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5 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**

6 **COSTA MESA JUSTICE COMPLEX**

7
8 In re Trial Setting Conferences and Trials
9 Scheduled in Department CM5

PRETRIAL ORDERS

10 **Judge: Hon. Ebrahim Baytieh**
Dept: CM05

11
12 **TO ALL ATTORNEYS AND SELF-REPRESENTED PARTIES ASSIGNED FOR**
13 **TRIAL IN DEPARTMENT CM5**

14 The basic function of an independent, impartial, and honorable judiciary is to maintain
15 the utmost integrity in decision making. (*Supreme Court’s Advisory Committee on the California*
16 *Code of Judicial Ethics; California Judicial Conduct Handbook, Fourth Edition, Section 1:1.*)

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18 In the pursuit of the above listed basic function, it is well settled that the trial court has
19 inherent and statutory discretion to control the proceedings to ensure the effective administration
20 of justice. (*People v. Gonzalez* (2006) 38 Cal.4th 932, 951.) The trial court has the duty to keep
21 the trial within the bounds of the issues and not to stray into collateral and irrelevant matters.
22 (*People v. Alfaro* (1976) 61 Cal.App.3rd 414, 421–424.) The trial court also has the duty to see
23 that both sides receive a fair trial, and that justice is done. (*Id.* at p. 427; *People v. Williams* (2009)
24 170 Cal.App.4th 587, 615.)

25 The below listed orders and expectations are intended to assist attorneys and self-
26 represented parties in presenting their cases in a professional and welcoming environment in
27 Department CM5, while at the same time ensuring that proper procedures are followed.

1 **1. Expectations of Counsel and Self-Represented Parties.**

2 The Court expects all attorneys and self-represented parties to act at all times in a
3 professional manner, and to follow the Orange County Bar Association Civility Guidelines. A
4 copy of the Civility Guidelines is posted outside Department CM5, and on counsel table in
5 Department CM5. The Civility Guidelines may also be found at
6 https://www.ocbar.org/Portals/0/pdf/docs/civility_guidelines.pdf.

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8 **2. Pre-Trial Responsibilities of Attorneys and Self-Represented Parties.**

9 All pretrial documents are to be filed at least five court days before trial. Attorneys and/or
10 self-represented parties are ordered to comply with Civil Local Rule 317 and all Probate Hearing
11 and Trial Guidelines. Civil Local Rule 317 is posted on the Orange County Superior Court’s
12 Public Website under Local and State Rules of Court, Division 3, Chapter 4, and may also be
13 found using this link: <https://www.occourts.org/system/files/hr/div3.pdf>. The Probate Hearing
14 and Trial Guidelines are posted on the Orange County Superior Court’s Public Website under
15 Probate Courtroom Schedule & Requirements, and may also be found using this link:
16 <https://www.occourts.org/system/files/trial-hearing-rules-probate.pdf>.

17 In addition to complying with the above-listed rules and requirements, the attorneys
18 and/or self-represented parties shall deliver to the clerk in Department CM5, **no later than the**
19 **Wednesday before the first day of trial**, one physical paper copy, three-hole punched but not
20 stapled, of each the following documents:

- 21
22 a. Joint Trial Exhibit List.
23 b. Joint Trial Witness List.
24 c. Joint Trial List of Stipulated Facts.
25 d. Joint Trial List of Controverted Issues for all issues that are to be determined
26 by the Court.

1 **3. Motions in Limine**

2 Motions *in limine* must be exchanged and discussed no later than the Issue Conference
3 required under Local Rule 317. The attorneys and/or self-represented parties must meet and
4 confer in a good faith effort to resolve before trial as many motions *in limine* as reasonably
5 possible. Meeting and conferring in good faith should be conducted consistent with more than
6 one side attempting to persuade the other side of the error of their ways, because the law requires
7 that attorneys attempt to talk the matter over, compare their views, consult, and deliberate. There
8 must be a *serious effort* at informal resolution of the issues raised in the motions *in limine*, which
9 entails *something more than arguing* with opposing counsel because arguing is not the same as
10 informal good faith meeting and conferring. (*Townsend v. Superior Court* (1998) 61 Cal.App.4th
11 1431; *Clement v. Alegre* (2009) 177 Cal.App.4th 1277.)¹

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13 **4. In-Person Trial**

14 All trials in Department CM5 are to be conducted in person. All attorneys and self-
15 represented parties are ordered to be personally present in Department CM5 throughout the trial.
16 All witnesses must be present in court in person during their testimony, unless good cause is
17 shown, and this Court authorizes a witness to testify remotely. Any request for a witness to testify
18 remotely must be submitted to the court in writing, in advance of the trial date, and should include
19 good legal cause as to why the witness should not be ordered to testify in person.

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21 **5. Witnesses**

22 Witness must be lined up and ready to testify so as to avoid any delays. Attorneys and
23 self-represented parties shall advise the Court and opposing side promptly of any additions to
24 their witness list, or problems with witnesses' availability. Attorneys and self-represented parties
25 must advise their witnesses of rulings that apply to, or affect, their testimony.

