



Superior Court of California County of Orange

CIVIL PANEL

Voluntary Settlement Conferences

Effective May 1, 2020

The Civil Panel is pleased to offer Voluntary Settlement Conferences to resolve cases impacted by our reduced staffing due to the COVID-19 pandemic.

Scope. Any currently pending civil case may take advantage of the VSC program.

Initiation. If all parties to a pending civil case agree to participate in a VSC, they shall select one person to contact the VSC program coordinator by emailing CivilVSC@occourts.org, indicating that all parties have agreed to participate in a VSC and identifying the case name, case number, names of attorneys for all parties, and the attorneys' contact information.

The program coordinator will contact the judicial officer assigned to the case. If the judicial officer will be conducting the VSC, the program coordinator will email a waiver to the parties. The program coordinator will retain the waivers in the event the assigned judicial officer conducts the VSC until the court has staff that can process the waivers.

If the judicial officer will not be conducting the VSC, then the program coordinator will assign an Orange County Superior Court temporary judge to conduct the VSC. The temporary judge will email the parties to determine whether any actual or potential conflict requires disclosure. If the temporary judge is disqualified, the temporary judge will alert the program coordinator, who will assign a new temporary judge.

The program coordinator will get acceptable dates and times from the judicial officer or temporary judge. Then the program coordinator will work with the parties to schedule the VSC. The program coordinator will ask the parties to identify any nonparty participants, i.e., persons whose consent is needed to settle, or insurance carriers for defendants or cross-defendants with an acknowledged or alleged duty to indemnify.

The judicial officer or temporary judge will select a remote conference media that is accessible to all participants and provides a secure platform at no cost to the participants. The judicial officer or temporary judge will provide the necessary log-in information to the program coordinator, who will send it to the parties. The parties must provide the log-in information to any nonparty participants, i.e., persons whose consent is needed to settle or insurance carriers.

Any emails between the judicial officer or temporary judge on one side and any VSC participant on the other must be copied to all parties to avoid ex parte communications. In the unlikely event the judicial officer or temporary judge must "initiate, permit, or consider" scheduling, administrative, or emergency ex parte communications, the judicial officer or temporary judge must comply with California Code of Judicial Ethics, canon 3B(7)(b).

Conducting the Conference. The participants shall ensure they can participate without distraction for the scheduled duration. All participants must have access during the VSC to email and a way to send signed documents (such as an electronic signature, fax, or an email attaching a photograph of a signature).

All participants must keep the VSCs ***confidential*** and agree ***not to record*** any portion of it. Conduct or statements during the VSCs may be inadmissible to prove liability. (See Evid. Code, § 1152.)

All participants must maintain safe social distancing consistent with all orders and recommendations of state and local government. No participants shall have physical contact with, pass documents to, share equipment with, or come within 6 feet of any other participant, unless they are already residing in the same household. ***The court will not condone or facilitate any conduct that increases the risk of spreading COVID-19.***

The judicial officer or temporary judge will preside over the VSC, making sure all participants can hear/see each other and confirming no one else is listening/watching. The judicial officer or temporary judge has discretion over how to conduct the conference, including (with the parties' stipulation) the use of "breakout rooms" or separate sessions as needed. (See Cal. Code Jud. Ethics, canon 3B(7)(c).)

Settlement. The judicial officer or temporary judge will ensure any settlement is reduced to writing, including a provision that the parties themselves agree that the settlement is enforceable pursuant to Code of Civil Procedure section 664.6 and that the court will retain jurisdiction to enforce the settlement. All required signatures must be exchanged in counterpart by electronic signature, fax, or email.

Because no court reporter will be present, the settlement agreement must contain detailed representations that the parties understand and accept the agreement freely, without any threats or undisclosed promises, and that any questions they have about the settlement have been answered.

The judicial officer or temporary judge will designate a party to send a written "VSC Statement" to the program coordinator confirming whether the VSC took place and whether the case settled. The program coordinator will ensure that, as staffing permits, the VSC Statement is imaged into the case file. If the parties reach a settlement, the parties will be instructed to electronically submit their notice of settlement or dismissal and the case will be updated accordingly in the court's case management system.