

Superior Court of California County of Orange

HONORABLE LAYNE H. MELZER

DEPARTMENT CX102

CLERK: Lorena Mendez
COURT ATTENDANT: Alexia Condaras

CIVIL COMPLEX CENTER
751 W. SANTA ANA BLVD
SANTA ANA, CA 92701
(657) 622-5302
www.occourts.org

Welcome to Department CX102. To facilitate the efficient progress of your case, please pay close attention to these procedures and guidelines.

CALENDAR INFORMATION

- A. **Jury Trial and Court Trial** – *Monday, Tuesday, and Wednesday at 9:00 a.m.*[†]
- B. **Initial Case Management Conferences:** *Thursday at 9:30 a.m.*^{*}
The Initial Case Management Conference Statement shall be filed at least 5 court days before the conference. Counsel should use pleading paper, not Judicial Council Form CM-110, and should include in the statement a discussion of the applicable subjects set forth in California Rules of Court 3.727 and 3.750(b). Whenever possible, the parties shall meet and confer and file a joint statement.
- C. **Status Conferences/OSC/Review Hearings** – *Thursday at 9:30 a.m.*^{*}
Status conference reports shall be filed (using pleading paper) at least 5 court days before the scheduled conference/hearing and should focus on the latest developments since the last conference/hearing.
- D. **MSC** – *Friday at 8:30 a.m.*[†]
- E. **Default Prove-Up Hearings** – *Friday at 9:00 a.m.*^{*}
- F. **Law and Motion** – *Thursday at 2:00 p.m.*^{*}
Please use the Court's online reservation system to reserve your motion date. The Court endeavors to post tentative rulings online before commencement of the hearing. Additional information is contained on the Department's tentative rulings page.

^{*} Remote proceeding per CCP 367.75 and OCLR 375

[†]In-Person proceeding per CCP 367.75 and OCLR 375

G. **Ex Parte** – *Monday, Tuesday, Wednesday, and Thursday at 1:30 p.m.**

Reservations must be made with the department no later than 10:00 a.m. the day before the hearing. Ex parte applications shall be filed electronically, along with a courtesy copy delivered to the courtroom by 12:00 p.m. the day before the hearing.

GENERAL PROCEDURES

A. Remote Versus In-Person Proceedings:

Non-evidentiary proceedings: (meaning those proceedings where live, oral testimony is not expected, e.g., Law & Motion, Ex Partes, CMCs, OSCs and the like) will be **remote** and heard by Zoom videoconference pursuant to CCP §367.75 and Orange County Local Rule (OCLR) 375. Parties can access the Department's virtual courtroom on the date and time indicated by using the following link: [Civil Remote Hearings | Superior Court of California | County of Orange](#) . The Court's "Appearance Procedures and Information-- Civil Unlimited and Complex" ("Appearance Procedures") and "Guidelines for Remote Appearances" ("Guidelines"), also available on this webpage, will be strictly enforced. Parties preferring to appear in-person for non-evidentiary proceedings may do so pursuant to CCP §367.75 and OCLR 375.

MSCs will be set for in-person appearances unless all parties stipulate to a remote MSC and the Court adopts this stipulation as an order.

Evidentiary proceedings: (such as trials, debtor exams or other hearings where oral testimony will be taken) will be **in-person** absent a prior court order. Parties seeking to have all, or any portion of, an evidentiary proceeding handled remotely must make that request by way of a motion.

- B. Court Reporters:** Department CX102 does not provide the services of an official court reporter. If the services of a certified shorthand reporter are desired the parties can stipulate and bring in their own reporter consistent with the OCSC policy for "privately retained court reporters." Such reporters must have the ability to provide "real time" reporting through software which is compatible with the applications utilized in the courtroom.
- C. Compliance with Rules:** All counsel and self-represented litigants (collectively "Parties") must read and be familiar with Division 3 of the Orange County Superior Court Local Rules ("OCLR"), and with all applicable California Rules of Court ("CRC").
- D. Cooperation, Civility and Courtesy:** The Court expects all Parties to cooperate with each other to the fullest extent and to act at all times with civility and courtesy.
- E. Ex Parte Applications:** All Parties must comply with CRC 3.1200 through 3.1207, including but not limited to making an "*affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte.*" CRC 3.1202 (c). Papers must also demonstrate appropriate notice and state whether the application will be opposed.

