

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF ORANGE

3 CENTRAL JUSTICE CENTER

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5
6 To All Parties Set For Trial

7 }
8 } **TRIAL STANDING ORDER FOR**
9 } **ALL CASES ASSIGNED TO**
10 } **JUDGE LEAL**

11 }
12 } Dept. C33
13 }

14 **TO EACH PARTY AND ATTORNEY(S) OF RECORD FOR EACH PARTY:**

15 This case has been assigned to Judge Leal for trial. Whenever a new or existing case is assigned
16 to Judge Leal and is set for Trial, the Court issues this Trial Standing Order (“TSO”). This Order sets
17 out the Court’s rules that all parties¹ must follow. In addition to this TSO, all parties are required to
18 follow the California Code of Civil Procedure, California Rules of Court (“CRC”), and the Local
19 Rules of Orange County Superior Court (“OCLR”).²

20 Accordingly, the Court hereby ORDERS as follows:

21 **I. CIVILITY AND PROFESSIONALISM**

22 The Court expects all parties to be familiar with and follow the California Guidelines of Civility
23 and Professionalism, *available at:* [http://www.calbar.ca.gov/Attorneys/Conduct-](http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism)
24 [Discipline/Ethics/Attorney-Civility-and-Professionalism](http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism), as well as the Orange County Bar
25 Association’s Civility Guidelines. Uncivil or unprofessional behavior *will not be tolerated* and may
26 be met with sanctions.

27 ¹ As used herein, the term “parties” includes litigants and their respective counsel, if any.

28 ² For your convenience, the most recent version of the CRC and the OCLR are available on the
Court’s website at <http://www.occourts.org/directory/local-rules/>.

1 **II. CONTINUANCES**

2 Changes in dates are generally disfavored absent a showing of unavoidable good cause. The
3 Court endeavors to adhere to all Trial Court Delay Reduction Act limitations. *See* CRC 3.713.

4 Accordingly, any request, whether by noticed motion or stipulation, to continue the date of any
5 trial related matter before this Court must be supported by a *detailed* explanation of the grounds for
6 the requested continuance. *See* CRC 3.1332(c). If the parties are not prepared to go forward, then the
7 Court reserves the option to vacate all pending dates and set an Order to Show Cause re: Sanctions.

8 **Note: Stipulations continuing trial dates do not become effective unless and until this Court**
9 **so orders.**

10 **III. EXHIBITS**

11 At the parties' Issue Conference, counsel must jointly agree to a marking system and prepare a
12 joint exhibit list. Only numbers will be used. Each exhibit will be listed by exhibit number together
13 with a brief description, including the date of the document or a notation that the document is
14 undated. All documents that make up an exhibit need to be marked by using a corresponding
15 number, *e.g.*, Ex. 1-1, 1-2, and 1-3 for reference to Exhibit No. 1, pages 1, 2, and 3, respectively.
16 Parties must be prepared to provide copies for the Court, the Clerk, the Reporter, the witness, and
17 each counsel.

18 If the parties plan to use a video exhibit, videorecorded deposition testimony, or the document
19 projector, the Court must be advised at the earliest opportunity. Counsel should schedule a time prior
20 to trial to familiarize themselves with the Court's equipment, which will be made available for such
21 purpose. Videorecorded depositions must be transcribed and marked as an exhibit. The video must
22 be edited prior to being shown to the jury by removing any objections and argument by counsel.

23 Exhibits must be moved into evidence once proper foundation has been laid with the witness.
24 *Do not wait* until the end of your case to move for admission of exhibits into evidence. Relatedly,
25 parties are not to publish any exhibit to the jury until *after* it has been admitted into evidence, and
26 even then, only after seeking permission to publish.

27 If you anticipate any problems with exhibits, consult with the Clerk before trial. Note that each
28

1 exhibit must have a Court exhibit tag attached to the exhibit.

2 **IV. OBJECTIONS AT TRIAL**

3 Speaking objections *shall be avoided*. Proper objections should be made as follows:

- 4 1. State the word “Objection”;
- 5 2. State the legally recognized basis for the objection; and
- 6 3. Remain silent and await the Court’s ruling on the objection.

7 The Court’s ruling on an objection is not an invitation to a conversation. If the Court requires
8 additional input on an objection, then the Court will request additional input. Following an objection,
9 parties may request to be heard and the Court may grant or deny that request.

10 **V. ISSUE CONFERENCE**

11 Orange County Local Rule 317 sets forth all pre-trial requirements. Compliance is *not* optional.
12 The Court expects full and strict compliance as fully set forth in the aforementioned rule.

