

1 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

2 **COUNTY OF ORANGE**

3 **LAMOREAUX JUSTICE CENTER**

4
5 **INITIAL STANDING ORDER FOR ALL CASES ASSIGNED TO**

6 **JUDGE ERIC SCARBROUGH**

7 **DEPARTMENT L68**

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9
10 Whenever a new or existing case is assigned to Judge Eric Scarbrough, the Court issues this
11 Initial Standing Order ("ISO"). This Order sets out the Judge's rules and expectations that all parties¹
12 must follow. In addition to this ISO, parties are required to follow the California Code of Civil
13 Procedure, California Rules of Court ("CRC"), and the Local Rules of Orange County Superior Court
14 ("OCLR").²

15
16 **The Court hereby ORDERS as follows:**

17
18 **I. CIVILITY AND PROFESSIONALISM**

19 Parties must be civil, respectful and professional at all times. The Court expects the parties to
20 be familiar with and follow the California Guidelines of Civility and Professionalism, *available at*:
21 <http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and->
22 Professionalism, as well as the Orange County Bar Association's Civility Guidelines. Uncivil or
23 unprofessional behavior will not be tolerated and may be met with sanctions. The Court expects
24 parties to resolve all disputes regarding scheduling or time extensions without the necessity of Court
25 involvement.

26
27 ¹ As used herein, the term "parties" includes individual parties 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/>.

II. CONTINUANCES AND EXTENSIONS OF DEADLINES

This Court has a ***strong interest*** in adhering to scheduled dates. Changes in dates are generally disfavored absent a showing of good cause. Accordingly, the Court will address continuances pursuant to these guidelines:

- Request for Order ("RFO") and Trial Setting Conference ("TSC"):

Only one (1) continuance will be freely granted. Telephonic continuances may be requested at any time prior to, but no later than, *the day before the hearing at 12:00 PM*. Telephonic continuances will be granted only if both parties agree to the continuance, as confirmed either by (1) being on the phone together or (2) making separate calls to the Courtroom Clerk. After one (1) continuance, telephonic or not, appearances by both sides will be required to request any further continuance.

- Trial, Mandatory Settlement Conference ("MSC"), Final Status Conference ("FSC") and Specially Set Matters:

Trial, MSC, FSC and Specially Set Matter dates set by the Court are ***firm*** and will rarely be changed. Any request, whether by stipulation or motion, to continue these matters must be filed directly in the Department and must be supported by a sufficiently detailed explanation of the grounds for the requested continuance or extension of time. The Court will only continue these matters upon a showing of good cause. If the parties are not prepared to go forward, then the Court reserves the option to vacate all pending dates.

- Domestic Violence Matters:

Continuances of Domestic Violence Matters will not be granted telephonically.

Stipulations extending scheduling dates do not become effective ***unless and until this Court so orders***.

III. MEET AND CONFER REQUIREMENT FOR RFOs

Pursuant to CRC 5.98, all parties and all attorneys are required to meet and confer to resolve as many issues as possible prior to an RFO hearing. This meeting shall be conducted in person,

1 telephonically or through a videoconferencing platform. This meet and confer shall include
2 discussing “financial issues” as referenced below, which shall encompass agreeing and/or narrowing
3 areas of disagreement as to the various inputs relevant to any required DissoMaster™
4 calculations/submittals.

5 CRC 5.98 likewise requires the parties to exchange all documentary evidence (other than
6 rebuttal or impeachment documents) that will be relied upon to prove a material fact related to an
7 RFO. This is a requirement of the CRC and this Court. The Court may decline to consider
8 documents that were not exchanged before the hearing. This requirement does not apply to cases
9 involving domestic violence in which an active restraining order exists and the protected party is self-
10 represented. However, once at court the Court will require the exchange of non-
11 rebuttal/impeachment documents. *Under no circumstances may a restrained party communicate*
12 *directly with a protected party under the guise of complying with any meet and confer requirement.*
13

14 **IV. MEDIATION**

15 If child custody or visitation is at issue and the parties have not attended mediation with
16 Family Court Services within the past 120 days, the parties are ordered to attend mediation prior to
17 their hearing date. Pursuant to OCLR 703(c)(1), the Court may impose a \$100 sanction on the parties
18 for failure to appear at mediation or for failure to cancel the appointment upon reaching an
19 agreement.
20

