by a single set of joint exhibit numbers with a very brief description (attachment).

Counsel shall submit a binder of original exhibits for the witnesses and binders of copies for the Court and each Counsel. The original exhibits for the witnesses are to be tagged with exhibit tags. Preferably (only) printed on Green Paper. Page number should be placed on all pages of multi-page documents for easier reference.'

If there are more than 12 Exhibits and the Exhibits are standard size and not too bulky, the Exhibit shall be placed in a 3-ring binder with tabbed dividers. Each tab should bear the corresponding Exhibit number.

When Exhibits are submitted to the Clerk prior to commencement of trial, Counsel shall be prepared to advise the Clerk of any items on the submitted Exhibit List which have been predestinated as Exhibits but are not being physically turned over to the Clerk at the time, i.e., Exhibits to be brought in by witnesses or other parties or Exhibits expected in response to a subpoena. Counsel shall make available all exhibits to be viewed by opposing counsel prior to date set for trial.

## **Blowups:**

Any enlargement of Exhibits previously pre-marked should reference the same exhibit number but with letters, i.e., 16a, 16b, etc.

### **Electronic Equipment:**

If Counsel plan to use electronic equipment, the Court should be advised at the earliest opportunity. The Court's permission is required before videos, tape recordings, overhead projectors, etc., are used in trial. It is the responsibility of Counsel to supply the necessary equipment and to have it set up before trial.

### **Bona Fide Impeachment Documents:**

If Counsel intends to use documents for bona fide impeachment, copies of such documents shall be delivered to the Clerk in a sealed envelope marked "Impeachment Documents" with the name of the submitting party, the case name and the case number on the sealed envelope prior to the commencement of trial.

### **Punitive Damages Documents**

All documents submitted with regard to Punitive Damages are to be in a sealed envelope marked "Punitive Damages" with the name of the submitting party, case name and the case number on the sealed envelope prior to the commencement of trial. Should Punitive Damages not be reflected in the jury verdict, unopened sealed envelopes will be returned to the submitting party.

### **Depositions:**

Counsel shall lodge with the Clerk all depositions prior to commencement of trial, along with a Notice of Lodging. Depositions are not exhibits.

### **Witness List:**

Counsel shall submit an original Joint Witness List to the Court and three copies. Counsel is required to provide a typed witness List in a format consistent with the sample attached to these Guidelines.

The Court will read the Witness List to the Prospective Jurors.

### **Availability and Appearance of Witnesses:**

All witnesses shall be addressed by their last name.

It is the responsibility of Counsel to arrange for the appearance of Witnesses to avoid delay caused by Witnesses who have been placed on call; to confer among themselves during the trial as to when Witnesses will be needed; to

advise the Court at the earliest opportunity of any anticipated problems with the appearance of Witnesses; and to advise witnesses of the appropriate manner of testifying.

**Jurors, Prospective and Sworn:**

Counsel shall instruct their Clients and Witnesses as to proper behavior towards jurors and warn Clients and Witnesses about engaging in any conversation in the vicinity of Prospective Jurors or Sworn Jurors or in places of the courthouse where Prospective Jurors or Sworn Jurors may be present.

The Court uses 14 jurors with non-designated alternate jurors.

Alternate Jurors are selected by lot immediately following the Court's instructions to the Jury.

**Voir Dire of Prospective Jurors:**

The Court will conduct general Voir Dire and may allow Counsel limited Voir Dire according to the case.

Counsel will be given the opportunity to object to areas of inquiry proposed by the Court and to request in writing that the Court add additional areas of inquiry.

If the Court permits Counsel to pursue oral Voir Dire on additional matters, the following limitations shall apply:

- a. Reasonable time limit per prior discussion with the Court.
- b. No repetition.
- c. No hypothetical verdicts.
- d. No pre-conditioning of the jury.
- e. No questions or pleadings, law or juror comfort without prior permission of the Court.

Peremptory challenges shall be conducted from counsel table in open court.

Challenges for cause will be in chambers.

**Jury Instructions: CACI and/or BAJI**

All proposed Jury Instructions, special instructions, special findings and verdict form to be submitted to the Clerk prior to commencement of trial. Each counsel shall provide copies to other counsel.



