

Superior Court of California  
County of Orange  
Civil Complex Center

**HONORABLE PETER J. WILSON**

CLERK: Virginia Harting

COURTROOM ATTENDANT: Rocky Wangsness

**POLICIES AND PROCEDURES – DEPARTMENT CX102**

CIVIL COMPLEX CENTER  
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SANTA ANA, CA 92701  
(657) 622-5302  
[www.occourts.org](http://www.occourts.org)

Welcome to Department CX102. To facilitate the progress of your case and assure its timely disposition, this Court has established the following procedures. Counsel should be familiar with the Complex Civil Department Guidelines, attached. Counsel also should be familiar with and must comply with Division 3 of the Local Rules of the Orange County Superior Court.

The Orange County Superior Court has implemented administrative orders, policies, and procedures noted on the Court's website to address the limitations and restrictions presented during the COVID-19 pandemic at Civil Covid-19. Due to the fluid nature of this crisis, you are encouraged to frequently check the Court's website at <https://www.occourts.org> for the most up to date information relating to Civil Operations.

"Unless otherwise ordered by the Court, all Unlimited and Complex proceedings will be conducted via telephonic appearance through CourtCall with each party/attorney having the option to appear by CourtCall video if the [Court], in [its] discretion, permits a video appearance instead of an audio appearance." Based on Orange County Superior Court Third Amended Administrative Order No. 2020/06, paragraph 12(c), the Court requests that the parties appear by way of CourtCall. If a party is unable to appear by way of CourtCall, please contact the Court Clerk. Please see, Civil Limited Unlimited & Complex Appearance Process at:

- Civil Covid-19;
- Civil Limited, Unlimited and Complex (Updated June 11, 2020); and
- Third Amended Administrative Order No. 20/06.

The public may listen to remote court hearings at no cost by calling the public access number (657-231-1414) and entering the access code for this Department (12129899#) and PIN for this Department (again 12129899#). The public will be able to listen, but not participate in the proceedings. The public access number and the access code for a particular unlimited civil courtroom can be obtained at:

- Civil Limited, Unlimited and Complex (Updated June 11, 2020)

## WEEKLY DEPARTMENT SCHEDULE

1. **Trials** – Monday through Wednesday, 9:00 a.m. to 4:30 p.m.
2. **Law and Motion** – Thursday, 2:00 p.m.
3. **Ex Parte Applications** – Monday through Friday, 1:30 p.m.
4. **Pre-Trial Conferences** – Friday, 9:00 a.m.
5. **Case Management Conference (to serve as the Initial Status Conference)** – Friday, 9:00 a.m. The initial Case Management Statement should be filed at least 5 court days before the CMC. Counsel should use pleading paper rather than Judicial Council Form CM-110 but should include in the Statement a discussion of the applicable subjects set forth in CRC Rule 3.727. The parties are encouraged to meet and confer and file a joint statement.
6. **Status Conferences** – Friday, 9:00 a.m.
7. **Review Hearings** – Friday, 9:00 a.m.
8. **Order to Show Cause Hearings** – Friday, 9:00 a.m.
9. **Default Prove-Up Hearings** – Friday, 9:00 a.m.

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. In addition to the State Bar of California Guidelines of Civility and Professionalism attached to the Complex Guidelines (referred to above), attorneys are requested to review the Orange County Bar Association Civility Guidelines, also attached hereto.

## TRIAL PROCEDURES

1. **Pre-Trial Conferences** – The court normally will hold a Pre-Trial Conference about 30 days before the trial date. Counsel should expect the following subjects to be discussed at the Pre-Trial Conference:

The causes of action which will be tried; whether bifurcation or phasing is appropriate; the latest time estimate; any interpreter issues; any witness availability issues or other scheduling issues; any stipulations for admissibility of or foundation for exhibits; any intended equipment usage; using deposition testimony; whether all parties want to give mini-opening statements early in voir dire to give the jurors a brief overview of the case and each party's positions; the submission of jury instructions and verdict forms; allowing jurors to propose questions of witnesses; and waiving the court reporter for the reading of jury instructions and/or voir dire.