21 **V. WITNESSES**

22 Pursuant to FC § 217 and CRC 5.113(e), any party who wishes to call a witness other than a
23 party to testify at an RFO hearing shall, upon filing the RFO or any responsive papers, also file and
24 serve a witness list with the names of all anticipated witnesses and a brief description of each
25 witness’ anticipated testimony. An estimate of the length of time for the testimony should be
26 included. California Judicial Council Form FL-321 may be used for this purpose (and can be found
27 at <http://www.courts.ca.gov/documents/fl321.pdf>).
28

1 **VI. EXHIBITS**

2 All exhibits—*whether for hearing or trial*—must be pre-tagged prior to hearing/trial. Exhibit
3 tags are attached. Staple the exhibit tag to the *top right* corner of each exhibit, or, if the exhibit is a
4 photograph, tape the exhibit tag to the back.

5 Petitioner shall use numbers. Respondent shall use letters. Moving party (on domestic
6 violence matters) shall use numbers. Responding party (on domestic violence matters) shall use
7 letters.

8 To the extent the proffered exhibit comprises multiple pages, each page of the exhibit *must be*
9 *marked sequentially*. For example, in reference to Exhibit 1, it *must be paginated* as 1-1 on the first
10 page, 1-2 on the second page, and so on. During trial/hearing, exhibits may be marked and received
11 out of order.

12 If there are *more than ten* exhibits, in addition to being pre-tagged, they must be placed in a
13 3-ring binder with tabbed dividers. Each tab should bear the corresponding exhibit number/letter.

14 Prior to the commencement of any hearing/trial, the parties will make *four (4) copies* of their
15 exhibits available: one for the clerk, one working copy for the judge, one for the opposing party, and
16 one for the witness.

17 *Exhibits (binders) are to be provided to Department L68 at least two (2) court days prior to*
18 *the scheduled trial/hearing.*

19
20 **VII. OBJECTIONS AT HEARINGS/TRIALS**

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

- 22 a. State the word “Objection”;
23 b. State the legally recognized basis for the objection; and
24 c. Remain silent and await the Court’s ruling on the objection.

25 The Court’s ruling on an objection is not a request for further comment by counsel. If the
26 Court requires additional input on an objection, then the Court will request additional input.

1 Following an objection, parties may request to be heard, and the Court may grant or deny that
2 request.

3 4 **VIII. FINANCIAL ISSUES**

5 In any trial or hearing where financial matters are at issue (e.g., child support, spousal
6 support, attorney's fees, payment of debts, or calculation/payment of arrearages), **both** parties must
7 comply with OCLR 702. Accordingly, the parties must file and serve current income and expense
8 declarations. "Current" is defined as being completed within the last three (3) months provided that
9 no facts have changed. See CRC 5.260(a)(3) (support) and 5.427(d) (attorney's fees). The following
10 supporting documents must be exchanged between the parties and made available at the hearing:

- 11 • The three most recent pay records showing year-to-date wages, salaries, overtime,
12 commissions, bonuses, and withholdings;
- 13 • Records showing rents, trust income, workers' compensation benefits, unemployment
14 insurance benefits, disability benefits, social security benefits;
- 15 • The most recent W-2, 1099, and K-1 forms;
- 16 • A copy of signed and filed state and federal income tax returns with schedules for the two
17 most recent years;
- 18 • If self-employed, profit and loss statement and balance sheets for the last two years.

19 Failure to comply with this requirement may result in the Court drawing an adverse inference against
20 the non-complying party.

21 In addition, if child support or temporary spousal support is at issue, **both** parties shall
22 provide the Court with competing (or joint where the parties agree) DissoMaster™ calculations
23 (based upon the most recent financial information) supporting their respective positions on the
24 amount of support sought. In those instances where support is not at issue but attorney's fees (or
25 other similar relief) are sought, which in turn requires a consideration of a party's financial capacity
26 or needs, the parties shall nonetheless provide DissoMaster™ calculations to demonstrate the parties'
27 respective disposable net incomes after accounting for support obligations and/or tax consequences.
28

1 Where retroactivity is sought, and income amounts vary during the retroactivity period in question,
2 separate DissoMaster™ calculations shall be provided for each such timeframe.

3
4 **IX. PROPOSED ORDERS**

5 Unless the Court orders otherwise or the parties stipulate to the contrary, the moving party
6 (i.e., the party who filed the RFO) shall prepare the proposed order after hearing. The parties shall
7 comply with CRC 5.125 in preparing and submitting the proposed order (and any objections or
8 alternate proposed order). Alternatively, the Court may from time to time permit the parties to
9 “waive notice,” in which case the Court’s unsigned minute order will serve as the order of the Court.