### **Jury Deliberations:**

Upon consultation with all counsel testimony will be read back to the deliberating jury in the absence of the Court and Counsel upon jury request and approval of the Court.

The jury is deemed sufficiently admonished regarding improper discussion of the case.

Counsel is required to keep the clerk advised of counsel's whereabouts through jury deliberations.

Counsel may be required to remain in the courthouse during jury deliberations.

Jury recess or excusal for the day is at the discretion of the Court.

Any Superior Court Judge or Commissioner may take the Verdict.

### **NON-JURY TRIALS:**

#### **Statement of Decision:**

Pursuant to stipulation of Counsel to waive a written Statement of Decision, the Court will take the case under submission and decide it as soon as possible, announcing its oral decision on the record. Therefore, if Counsel desire to submit any written Points and Authorities to the Court, such Points and Authorities must be given to the Clerk no later than by the time the case is taken under submission, unless such Points and Authorities cover points which could not have been reasonable anticipated.

At the time the Court announces its decision, when required by statute the Court will orally make a statement of decision. Immediately thereafter, any party may specify controverted issues, make proposals not covered in the tentative decision, or make proposals as to the content of the Statement of Decision to which the court will respond orally.

If any parties desire written Statement of Decision, such party shall obtain from the Court Reporter a transcript of such statement by the Court and present it to the Court for signature and filing. Such signed transcript shall constitute the Court's Statement of Decision.

## TRIAL HOURS

All trials are heard Tuesday through Friday from 9:00 am to 4:30 p.m. with breaks at 10:30 a.m. and 3:00 p.m. Lunch from 12:00 – 1:30 p.m.

## **LAW & MOTION PROCEDURES FOR DEPT. C26**

Law and Motion matters are scheduled every MONDAY AT 10:30 A.M. Reservations are to be made online at [www.occourts.org](http://www.occourts.org). All rulings will normally be posted on the internet by 12:00 p.m., Friday before the Monday hearing date.

The Court will hear oral argument on all matters at the time notice for the hearing. Counsel may obtain the Court's ruling by referencing/printing a copy via the internet at [www.occourts.org](http://www.occourts.org). A copy of the Court's ruling is also posted outside the courtroom on the bulletin board for those without internet access, no later than 8:30 a.m. on the day of the scheduled motion.

If you do not have Internet access, you may contact the Clerk in Department C26 (657) 622-5226 for the rulings. Prevailing party is to give notice of ruling or prepare an order if required. If you intend to submit on the tentative ruling without oral argument, please advise the clerk in Department C26 by calling (657) 622-5226.

A teleconference appearance by an attorney/party re: oral argument is voluntary and does not require consent of the other attorneys or parties in the case. However, the Court does reserve the right to reject any request, which shall be made in writing. Teleconference appearances are conducted in conformity with the guidelines which are available by calling CourtCall, LLC, at (310) 914-7884 or (888) 88-COURT. For information about CourtCall, please contact CourtCall directly, not Department C26.

**UPON FILING A MOTION, MOVING PARTY SHALL MAIL A COPY OF THIS NOTICE TO OPPOSING COUNSEL. IF OPPOSING COUNSEL APPEAR UNNECESSARILY BECAUSE OF MOVING PARTY'S FAILURE TO GIVE NOTICE ON THE ABOVE, SANCTIONS MAY BE IMPOSED.**

## **EX PARTE PROCEDURES FOR DEPT. C26**

1. Counsel is to give telephonic notice to the Court at (657) 622-5226 no later than 10:00 a.m. the day prior to the hearing.
2. Ex Partes are heard Tuesday through Friday at 9:00 a.m.
3. Requirements pursuant to CRC 3.1203 (a) shall apply.
4. Counsel shall notice opposing parties pursuant to CRC 3.1200 through 3.1207
5. Ex Parte Application shall be E-Filed no later than 2:00 p.m. the day before the Ex Parte hearing.
- 6. Late Ex Parte Applications shall not be accepted.**
7. Ex Parte Application shall include:
  - a. Declaration re Notice of Ex Parte Hearing;
  - b. State the irreparable harm that will occur if the relief requested is not granted until after a formally noticed hearing;
  - c. Declaration based on personal knowledge;
  - d. Points and Authorities;
  - e. Proposed Order.



**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 Becky Chumpitazi, 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

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