2. **Trial Documents – OCSC Local Rule 317** – The court requires that counsel comply with Local Rule 317, which mandates (among other things) as follows:

The parties must prepare courtesy copies for the Court of all trial briefs, exhibits, and voir dire questions (jury trials only). Trial exhibits (those which are or can be reduced to paper copies) must be contained in a separate notebook, together with an Exhibit List with columns for

indicating whether the exhibits have been marked and entered.

Parties who file motions in limine are responsible for providing **courtesy copies for the Court of all filings generated by their motions in limine**. If a party files **four or more** such motions, these courtesy copies should be contained in **three-ring binders** with tables of contents and separately numbered tabs for each motion and all papers related to that motion, including opposition and reply papers.

**Plaintiff is responsible for providing courtesy copies of the Joint Statement of the Case (jury trials only), the Joint Witness List and the Joint List of Controverted issues.**

The above items, including the courtesy copies referenced above, and the Statement of Compliance signed by all counsel and self-represented parties, must be **submitted to the courtroom clerk in the department no later than noon of the Friday before trial**.

3. **Motions in Limine** – Counsel must comply with Local Rule 317, cited above. Each motion in limine must be numbered on the face page of the motion. Please avoid overbroad, general motions such as those asking the court to exclude hearsay or inadmissible evidence, or evidence not disclosed in discovery. The Court expects counsel to meet and confer and resolve as many of these motions as possible before trial, and before discussing them with the Court. Untimely filed motions or oppositions might not be considered.
4. **Exhibits**
  - a. **Exhibit Lists** – At the Issue Conference before trial, counsel should jointly prepare an exhibit list. Each exhibit should be listed by exhibit number. Do not use letters for exhibits. Each counsel should use a separate range of numbers, with plaintiff's exhibits to begin with Exhibit 1. Different parties should not use the same exhibit number, and duplicate exhibits should be avoided. The exhibit list should set forth each exhibit number along with a very brief description of the exhibit, including the date of the document or a notation that the document is undated. Page numbers must be placed on all pages of multi-page exhibits. Copies of the exhibit list should be made for the Court, the clerk, the reporter, and each counsel.
  - b. **Exhibit Notebooks** – Exhibits should be placed in circular three-ring binders with tabbed dividers. Each tab should bear the corresponding exhibit number. A copy of the Exhibit List should be inserted in the binder before the first exhibit. The original exhibits should be given to the clerk at the time of trial. (As an exception to the Local Rule, the exhibit notebooks need not be submitted before the trial date.) Another set of such binders, similarly tabbed, should be prepared for the Court.
  - c. **Exhibit Tags** – Each exhibit must have a green court exhibit tag **attached by counsel**.
  - d. **Special Exhibits** – If any party intends to use a video exhibit or videotaped deposition, the Court should be advised at the earliest opportunity since the Court's permission is required before videos, tape recordings, overhead projectors and the like may be used at trial. It is each party's responsibility to supply the necessary equipment and have it set up before trial or during a recess.
  - e. **"Rebuttal" and "Impeachment" Exhibits** – Documents/exhibits that were not identified and marked before trial will not be admitted unless the court concludes they are truly for rebuttal or impeachment.

5. **Jury Instructions and Verdict Forms** – Each party must deliver proposed jury instructions (the entire instruction, not just the CACI number) and verdict forms to the clerk on the first day of trial. The Court generally favors the exclusive use of CACI instructions. If special verdict forms are proposed, please ensure they are complete and contain no inconsistencies. The court will pre-instruct the jury with applicable instructions from the CACI 100 series before opening statements. The court will give the substantive jury instructions before closing arguments and some of the procedural instructions from the CACI 5000 series after closing arguments.
6. **Voir Dire** – This Court uses the eight-pack method of jury selection and will discuss with the parties seating 14 jurors with two non-designated alternate jurors. A long trial estimate may result in more alternates. Alternates will then be selected by lot at the conclusion of the trial. The Court will conduct the initial voir dire of prospective jurors using applicable questions contained in Standard 3.25 of the Judicial Council’s Standards of Judicial Administration. Subject to discussions with the parties before trial and adjustments as needed, counsel should conduct their voir dire within 40 minutes for the first group of potential jurors, and within 15 minutes for each subsequent group.
7. **Trial Conduct**
  - a. Appropriate titles (e.g., Mr., Ms. or Dr.) rather than first names are to be used when addressing witnesses (unless they are children), jurors or one another.
  - b. Do not make speaking objections. Simply state the legal grounds for the objection. Any argument about a ruling will be done either at the bench, at sidebar, or on the record outside the presence of the jury.
  - c. Counsel should speak from behind the counsel table or lectern unless the court has given permission to approach a witness.
  - d. It is all counsels’ responsibility to arrange the appearance of witnesses to avoid delay, to confer during trial as to when witnesses will be needed, to advise the Court at the earliest opportunity of any anticipated problems with the presence of witnesses, including any need to call a witness out of order, and to advise witnesses of the appropriate manner of testifying, including proper behavior and attire in the courtroom and any rulings that may apply to their testimony. Counsel should keep all other counsel informed as to who their next few witnesses will be to facilitate their preparation.