TRIAL PROCEDURES

A. Trial Scheduling and Pretrial Compliance

Trials are normally set at 9:00 a.m. on Monday and normal trial days are Monday through Wednesday 9:00 a.m. through 4:15 p.m. ***The Court will typically schedule a pretrial conference approximately 30 days before the scheduled trial date.***

The Parties must conduct an Issue Conference in compliance with OCLR 317 and prepare and file all required items pursuant to that Rule (*Statement of Compliance attached*) before the pretrial conference.

The Joint Trial Notebook required by OCLR 317 containing courtesy copies of all trial compliance materials must be received by the Department five (5) days before the scheduled pretrial conference. All items required to be filed under OCLR 317 shall likewise be filed five (5) days before the pretrial conference other *than motions in limine which must be filed and served per the Code (See CCP §1005(b)) for hearing at the pretrial conference.*

The OCLR 317 Issue Conference shall take place prior to the deadline to file motions in limine (i.e., no later than 16 court days before the pretrial conference).

The Parties shall likewise comply with these Department procedures, including the attached **Conduct in Jury Trials**.

B. Pretrial Conference

Among the matters to be addressed at the pretrial conference are the following:

- ***Trial Logistics***: Confirming OCLR 317 compliance prior to the pretrial conference; the causes of action that will be tried; whether bifurcation or phasing is appropriate; what issues, if any, are triable to the Court; the latest time estimate; any interpreter issues; any witness availability issues or other scheduling issues; any stipulations for admissibility of or foundation for exhibits; any proposal to present evidence exclusively electronically; any intended equipment usage; using deposition testimony; whether the parties want to give mini-opening statements early in voir dire; the submission of jury instructions and verdict forms; confirming compliance with the attached rules for Conduct in Jury Trials and Procedural Stipulations.
- ***Rulings on Motions in Limine***: Again, all motions in limine must be filed and served per the Code to be heard at the pretrial conference. *The parties must meet and confer prior to filing as part of the earlier OCLR 317 Issue Conference to avoid unnecessary motions in limine.* Each motion in limine must be numbered on the face page of the motion. The caption (or notice) of each motion in limine shall concisely identify the subject of the motion and designate the specific evidence or argument sought to be excluded. Please avoid overbroad, general motions such as those asking the court to exclude “all hearsay evidence” or “all cumulative evidence” or “evidence not disclosed in discovery”. Motions in limine should be designed to exclude specific items of evidence, not broad categories of evidence.

C. Exhibits/Demonstratives

The Parties shall cooperate in preparing a **joint exhibit list (see attached form) and joint exhibit notebooks** (*unless the parties and the Court have agreed to present exhibits electronically*). Two (2) complete sets of exhibits in 3-ring binders, with the exhibit list identifying each such exhibit, and with number tabs separating each exhibit, shall be submitted to the Court (one for the Court and one for the witness dock). Each tab should bear the corresponding exhibit number. Every exhibit in the witness copy must have an exhibit tag filled out and attached (**see attached form**).

In a two-party case, Plaintiff shall number its exhibits starting with 1; Defendants shall number its exhibits starting with 200. If in a particular case these numbers are not sufficient to cover all exhibits, the Parties are to cooperate and agree to an appropriate number range for each party. If there are more than two Parties, the Parties are to cooperate and agree to a number range for each party. No two Parties are to use the same number, and duplicate exhibits are to be avoided. Every page of each exhibit must be separately and consecutively numbered.

Each exhibit should be moved into evidence as soon as admissibility has been established. **No exhibit shall be published to the Jury prior to being admitted.**

If any Party plans to use enlargements of exhibits, such “blow ups” should not be used as original exhibits. Instead, a normal size paper version of the exhibit should be marked and treated as the official exhibit. Blowups are informally marked with, and referred to by, the same exhibit number during trial.

If any Party plans to use a video exhibit, Power Point, demonstrative, videotaped depositions (see also below) or audio recording, the Court must be advised in advance. Court permission is required before such demonstratives or presentations may be used. It is each Party’s responsibility to supply the necessary equipment and to have it set up before trial or during a recess.

Video tape or audio tape evidence may not be introduced unless accompanied by a separately marked audio transcript and/or “still picture” representation of what the proponent seeks to present as evidence.

Exhibits may not be shown to the jury in opening statements unless Counsel have (i) stipulated in advance that the exhibit is admissible; and (ii) advised the court of their stipulation on the record before opening statements.

The court takes a dim view of attempts to use exhibits that were not identified and marked before trial by characterizing such documents as rebuttal or impeachment exhibits. Such documents will not be admitted unless the court concludes they are truly for rebuttal or impeachment. Documents which a defendant uses to “rebut” the plaintiff’s case are not rebuttal documents. Rather, rebuttal exhibits usually are those used by a plaintiff in response to the defendant’s case in chief, but which were not expected to be part of the plaintiff’s case in chief.