13 **VI. IN LIMINE MOTIONS**

14 Attorneys are to avoid overbroad, general motions, such as those asking the Court to preclude
15 mention of insurance or settlement offers or to preclude inadmissible evidence. *In limine* motions
16 must be exchanged at the Issue Conference pursuant to OCLR 317. The Court expects counsel to
17 meet and confer and resolve as many of these motions as feasible before trial, and before discussing
18 them with the Court. Cases having more than five *in limine* motions and other pretrial motions must
19 include a joint index setting forth the title of the motion, the identity of the moving party, the number
20 of the motion, and those who are joining in the motion. The motions *in limine* must be numbered on
21 the face page of the motion. *Untimely motion or oppositions will not be considered*.

22 **VII. JURY INSTRUCTIONS AND SPECIAL VERDICT FORMS**

23 Prior to the first day of trial, the parties shall meet and confer in person or telephonically on the
24 issue of jury instructions and verdict forms. On the first day of trial, the parties shall submit to the
25 Court a joint set of agreed upon jury instructions, and a joint special verdict form, if requested.

26 If the parties are unable to agree on particular jury instructions or language contained in special
27 verdict forms, the parties must provide the Court the following three categories of documents:

28 (1) instructions that are jointly agreed upon; (2) instructions / special verdict form(s) requested by

1 plaintiff(s) and objected to by defendant(s); and (3) instructions / special verdict form(s) requested
2 by defendant(s) and objected to by plaintiff(s).

3 Notably, the parties are advised that the CACI instructions prepared by the Judicial Council of
4 California are very often appropriate, and the Court discourages special instructions. Moreover,
5 verdict forms must not contain the identity or address of any attorney, nor shall Doe defendants be
6 listed thereon.

7 **VIII. JURY SELECTION METHOD**

8 **a. Empaneling of Venire**

9 The Court utilizes the following venire selection method. The Clerk will seat all prospective
10 jurors in the venire as set forth in the random order list. The Court will initially examine the entire
11 venire—in the box, front of the box, and the gallery—in accordance with the Standards of Judicial
12 Administration, 3.25(c). The Court will then allow attorneys to conduct questioning as to the entire
13 venire subject to the limitations set forth in this TSO.

14 Outside the presence of the jurors, the Court will consider any challenges for cause with respect
15 to all the prospective jurors. Once for cause challenges are ruled upon, the parties may exercise
16 peremptory challenges to the first twelve (12) jurors that have not been excused as determined by the
17 random order list. If a peremptory challenge is exercised by a party, the next juror remaining on the
18 random order list will be included in the group of twelve (12) jurors who have not been excused. At
19 that time, the next party may exercise a peremptory challenge to any of the first twelve (12) jurors
20 that have not been excused as determined by the random order list. The process repeats until
21 peremptories are exhausted or the parties accept the panel as then constituted.

22 Once the parties have exhausted their peremptory challenges or once they have accepted the
23 panel, the Court will entertain peremptory challenges as to the alternate jurors. If there are two (2)
24 alternate jurors in the trial, a party may exercise a peremptory challenge only as to the first two
25 prospective jurors remaining on the random order list after the twelve (12) jurors who have been
26 selected for the jury. The exercising and the passing of peremptory challenges will be conducted in
27 the same manner as described above.
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1 Once the parties have exhausted their peremptory challenges or once they have accepted the
2 alternates as presently constituted, the Clerk will swear in the twelve-person jury and the alternate
3 jurors.

4 **b. Limitations on Attorney Voir Dire**

5 Voir Dire is not a platform from which counsel may:

- 6 • Attempt to precondition the prospective jurors to a particular result, indoctrinate them, or
7 question them about the pleadings or the applicable law. *See* Code Civ. Proc. § 222.5.
- 8 • Compel prospective jurors to commit themselves to a particular disposition of the case.
9 *People v. Visciotti*, 2 Cal. 4th 1, 47-48 (1992).
- 10 • Prejudice prospective jurors for or against a party. *Visciotti, supra*.
- 11 • Argue their case. *People v. Morales*, 203 Cal. App. 3d 970, 974 (1988).
- 12 • Instruct the prospective jurors on matters of law. *Visciotti, supra*.
- 13 • Attempt to obtain the jurors' advisory opinion based on a preview of the evidence.
14 *People v. Mason*, 52 Cal. 3d 909, 939-40.
- 15 • Ask prospective jurors about the meaning of particular words or phrases, or to comment
16 on the personal lives and families of the parties or their attorneys. Stds. Of Jud. Admin.
17 3.25(f).