## **LAW AND MOTION PROCEDURES**

1. Law and Motion matters are heard every Thursday at 2:00 p.m. Motion reservation dates are not required in this department.
2. Tentative rulings usually will be available on the day before the hearing. They will be posted on the court’s website at: <http://www.occourts.org/directory/civil/tentative-rulings/>
3. If counsel intends to submit on the tentative ruling, they should telephone the court clerk and notify opposing counsel. If all parties do not submit on the tentative ruling, oral argument will be held. If no one appears for argument, the Court will determine whether the motion goes off calendar or whether the tentative ruling becomes the final ruling.

## EX PARTE PROCEDURES

1. Ex Parte applications are heard every court day at 1:30 p.m. The requirements contained in California Rules of Court, Rules 3.1200-3.1207, will apply. Applicants must be sure they comply with the requirements of (a) notice to all other parties by 10:00 a.m. the court day before the hearing, (b) a showing of the irreparable harm that will occur if the relief requested is not granted, and (c) a proposed Order.
2. The applicant's papers must be filed by 3:00 p.m. on the court day before the hearing. The clerk in Department CX102 must be notified of the filing of the Ex Parte application by 12:00 noon on the court day before the hearing. If any party intends to oppose the Ex Parte application, they should telephone the clerk in Department CX102 at (657) 622-5302 and file any opposition papers as soon as is feasible. Courtesy copies of any opposition papers should be either submitted before or brought to the hearing.
3. The Court usually will hear oral argument on Ex Parte matters. If other matters are set for 1:30 p.m. there may be a delay in being heard. Unopposed matters may be decided in chambers before the hearing time.

✓ **Plaintiff must serve a copy of these Guidelines with the Summons and Complaint.**



## **GUIDELINES**

### **ALL COMPLEX CIVIL DEPARTMENTS**

Welcome to the Complex Civil Litigation Program. Orange County Superior Court is one of six courts designated by the California Judicial Council as pilot project courts to handle solely complex civil litigation. These pilot courts were established to apply case management principles to improve the effective administration of justice by reducing the time and expense normally associated with the litigation of complex civil cases. It has been our experience that these principles make it easier to prepare these cases for trial by providing a more orderly framework for the pre-trial phase of the litigation.

The result is a greater opportunity for early case resolution through mediation and settlement, and improving the way complex cases are tried by encouraging the use of technology.

Counsel's familiarity with the applicable California Rules of Court ["Local Rules"], Local Rules – Superior Court of California, County of Orange, and these Guidelines is expected. The Guidelines should answer most procedural questions and assist you in feeling comfortable in our courtrooms.

#### **COURTROOM DEMEANOR, CONDUCT AND ETIQUETTE**

Counsel are expected to adhere to the provisions of the California Attorney Guidelines of Civility and Professionalism. (State Bar of the State of California, adopted July 20, 2007, attached to these Guidelines as Appendix 1.)