10
11 **X. GETTING TO TRIAL**

12 Parties requesting a trial must file an “At Issue Memorandum for Trial Setting” (Orange
13 County Form L-0031). *See* OCLR 709. The parties must have complied with Family Code § 2104
14 requiring exchange of Preliminary Declarations of Disclosure (“PDDs”) prior to filing the “At Issue
15 Memorandum.”

16 Once the “At Issue Memorandum” is filed, a Trial Setting Conference (“TSC”) will be set
17 automatically. As set forth below, the TSC will set in motion a series of events designed to bring the
18 case, in whole or in part, to a resolution by way of agreement or trial.

19 **a. Trial Setting Conference (“TSC”)**

20 At the TSC, the Court will confirm that the parties have exchanged their PDDs, as required
21 above, and the Court will assess whether the parties are reasonably ready for trial. If the PDDs have
22 been exchanged and the parties are reasonably ready for trial, then the Court will set a date for a
23 Mandatory Settlement Conference. The Court may set other dates (e.g., Pretrial Conference or Trial
24 Date) if the Court so chooses OR the Court will set no other dates at the TSC.

25 **b. Mandatory Settlement Conference (“MSC”)**

26 The Court expects full and complete compliance with OCLR 707. Moreover, the parties shall
27 check in with the Court before leaving for the day. If the MSC cannot occur at the courthouse due to
28

1 court closure, then the MSC must occur in person, telephonically or through a videoconferencing
2 platform prior to the MSC date and a declaration of completion must be jointly filed with the Court
3 stating that the meeting did occur and all required issues were discussed. *Under no circumstances*
4 *shall a restrained party communicate directly with a protected party under the guise of complying*
5 *with any MSC requirements.*

6 In the event parties do not resolve their issues at or before the MSC, the Court may set a Final
7 Status Conference, which is typically the next step in the process of moving towards trial.

8 **c. Final Status Conference ("FSC")**

9 Except for Motions in Limine, all pretrial motions must be filed and served *prior to the FSC*
10 as follows:

- 11 1. Moving papers at least **twenty-one (21) court days** prior to the FSC;
- 12 2. Opposition papers at least **nine (9) court days** prior to the FSC; and
- 13 3. Reply papers at least **five (5) court days** prior to the FSC.

14 *NOTE:* All time extensions set forth in Code of Civil Procedure § 1005(b) for parties outside
15 the State of California or outside the United States are applicable.

16 No later than **five (5) court days** before the FSC (or the Trial in the event there was not a
17 Final Status Conference), the parties *must file and serve* on all other parties, the following:

- 18 1. *Joint* Statement of Issues to be Tried, including:
 - 19 a. Identification of issues resolved between the parties with
 - 20 specificity; and
 - 21 b. Identification of each issue left unresolved to be determined and
 - 22 ruled upon at trial/hearing with *detailed* legal and factual specificity
 - 23 in support of each party's position.
 - 24 2. Witness List, including:
 - 25 a. estimate of time for direct examination; and
 - 26 b. brief description of anticipated testimony.
 - 27 3. Exhibit List
- 28

4. Expert Reports³
5. If property is at issue, the parties are to prepare a *jointly* executed SCHEDULE OF PROPERTY "FREDMAN FORM" (FL001 – San Luis Obispo).
6. If spousal support is at issue, the parties shall file a **Joint Statement of Family Code § 4320 Factors**. Each factor (subdivisions (a) through (n) of § 4320) shall be listed in a separate row, and the chart shall have the following three columns:
 - a. Section 4320 Factor
 - b. Petitioner's Position
 - c. Respondent's PositionTo the extent the parties agree to the findings on any of the factors, those findings shall be included in the Petitioner's Position column, and Respondent's Position column shall merely say "Stipulated."
7. Trial Brief, setting forth the arguments and legal authority supporting the parties' position on each of the issues identified for trial in the "Joint Statement of Issues to be Tried." Trial Briefs shall not exceed twenty (20) pages absent leave of Court to file a Trial Brief in excess thereof.
8. **Current** Income and Expense Declarations⁴
9. *Proposed* DissoMaster™ calculation for child support, if at issue

At the FSC, the parties must:

1. Bring and exchange all trial exhibits
2. If the parties have not filed a "Stipulation and Waiver of Final Declaration of Disclosure" (Judicial Council Form FL-144), then the Court will confirm that Final Declarations of Disclosure ("FDDs") have been

³ If experts are involved, the parties **must** file a stipulation as to undisputed and disputed issues.