18
19 Attorneys have the right to examine prospective jurors in order to enable counsel to intelligently
20 exercise both peremptory challenges and challenges for cause. The Court permits liberal and probing
21 examinations calculated to discover bias or prejudice with regard to the circumstances of the
22 particular case before the Court. *See* Code Civ. Proc. § 222.5(b)(1).

23 Attorneys have the right to conduct examination of prospective jurors that is reasonable in
24 length, method, purpose, and content. The Court typically sets reasonable and non-arbitrary time
25 limits on attorney voir dire. As the Court observes the attorneys' use of the allotted minutes, if
26 circumstances warrant, the Court will grant additional time. In making this determination, the Court
27 will monitor how much repetition there is and how much actual information is elicited from the
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prospective jurors.

IX. WITNESSES AND SCHEDULING

a. Schedule

Evidence is heard Monday through Wednesday from 9:00 a.m. to 12:00 p.m. and 1:30 p.m. to 4:00 p.m. While the jury is deliberating, counsel are ordered to remain within a 30-minute distance of the courtroom.

b. Witnesses

Attorneys are reminded that they must submit a joint witness list to the Court pursuant to OCLR 317(A)(4), including a realistic schedule for when witnesses will be called and the estimated total time for direct and cross examination.

Parties are expected to have their witnesses available to testify and *no delays* will be entertained for unavailable witnesses. Before leaving the courtroom, counsel must notify opposing counsel of the identity and order of each witness that will be called the following court day. If a party runs out of witnesses, the party rests. If there are unique circumstances that warrant calling witnesses out of order or accommodations for scheduling, the parties must promptly bring those issues to the Court.

Other than parties and retained expert witnesses, all witnesses are excluded from the courtroom until they are called to testify. *No motion is necessary.*

If a witness or party needs an interpreter, the parties must raise that issue with the Court *before* the commencement of trial.

If a witness will use documents other than exhibits previously marked for identification 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.

Attorneys are to advise their witnesses of proper behavior and attire in the courtroom and of rulings that will apply to their testimony.

1 **X. OTHER ISSUES**

2 **a. Post Trial Matters**

3 At the conclusion of trial, the Clerk may return the exhibits marked or admitted at trial to counsel
4 for the party or parties who offered those exhibits. If so, counsel must retain those exhibits until one
5 of the following events occurs:

- 6 a. All parties agree in writing that the exhibits may be destroyed;
- 7 b. Any appeal from the judgment has been finally decided and, the event of a reversal,
8 any retrial has concluded; or
- 9 c. The time for any appeal from the judgment has passed without any notice of appeal
10 being filed.

11 **b. Jury Fees and Court Reporters**

12 Jury fees are to be paid and posted every day that the Court is in trial.

13 Absent a Court order, the Court does not provide a Court Reporter for trial. If a party or the
14 parties desire to have an official Court Reporter, the party or parties must arrange for a Court
15 Reporter with Realtime functionality to be available.

16 The parties should be prepared to discuss whether they are willing to waive a Court Reporter for
17 reading of jury instructions.

18 **c. Multiple Counsel**

19 In the absence of permission by the Court, only *one* attorney for a party may perform any one of
20 the following functions—select a jury, deliver an opening statement, deliver a final argument,
21 examine a particular witness, cross examine any particular witness, or argue an issue.

22 Upon the request of a party, the Court may, in its discretion, allow more than one attorney per
23 party to perform one or more of those trial functions. In making the request, counsel may present the
24 issue of providing an opportunity for an attorney practicing less than 5 years to perform those
25 functions.

1 **d. Communication with the Court**

2 All appropriate inquiries should be directed to Judge Leal's Courtroom Clerk at (657) 622-5233.
3 Counsel *should never* attempt to contact chambers directly. Counsel should list their email addresses
4 and phone numbers on their papers to facilitate communication by the Courtroom Clerk. For
5 assistance with determining the status of a proposed Stipulation and Order, proposed Order and/or
6 proposed Judgment that has been submitted to the Court for signature, you may contact the
7 courtroom by phone between the hours of 3:00 p.m. and 4:00 p.m.

8 **e. Notice of this Order**

9 Plaintiff's counsel or Plaintiff, if appearing on his or her own behalf, shall immediately serve this
10 Order on all parties, including any new parties to the action.

11 **Failure to comply with this Order may subject the party in non-compliance to sanctions of**
12 **up to \$1,500 pursuant to Code of Civil Procedure § 177.5 or other appropriate sanctions,**
13 **including but not limited to, evidentiary or terminating sanctions.**

14
15 **IT IS SO ORDERED:**

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17 DATED: _____

Judge Sandy N. Leal
Superior Court of California, Orange County