## **I. GENERAL MATTERS**

1. When issued by the court, the provisions of the Case Management Order in the particular action shall govern over these Guidelines. Procedural matters not provided for in these Guidelines or in a Case Management Order shall be governed by the pertinent provisions of the California statutes, the California Rules of Court, and the California Standards of Judicial Administration. The purpose of these Guidelines is to supplement but not contradict the law governing civil procedure.
2. The Superior Court of California, County of Orange has established a system for e-filing in accordance with Code of Civil Procedure §1010.6 and California Rules of Court, rule 2.250 *et seq.* All papers filed in complex civil cases must be electronically filed unless a party has been specifically excused by the Court from the requirement, pursuant to the *Local Rules – Superior Court of California, County of Orange* (“local rules”), rule 308. To register for the program and to obtain additional information, go to: [www.occourts.org/complexcivil/](http://www.occourts.org/complexcivil/).
3. Cross-complainants must serve a copy of these guidelines and give notice of any scheduled hearings and depositions at the time the cross-complaint is served.
4. Information about filing requirements or fees is available on the court’s Internet home page at: <http://www.occourts.org>, or by telephone at (657) 622-5314. The local rules are available on the court’s public internet home page.
5. Telephone appearances are conducted through **CourtCall**, pursuant to the provisions of California Rules of Court, Rule 3.670. Parties are encouraged to seek further information concerning guidelines and protocols from **CourtCall** at (310) 342-0888 or (888) 88-COURT.

## **II. Initial Case Management Conference:**

The Initial Case Management Conference shall take place in conformance with the requirements set forth in California Rules of Court, rule 3.750. The Initial Case Management Conference is generally scheduled approximately 90 days after the action is filed. Plaintiff is required to give notice of this conference date to all other parties. Thereafter, Status Conferences shall be set in consultation with the Court, according to the needs of the parties.

## **III. Case Management Conference and Status Conference Statements:**

The judges of the Civil Complex Center have determined that Judicial Council form CM-110, *Civil Case Management Statement* required by California Rules of Court, Rule 3.725(c) for some civil cases, is inadequate to provide the judges the information they need when determining how a particular complex case should be managed. **Form CM-110 should not be used in any action designated or provisionally designated as**

**complex.** Instead, the parties shall file with the court either a Case Management Conference Statement or a Status Conference Statement as described below.

Counsel must file an updated Conference Statement for *each* Case Management or Status Conference. The Conference Statement is due no later than 5 court days prior to the hearing.

A Status Conference Statement may be filed as an alternative to the Case Management Conference Statement when appropriate. A Status Conference Statement is generally less detailed than a Case Management Conference Statement and is to be used to advise the court of progress or developments in the case which have occurred since the last review hearing.

A joint statement of the parties is preferred by the court whenever possible.

#### **IV. CASE MANAGEMENT ORDERS:**

Case Management Orders are not required in all cases, but they may be helpful in cases where the sequencing and timing of key events is necessary in the management of the litigation and preparation of the case for trial. However, even if a Case Management Order is not necessary in a particular case, *all complex cases must be managed by counsel, or the court, or both.*

The goal of case management is to bring about a just resolution as speedily and economically as possible. To be effective, case management should be tailored to the needs of the particular litigation and to the resources available; make-work activity should be avoided. The parties or the court should develop and monitor an effective plan for the orderly conduct of pretrial and trial proceedings. A case management plan should prescribe a series of procedural steps, with firm dates, giving direction and order to the case as it progresses through pretrial proceedings to summary disposition or trial. The setting of interim time limits and deadlines is often a necessary part of an effective case management plan.

#### **V. LAW AND MOTION:**

1. **Meet and Confer:** This court adopts the view that pre-filing conferences between counsel may be useful in avoiding useless or unnecessary motions. Therefore, prior to the hearing of any motion, petition or application, except applications to appear *pro hac vice* and motions to withdraw as counsel of record, all counsel and parties appearing in *propria persona* shall confer in a good faith attempt to eliminate the necessity of the hearing or resolve as many disputes as possible.

Counsel for the moving party shall arrange the conference to meet and confer and, at least 3 calendar days before the hearing, file with the court a statement entitled "Meet and Confer," summarizing the issues remaining in dispute and the respective positions taken.



2. **Tentative Rulings:** Members of the Complex Civil Panel may publish tentative law and motion rulings by any system described in Local Rule 382.
3. **Off Calendars and Continuances:** In order to promote judicial economy and avoid wasting court resources, counsel for moving parties must notify the courtroom clerk as soon as possible if any matter will be taken off calendar. Stipulations between the parties to continue a matter must be approved by the court.