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27 ¹ Whenever the attorneys and/or self-represented parties are ordered to meet and confer as listed in this Pretrial Order or any of the rules
28 referenced in this Pretrial Order, such meet and confer shall take place consistent with these guidelines.

1 If a witness or a party needs an interpreter, the attorneys and/or self-represented parties
2 should bring this to the attention of the Court prior to the commencement of trial.

3 4 **6. Objections**

5 Speaking objections are **not** permitted. When objecting, attorneys should state the word
6 “Objection” along with the legal basis for the objection (e.g., “Objection, Hearsay.”) Nothing
7 more should be stated by the objecting side. **After** the Court rules on the objection, if any side
8 wishes to be heard regarding the objection and/or ruling, a request to be heard should be made to
9 the Court.

10 11 **7. Interruptions and Discussions during Trial**

12 Attorneys and self-represented parties are **not** allowed to interrupt each other while the
13 Court is in session, other than for raising non-speaking objections as listed above. Attorneys and
14 self-represented parties should never interrupt the Court. While the Court is in session, the
15 attorneys and/or self-represented parties should not engage in a discussion amongst themselves.
16 If such discussion is needed, the attorney and/or self-represented party should ask the Court for
17 a recess, and if appropriate, the Court will declare a brief recess and allow the attorneys and/or
18 self-represented parties to have a discussion between themselves, off the record.

19 20 **8. Exhibits**

21 All trial exhibits are to be uploaded to the Orange County Superior Court Electronic
22 Evidence Portal. The following is the link to the Orange County Superior Court’s Public Website
23 for Electronic Evidence where information can be found about the Electronic Evidence Portal,
24 including instructions: <https://www.occourts.org/online-services/electronic-evidence-portal>. The
25 following is the link to the Electronic Evidence Portal where attorneys and/or self-represented
26 parties can log into the system and upload trial exhibits:

27 <https://occourts.quetelecloud.com/TraQ7/account/login?returnurl=%2FTraQ7%2F>.

1 The attorneys and/or self-represented parties are ordered to upload **all** exhibits, for all
2 sides, using one singular account. The attorneys and/or self-represented parties are ordered to
3 meet and confer to decide which specific account will be used to upload all trial exhibits, for all
4 sides. The requirement to upload exhibits before the trial starts does not apply to impeachment
5 exhibits.

6 If a witness is testifying remotely, attorneys and self-represented parties must meet and
7 confer to ensure that the exhibits to be shown to such witness is consistent with the evidence pre-
8 marked and uploaded to the Orange County Superior Court Electronic Evidence Portal.

9 Attorneys and self-represented parties are expected, before the trial starts, to attempt to
10 reach a stipulation, if reasonably possible, to the admissibility and/or foundation for all trial
11 exhibits, and such stipulations should be reflected on the Joint Trial Exhibit List.

12 13 **9. Transcripts**

14 Transcripts must be submitted to the Court, and provided to the opposing side, for any
15 audio recording or sound-and-video recording played during the trial, consistent with California
16 Rules of Court, Rule 2.1040).

17 18 **10. Deposition Transcripts**

19 The parties shall meet and confer and bring to Court certified copies of any deposition
20 transcripts that any side intends to use during trial.

21 22 **11. Trial Schedule and Trial Time Estimate**

23 When trial starts, Department CM5 will be in trial based on the following schedule:
24 Monday in the afternoon, Tuesday in the afternoon, Wednesday in the afternoon, Thursday all
25 day, and Friday all day. The morning session starts at 9:00 AM and ends at 11:55 AM. The
26 afternoon session starts at 1:30 PM and ends at 4:25 PM. The Court takes a brief morning break

1 around 10:15 AM, and an afternoon brief break around 3:00 PM. Accordingly, when a trial starts,
2 Department CM5 will be available for trial for a total of 3.5 days per week.

3 When agreeing to a trial date, the attorneys and/or self-represented parties are expected
4 to be available continuously from the first day of trial until the trial concludes following the
5 above-listed weekly schedule. Obviously, if an attorney or self-represented party has an
6 unexpected family commitment, or any other commitment, the court will do its utmost best to
7 accommodate any **reasonable** request for a break during the trial, especially to accommodate
8 family/personal commitments.

9 As far as the time estimate for trial provided by the attorneys and/or self-represented
10 parties, the court will generally defer to, and respect, such time estimate. The attorneys should
11 be familiar with the case of *California Crane School, Inc. et all v. National Commission for*
12 *Certification of Crane Operators et all* (2014) 226 Cal.App.4th 12 regarding the court's
13 authority/discretion when it comes to **unreasonable** trial time estimates and **unreasonable**
14 prolongments of a trial.

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16 **12. Failure to Comply with Standing Order**

17 Any violation of, and/or failure to comply with, the orders set forth herein may result in
18 the Court continuing the matter or issuing sanctions pursuant to Code of Civil Procedures sections
19 128.5 and/or 177.5.

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21 **IT IS SO ORDERED.**

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24 DATE: August 16, 2024



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Judge Ebrahim Baytieh Orange County Superior Court
