

ORANGE COUNTY SUPERIOR COURT

**DEPARTMENT C 10
CIVIL LAW AND MOTION
AND
TRIAL PROCEDURES**

JUDGE LINDA S. MARKS

CLERK: **CAMILLE TOWNSEND**
COURT ATTENDANT: **ENRIQUE VELOZ**
COURTROOM TEL. NO.: **(657) 622-5210**

Welcome to the Department C10 – General Civil Calendar. In order to facilitate the progress of your case and assure its timely disposition, the Court has set forth the following rules and procedures.

I. GENERAL CALENDAR

- A. **Ex parte matters** — heard every day at 1:30 p.m. except Friday. Ex Parte matters need to be reserved with the Department by noon the day prior and e-filed by 3:00 p.m. The Court will decide the matter in chambers on the application/opposition papers, except in rare instances where the Court invites oral argument or other discussion. Attorneys should heed California Rules of Court, rules 3.1200-3.1207. Ex partes must be for legitimate emergencies. (See Ex Parte Policies and Procedures, posted on the Court's website: www.occourts.org) The Court also suggests you read the case of Mission Power Engineering Company vs. Continental Casualty Company (1995), 883 F. Supp. 488. Although this is a Federal case decision, it expresses the Court's views on ex parte matters.
- B. **Law and Motion** – Law and Motion is heard on Monday at 10 a.m. The Court is now reserving all motion dates on the Court website: www.occourts.org. All motions must be filed within 24 hours of the reservation **except for Motions for Summary Judgment**. Counsel should not wait until the last date to file since hearing dates might not be available. If you submit your matter without oral argument, please advise the Clerk by calling (657) 622-5210. No appearance by either party will result in the tentative ruling becoming the Court's final ruling per CRC, Rule 3.1308(a).

- C. **Tentative Rulings** – The Court will generally post tentative rulings by 10 a.m. on the day of the calendared motion date. Tentative rulings may be obtained by calling the clerk in Dept. C 10 or visiting the court website at <http://www.occourts.org/rulings/marks.asp>. No continuances will be granted after tentative rulings are posted. The prevailing party shall give notice of the ruling.
- D. **Continuances** – The Court strictly adheres to all Trial Court Delay Reduction Act time limitations. CRC Rule 3.713. Trial and motion dates are firm and continuances **disfavored**. Any request, either by motion, application, or stipulation, must demonstrate good cause as that is defined in the California Rules of Court, Rule 3.1332(c).
- E. **MSCs** – Friday at 9:00 a.m. Unless all parties stipulate that the trial judge is to hold the MSC prior to the date, the MSC will be held by a temporary judge. Court order will read that parties, counsel, carriers and/or representatives are ordered to appear to effectuate a meaningful settlement. Please review and comply with Local Rule 316 which will be strictly enforced.
- F. **Jury and Court trials** – Initial trial call is set for Mondays at 8:30 a.m. Once trial commences, the schedule is Tuesday, Wednesday, and Thursday from 9:15 a.m. to 4:30 p.m. Juries may deliberate on Fridays and/or Monday, depending on the Court's calendar.
- G. **Case Management Conferences** – Mondays at 1:30 p.m. Case Management conferences may not be continued by telephone or by stipulation solely by counsel. Appearances by trial counsel are important to facilitate a meaningful conference. Telephonic appearances are allowed, but unless exigent circumstances exist, no priority will be extended. Failure to file a CMC statement may result in sanctions.
- H. **Default Prove-Up** – All default cases will be set for prove-up hearings on Monday at 2:00 p.m. If 585 packages have been timely submitted and judgment has entered prior to the hearing date, then the matter will revert to a non-appearance. Please check with courtroom staff prior to attending the hearing.