#### **VI. EX PARTE APPLICATIONS:**

1. The court's consideration of an *ex parte* application will not interfere with or delay any trial in progress. The moving party is expected to adhere to the provisions of California Rules of Court, Rule 3.1200 – 3.1207. All papers necessary to the determination of the application, including any proposed pleading, motion or order, must be submitted with the *ex parte* application. Counsel should contact the courtroom clerk to verify any specific deadlines for the submission of moving papers or other preferences applicable to that department. Counsel may also contact the courtroom clerk to inquire if oral argument will be permitted, or if the court will rule based on the application and any written opposition.
2. The application shall include a declaration of Notice of Ex Parte Hearing and a proposed order; and shall state in the notice the irreparable harm, immediate danger or other basis for *ex parte* relief that will result if the requested relief is not granted until a regularly noticed motion may be heard.

#### **VII. MANDATORY SETTLEMENT CONFERENCES ("MSC's"):**

Compliance with Local Rule 316 is required.

All of the judges at the Civil Complex Center are willing to help another judge in the settlement of a complex case depending upon the judge's available calendar. If the parties agree to have a mandatory settlement conference conducted by a judge other than the assigned judge, the parties should first determine the other judge's availability before asking the assigned judge to order the settlement conference. However, it is not presumed that the judge to whom a case is assigned should not conduct the mandatory settlement conferences in his or her cases. If a party objects to the trial judge's participation in the MSC, the party must advise the judge or the courtroom clerk of its objection prior to the setting of the MSC. Counsel are advised to check with the court to determine its preference in this regard.

#### **VIII. Pre-trial Conferences**

1. A Pre-trial Conference may be scheduled 30-90 days before trial for the purpose of determining the readiness of the parties and resolving procedural issues concerning the trial. The goal of the Pre-trial Conference is to make the trial proceed as predictably and smoothly as possible. **The Pre-trial**

**Conference is not a substitute for the Issues Conference required by Local Rule 317.**

2. At the Pre-trial Conference, counsel should be prepared to state whether his or her client will be using the electronic presentation of evidence at the trial. Using electronic equipment to present evidence at trial requires preparation, organization and cooperation by the parties. The court expects that the parties will work together in devising a protocol for the pre-marking of exhibits by using prefixes or a super-numeration system to designate the proponent of the evidence. Where there are multiple pages to a single exhibit, each page should be bates-stamped. Counsel should contact the courtroom clerk to determine if the trial judge has a specific preference for how exhibits should be marked.
3. In a case where it is reasonable to presume voluminous documents will be produced during discovery, counsel are urged to agree upon a protocol for the pre-marking of exhibits at the earliest time possible, preferably before the initiation of discovery and delivery to a document depository. It is less expensive to mark and index voluminous documents as they are deposited than when it is done on the eve of trial.
4. Counsel are required to cooperate throughout the trial so that one party's electronic exhibits are available to the other side to display during cross-examination.
5. The electronic version of documents, photographs, charts or other demonstrative evidence may be substituted for the actual exhibit at trial upon the stipulation of the parties and order of the court. This guideline is not meant to alter the rules of discovery or the obligation of a party to make available the original of a document for inspection by another party through discovery or at the Issues Conference.
6. Physical exhibits and documents are not required to be presented in a digitalized format. However, evidence which has not been presented in electronic form customarily will be ordered by the court returned at the end of the appeal period to the party which offered it. Before trial commences, counsel will be asked to sign a stipulation for the return and maintenance of the exhibits. Plaintiff will maintain joint exhibits unless the court orders otherwise.

**IX. Use of the Court's Evidence Presentation Systems**

1. **On-Site Electronic Evidence Presentation Systems:** Every courtroom has the capability of being equipped with court-based evidence presentation systems for use by the parties. Counsel are strongly encouraged to take advantage of the benefits of the electronic presentation of evidence when in trial at the Civil Complex Center to enhance the orderly and effective presentation of evidence, reduce concerns about the custody and security of exhibits, and reduce the work and expense associated with the tagging, storing and transporting of exhibits. In an appropriate case, the court may require the

use of an electronic evidence presentation system. Electronic evidence presentation systems must be compatible with the court's infrastructure (video distribution amplifier, wiring, conduit, floor receptacles and connectors).