⁴ The Court **will not** consider an Income & Expense Declaration that has blanks or is not supported by all of the required documentation as set forth in Judicial Council Form FL-150, including tax returns and pay stubs, as appropriate.

exchanged at least 45 days prior to the date set for trial and that a Declaration Regarding Service has been filed.

NOTE: Failure to timely exchange FDDs and file the required Declaration Regarding Service may result in the FSC being taken off-calendar.

3. Meet and confer regarding stipulations to exhibits
4. Provide time commitments for trial, including opening statements, all examinations, and closing arguments

d. Trial

The dates set for trial are firm. Continuances will be granted only upon an affirmative showing of good cause requiring a continuance. *See* CRC 3.1332. Motions in Limine must be filed and served on the opposing party no later than **five (5) court days before** the trial date. Oppositions to any Motions in Limine must be filed and served no later than **one (1) court day** before the trial day. Reply briefs regarding such motions are not permitted. Parties should take special care to only file those Motions in Limine which are appropriate.

In the event an FSC was not held in a matter, the parties must provide the information noted in Section X.c, above ("Final Status Conference"), no later than **five (5) court days before** the trial date.

Trials set for the same day will be prioritized by issue, age of case, state of readiness, and time commitment. Trials not completed on the date set for trial shall continue day-to-day until completed, unless otherwise ordered by the Court. After the start of a trial, unless otherwise ordered, the parties, including counsel, are ordered back each day to Dept. L68 at **8:45 AM** for trial, and the Court will hear the matter in any available time it may have each day until the matter has been completed.

XI. POST TRIAL SPOUSAL SUPPORT RFO

If any request to modify a Post-Trial Spousal Support Judgment is made, the parties shall file a **Joint Statement of Family Code § 4320 Factors**. Each factor (subdivisions (a) through (n) of § 4320) shall be listed in a separate row, and the chart shall have the following three columns:

1 **a. Section 4320 Factor**

2 **b. Petitioner's Position**

3 **c. Respondent's Position**

4 To the extent the parties agree to the findings on any of the factors, those findings
5 shall be included in the Petitioner's Position column, and Respondent's Position
6 column shall merely say "Stipulated."

7
8 **XII. OTHER ISSUES**

9 **a. Court Reporter Fees**

10 Prior to the start of any trial or hearing with a time estimate of one (1) hour or more, the
11 parties must report to the Clerk's Office to pay their fees. *See* OCLR 709(D).

12 **b. Communication with the Court**

13 All appropriate inquiries should be directed to Judge Scarbrough's Courtroom Clerk at (657)
14 622-5568. Counsel must not attempt to contact chambers directly. Counsel should list their email
15 addresses and phone numbers on their papers to facilitate communication by the Courtroom Clerk.
16 For assistance with determining the status of a proposed Stipulation and Order, proposed Order
17 and/or proposed Judgment that has been submitted to the Court for signature, counsel may contact the
18 Courtroom Clerk by telephone between the hours of 3:00 PM and 4:00 PM.

19 **c. Notice of this Order**

20 Petitioner's counsel or Petitioner (if appearing on his or her own behalf) shall immediately
21 serve this Order on all parties, including any new parties to the action.

22 *Failure to comply with any part of this Order may subject the litigant(s) in non-compliance to*
23 *sanctions pursuant to Code of Civil Procedure § 177.5.*

24 **IT IS SO ORDERED:**

25 

26 Judge Eric Scarbrough

27 Superior Court of California, County of Orange

EXHIBIT NO.☐ ID only (Date)☐ IN EVIDENCE (Date)☐ Plaintiff/People☐ Defendant☐ Joint☐ Petitioner☐ Respondent☐ Court☐ (Other)

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****EXHIBIT NO.**☐ ID only (Date)☐ IN EVIDENCE (Date)☐ Plaintiff/People☐ Defendant☐ Joint☐ Petitioner☐ Respondent☐ Court☐ (Other)

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EXHIBIT NO.

☐ ID only (Date)

☐ IN EVIDENCE (Date)

☐ Plaintiff/People
☐ Petitioner

☐ Defendant
☐ Respondent

☐ Joint
☐ Court ☐ (Other)

Atty/Party Introducing Sensitive Exhibit

Case No.

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EXHIBIT COVER SHEET