II. **ISSUES CONFERENCES**

This Court permits the Issues Conference to be conducted by "phone and fax" so long as there is full compliance with Rule 317 of the OCSC — **PLEASE READ IT.**

III. **TRIAL PROCEDURES**

- A. **FILING OF TRIAL DOCUMENTS:** A Statement of Compliance and its required attachments, motions in limine and oppositions shall be **e-filed and a three hole-punched courtesy copy shall be delivered to the courtroom no later than 12:00 p.m. the Friday before trial.**
- B. **IN LIMINE MOTIONS:** Please avoid overbroad, general motions, such as those asking the court to preclude mention of insurance or settlement offers, to preclude inadmissible evidence. In limine motions must be exchanged at the Issue Conference. The Court expects counsel to meet and confer and resolve as many of these motions as feasible before trial, and before discussing them with the Court. Cases having more than five in limine motions and other pretrial motions shall include a joint index setting forth the title of the motion, the identity of the moving party, the number of the motion, and those who are joining in the motion. The motions in limine must be numbered on the face page of the motion. Untimely filed motions or oppositions will not be considered.
- C. **VOIR DIRE:** This Court will use a seven pack method (21 prospective jurors) of jury selection to select 12 jurors. The selection of alternates can take place at the conclusion of trial with alternates being selected randomly by drawing from a hat or selected prior to the start of trial. The Court will allow the parties to determine the method of selection. In all jury trials the following rules and procedures are followed:
1. In accordance with the Standards of Judicial Administration, Standard 3.25(c), the Court will normally conduct the initial voir dire of prospective jurors using applicable questions contained in these standards.
 2. Counsel is then permitted liberal and probing voir dire in conformance with the Standards of Judicial Administration. Counsel may not, however, ask questions that attempt to precondition the jurors, repetitive of the Court's questioning or exceed the time limit based on prior discussion with the Court. For a more complete description of improper questions, see Standards of Judicial Administration, Standard 3.25(f).

D. **JURY INSTRUCTIONS AND VERDICT FORMS:** Each counsel should deliver proposed jury instructions complying with California Rules of Court rule 2.1055, a jury instruction list, modified jury instructions proposed to be given by each side, and proposed verdict forms to the clerk before the pre-trial conference on the first morning of trial. The Court generally discourages special instructions and generally favors the exclusive use of CACI. Be sure to give careful attention to special verdict forms. *The verdict form must not contain the identity or address of any attorney, nor shall Doe defendants* be listed thereon.

E. **EXHIBITS**

1. Careful attention should be given to exhibits, exhibit lists and the Court's list of exhibits. Before the first day of trial counsel should jointly agree to a marking system and prepare a JOINT exhibit list. Only numbers should be used. Each exhibit should be listed by exhibit number (Use together with a very brief description, including the date of the document or a notation that the document is undated. **ALL** documents that make up an exhibit need to be marked using a corresponding number or letter system. Copies of the exhibit list should be made for the Court, the clerk, the reporter, and each counsel.
2. If there are more than six exhibits, and to the extent that exhibits are standard size and not too bulky, they should be placed in 3-ring binders with tabbed dividers. Each tab should bear the corresponding exhibit number and should be placed in front of the corresponding exhibit. The original exhibits, with exhibit list, will be given to the clerk on the 1st day of the trial and will remain on the witness stand. Another set of such binders, similarly tabbed, should be prepared for the Court.
3. If you plan to use a video exhibit, video tape depositions, or an overhead projector, the Court should be advised at the earliest opportunity. Evidence presentation will be made available and

counsel should schedule time prior to trial to familiarize themselves with the equipment which will be made available.

Videotape depositions must be transcribed and marked as an exhibit. The videotape must be edited prior to being shown to the jury removing objections and argument by counsel.

4. Exhibits should be moved into evidence once proper foundation has been laid with the witness. Do not wait until the end of your case to move admission of exhibits into evidence. Do not publish any exhibit to the jury until it has been admitted.
5. If you anticipate any problems with exhibits, consult with the clerk before trial. Please make copies of Exhibit page tags located in this pamphlet on the last page.
6. Each exhibit must have a Court exhibit tag attached. **Each document within a marked exhibit needs to bear a corresponding number.**
7. Lodge all deposition transcripts with the Court.