2. **Electronic Evidence Standard Format:** Counsel presenting evidence that is exclusively electronic in form must present the evidence in PDF file format and stored on CD-R. Whenever evidence is presented electronically, the physical custody of exhibits by the clerk is replaced by the electronic record of the exhibits. Evidence must be in sequential order with the exception of JPEG and MPEG files which shall be stored on separate discs. Counsel may also prepare electronic evidence using alternate non-proprietary formats subject to the approval of the court. The compact discs (CDs) must be labeled as follows:

Case #  
Case Name  
Exhibits \_\_\_\_ to \_\_\_\_  
(Original or Backup copy)

The courtroom clerk will maintain an updated exhibit list. When evidence is electronically presented at the trial, the court may require counsel to periodically submit to the clerk an up-to-date CD containing exhibits received into evidence.

It is counsels' responsibility to identify and track redactions, modifications, and substitution of exhibits. Counsel are expected to be prepared to submit an up-to-date evidence CD with all redactions, modifications, and substitutions, as well as impeachment documents used, upon the courtroom clerk's request.

Impeachment exhibits are not pre-marked. However, counsel are responsible for having the document electronically recorded upon being offered into evidence (exhibit numbers may be reserved for this purpose).

If the jury will be provided the evidence in electronic format for its deliberation, the parties are required to meet and confer and submit the final joint exhibit list containing only those exhibits received into evidence. The CD used by the jurors must include the joint exhibit list and the electronically stored exhibits which have been entered into evidence. Submission of the joint evidence CD also serves as a stipulation that all exhibits presented in electronic form to the jury are complete and correct. Any disagreement must be brought to the attention of the court at the earliest reasonable time. Counsel must lodge two (2) evidence CDs of all exhibits received into evidence.

#### **X. TRIALS – MOTIONS IN LIMINE**

Counsel should attempt to resolve evidentiary disputes at the Local Rule 317 Issues Conference before resorting to filing a motion *in limine*. It is frequently more productive of court time, and the client's money for counsel to informally address at the Issues Conference the issues which could be raised in motions *in limine* and, instead of a motion, present a stipulation to the court on uncontested issues. Matters of day-to-day

trial logistics and common professional courtesy should not be the subject of motions *in limine*. These are matters of common professional courtesy that should be accorded counsel in all trials. See, Kelly v. New West Federal Savings (1996) 49 Cal.App.4<sup>th</sup> 659,671.

APPENDIX 1

**California Attorney Guidelines of Civility and Professionalism**  
(Abbreviated, adopted July 20, 2007)

INTRODUCTION. As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

These are guidelines for civility. The Guidelines are offered because civility in the practice of Law promotes both the effectiveness and the enjoyment of the practice and economical client representation. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance our service to justice. Uncivil or unprofessional conduct not only disservices the individual involved, it demeans the profession as a whole and our system of justice.

These voluntary Guidelines foster a level of civility and professionalism that exceed the minimum requirements of the mandated Rules of Professional Conduct as the best practices of civility in the practice of law in California. The Guidelines are not intended to supplant these or any other rules or laws that govern attorney conduct. Since the Guidelines are not mandatory rules of professional conduct, nor rules of practice, nor standards of care, they are not to be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence.

The Guidelines are intended to complement codes of professionalism adopted by bar associations in California. Individual attorneys are encouraged to make these guidelines their personal standards by taking the pledge that appears at the end. The Guidelines can be applicable to all lawyers regardless of practice area. Attorneys are encouraged to comply with both the spirit and letter of these guidelines, recognizing that complying with these guidelines does not in any way denigrate the attorney's duty of zealous representation.

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SECTION 1. The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2. An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3. An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.

An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4. An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

Nothing above shall be construed as discouraging the reporting of conduct that fails to comply with the Rules of Professional Conduct.

SECTION 5. An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

SECTION 6. An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors.

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

SECTION 7. The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

SECTION 8. Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

SECTION 9. Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the California Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

SECTION 10. An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

SECTION 11. It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

SECTION 12. In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 13. An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every case as soon possible and, when appropriate, during the course of litigation.

SECTION 14. To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

SECTION 15. An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

SECTION 16. An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court-appointed expert and allowing a reasonable opportunity to object.

SECTION 17. An attorney should respect the privacy rights of parties and non-parties.