E. WITNESSES

1. Scheduling: the lawyers should submit a witness list to the Court prior to commencement of trial, with a realistic schedule for when witnesses will be called and the estimated total time for direct and cross examination. The Court expects witnesses to be available and no delays will be entertained for unavailable witnesses.
2. If a witness will use documents other than exhibits previously marked for identification with the clerk while on the stand, counsel must avoid delay by arranging prior review by all counsel of such documents and marking as an exhibit, if necessary, during the time Court is not in session.

V. THREE C'S APPLY AT ALL TIMES:
COURTESY, CIVILITY, AND COOPERATION

See Attachments:

Rules for Jury Trials
Statement of Compliance
Procedural Stipulations
Joint Witness Trial List
Joint Exhibit List
Exhibit Tags

RULES FOR JURY TRIALS
The Honorable Linda S. Marks
C-10

1. **Courtesy** from counsel is expected in the courtroom at all times. This courtesy is to be shown to all persons in the courtroom. Courtesy titles are to be used when addressing witnesses, jurors, or one another.
2. Attorneys are to **advise their witnesses** of proper behavior and attire in the courtroom and of rulings that will apply to their testimony.
3. **Do not make speaking objections.** Simply state Objection and the legal grounds. If you wish to argue about a ruling it will be done either at bench or on the record outside the presence of the jury.
4. Attorneys are to speak from **behind the counsel table or lectern** unless the court has given permission to approach a witness.
5. SIDEBARS are discouraged.
6. The Court will conduct a **Pretrial Conference**, and the following issues are to be discussed: jury waiver/selection, discovery, unusual evidentiary or instruction issues, scheduling, witness problems, summary of expected facts and defenses, pretrial motions. The Court does not like unnecessary surprises during trial.
7. Please be familiar and follow the **Standards of Professional Conduct**. Good advocacy requires that personality differences be kept outside of the courtroom away from the jury, court staff and witnesses.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name & Address): Telephone No.: _____ Fax No. (Optional): _____ E-Mail Address (Optional): _____ Bar No: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE <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:
STATEMENT OF COMPLIANCE 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	_____	_____
(SIGNATURE OF ATTORNEY)	(NAME OF PARTY)	(DATE)
_____, Attorney for Plf/Def/X-Compl/X-Def	_____	_____
(SIGNATURE OF ATTORNEY)	(NAME OF PARTY)	(DATE)
_____, Attorney for Plf/Def/X-Compl/X-Def	_____	_____
(SIGNATURE OF ATTORNEY)	(NAME OF PARTY)	(DATE)
_____, Attorney for Plf/Def/X-Compl/X-Def	_____	_____
(SIGNATURE OF ATTORNEY)	(NAME OF PARTY)	(DATE)

**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.

STATEMENT OF COMPLIANCE

Approved for Optional Use
L-0081 (Rev. July 1, 2009)

Superior Court of Orange County, rule 317
www.occourts.org

PROCEDURAL STIPULATIONS

Case # _____

Case Name _____

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

Please initial each box

	Counsel for Plaintiff	Counsel for Defendant
That the Jury Instructions and the Exhibits may go into the jury room during deliberations.		
That 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.		
That, during jury deliberations, the jury may recess without further admonition and without assembling in the jury box, and that they may resume their deliberations upon the courtroom attendant's determination that all jurors are present.		
That in the absence of the trial judge, the verdict may be received by any judge of this court.		
That 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.		
That after giving the admonition required by Code of Civil Procedure section 611, the court need not repeat or remind the jury of the admonition at each subsequent recess or adjournment.		
That 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.		
That at the conclusion of the trial, all juror questionnaires, if any, may be destroyed.		
That the court reporter may conduct read-back in the jury deliberating room.		

Counsel for Plaintiff

Counsel for Defendant

Date

Date

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.				

JOINT EXHIBIT LIST

Case Number:		<i>For Court Use Only</i>
Case Name:		
Court Clerk:		
Department:		
Type of Hrg:		

[illegible]

EXHIBIT NO.		
<input type="checkbox"/> ID only (Date)		
<input type="checkbox"/> 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, Clerk of the Court		
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		

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