SECTION 18. An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

SECTION 19. In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interests of the children in mind.

SECTION 20. In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

SECTION 21. Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

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ATTORNEY'S PLEDGE. I commit to these Guidelines of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility for the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the responsible practice of law, I will encourage other attorneys to observe these Guidelines.



# ORANGE COUNTY BAR ASSOCIATION CIVILITY GUIDELINES

## PREAMBLE

The practice of law is a noble, time-honored profession requiring and inspiring trust and confidence. Lawyers rightly take pride in seeking mutual cooperation and maintaining personal dignity. Lawyers practicing in Orange County share a commitment to civility and recognize their obligation to be professional with clients, other parties and counsel, the courts, and the public.

Courts expect lawyers to show others respect. Lawyers are officers of the court. Each lawyer's conduct should reflect well on the judicial system, the profession, and the fair administration of justice. Judicial resources are limited and wisely conserved when lawyers avoid frivolous disputes.

Lawyers should inspire public regard for the profession and for the judicial system. Rudeness, distrust, or abusive tactics by lawyers do not reflect well on the legal profession or inspire the public's confidence.

Civility allows for zealous representation, reduces clients' costs, better advances clients' interests, reduces stress, increases professional satisfaction, and promotes effective conflict resolution. These guidelines foster the civility and professionalism that are hallmarks of the best traditions of the legal profession.

All OCBA members are encouraged to adopt these guidelines as their personal standards. The guidelines exceed the Rules of Professional Conduct; do not replace any statute or rule; and are not intended as an independent basis for sanctions, discipline, or more litigation. Rather, the guidelines remind us that law is best practiced with civility and that clients, courts, the public, and the fair administration of justice are best served thereby.

## GUIDELINES

### 1. Counsel shall show civility to other counsel and self-represented litigants.

- a. Communicate in a professional, businesslike manner. Respond to communications within a reasonable time, using reasonable means. Provide accurate redlines and note significant changes when exchanging drafts. Avoid personal attacks, demeaning comments, and misleading characterizations of the other side's positions, both in private communications and in court. Act civilly toward opposing counsel's staff members.
  - b. Extend professional courtesies. Agree to reasonable requests, including those regarding service of papers or extensions of time, whenever possible without prejudicing the client's interests or violating a court's scheduling order. Honor commitments.
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- c. Advise clients about the need for civility. Assure clients you will zealously represent them while still treating others with civility. Resist client requests to engage in abusive or disrespectful behavior.

**2. Counsel shall show civility during discovery.**

- a. Work together to make discovery self-executing. Meet and confer in good faith to try to limit and expedite discovery – and to resolve disputes without motions. Cooperate to make discovery reasonably convenient: e.g., provide written discovery requests in electronic format, discuss search terms for electronic discovery in advance, produce written responses and responsive documents in a user-friendly manner. Avoid pursuing discovery only to harass adversaries or increase litigation costs. Respond forthrightly and timely to non-objectionable requests.
- b. Schedule depositions reasonably. Respond to inquiries for dates within a reasonable time and on reasonable terms. Make good-faith efforts to accommodate the schedules of other parties, counsel, and witnesses. Delay or cancel depositions only with good cause and as much notice as practicable.
- c. Behave professionally at depositions. Avoid abusive or rude behavior, mischaracterizations of anyone's conduct, baseless instructions not to answer, and questions asked only to embarrass the witness. Make reasonable use of the allotted time, without needlessly running out the clock or requiring an additional day.

**3. Counsel shall show civility to the courts.**

- a. Respect the court's time. Make good-faith efforts to avoid or narrow issues before raising them with the court. Plan to make witnesses available while minimizing their wait time – consider on-call agreements. Notify the court as soon as possible if a matter resolves.
- b. Communicate respectfully with the court. Treat the court and its personnel with dignity. Avoid personal attacks, disrespectful familiarity, the appearance of impropriety, and improper ex parte communications.
- c. Conduct yourself professionally in court. Be punctual and prepared for every appearance. Wait for your matter respectfully. Let others speak, without interrupting. Accept responsibility for your handling of the case without blaming subordinates.
- d. Show this civility to all bench officers (judges, commissioners, temporary judges, referees), arbitrators, mediators, other dispute resolution providers, and their staffs.