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D. Depositions

Prior to commencement of trial, counsel shall lodge all depositions to be used in trial with the clerk and advise the Court if there are any depositions which are unsigned.

A Party that expects to present one or more witnesses at trial by deposition shall, no later than the Issue Conference, provide opposing counsel with its written deposition designations. This shall be done by providing a hard copy of the deposition transcript with that Party's designations highlighted. The other Party shall, on the same hard copy of the document, mark its counter-designations (by highlighting them in a different color) and also indicate, in the margin next to any testimony designated by the other side, any objections to the admissibility of the designated testimony. *Once both sides have annotated the transcript with their designations and counter-designations and objections to the other side's designations, the transcript shall be submitted to the court prior to the pretrial conference.*

Where the deposition testimony will be presented by videotape, the Parties shall promptly seek a ruling resolving objections and counter-designations so that the videotape can be edited to remove objections and attorney argument.

E. Witnesses

Parties are required to submit a joint witness list (**see attached form**). It is the responsibility of all Parties to arrange the appearance of witnesses to avoid delay, to confer among themselves during the trial as to when witnesses will be needed, to advise the Court at the earliest opportunity of any anticipated problems with the presence of witnesses and to advise witnesses of the appropriate manner of testifying.

F. Stipulations

All stipulations must be discussed and agreed upon by all Parties before being called to the attention of the jury. A Party must not offer to stipulate to any matter within the hearing of the jury. ***Parties are expected to have already attempted to stipulate to admissibility and/or foundation for all exhibits with those agreements reflected on the joint exhibit list.***

As to **procedural stipulations**, see attached.

G. Jury Instructions

All proposed jury instructions and verdict forms must be submitted to the clerk as part of the "Joint Trial Notebook" per OCLR 317 five (5) days prior to the pretrial conference.

No later than the pretrial conference, the Parties shall also provide the Court with a separately indexed **joint compendium** in a notebook format containing an index or table identifying all agreed upon and contested instructions or verdict forms, with all instructions and verdict forms included and separately tabbed to indicate proponent/opponent (e.g., Tab 1 consists of jointly requested instructions, Tab 2 consists of instructions requested by Plaintiff but disputed by Defendant, Tab 3 consists of instructions requested by Defendant but disputed by Plaintiff, Tab 4 consists of the Parties' competing verdict forms).

Word editable versions of any contested instruction or verdict form must also be emailed to the clerk as directed at the pretrial conference.

CONDUCT IN JURY TRIALS
The Honorable Layne H. Melzer
Department CX102

1. Attorneys are to advise their witnesses of rulings that will apply to their testimony.
2. Do not make speaking objections. Simply state the Objection and the legal grounds.
3. Except for appropriate transitional comments, do not make any editorial comments prior to posing a question. (For example, “*We have heard about the defendant’s negligent driving*, did you see him change lanes without signaling?”)
4. Except for *voir dire*, opening and closing, do not address the jury directly. Ask the Court to do so on your behalf. If you have concerns about the jurors’ comfort, inform the Court of those concerns outside the presence of the jury.
5. Stipulations must be reduced to writing.
6. Sidebars will be kept to a minimum. Ensure that anticipated objections are dealt with *in limine* or otherwise outside the presence of the jury.
7. Challenges for cause, all motions, and arguments concerning evidentiary objections will be discussed at sidebar or otherwise outside the presence of the jury. Generally, sidebars will not be on the record. Counsel can make their record later at a break to ensure jurors are not kept waiting by lengthy sidebars.
8. Attorneys are to speak from behind the counsel table or lectern unless the court has given permission to approach a witness. Permission to approach a particular witness need only be requested once for that witness.
9. The Court will conduct a Pretrial Conference before Trial, at which the following issues, among others, will be discussed: jury selection, unusual evidentiary or instruction issues, scheduling, witness problems, summary of expected facts and defenses, pretrial motions.
10. The Court uses a “seven-pack” method (21 prospective jurors) to select 14 jurors, including two non-designated alternates. In this method, alternates are selected randomly after closing arguments. Initial voir dire is directed at the panel of 21 prospective jurors. “For cause” challenges are then made or waived as to the 21 prospective jurors (out of their presence) followed by peremptory challenges directed only toward the 14 prospective jurors “in the box.” Any additional voir dire is directed only toward “new” prospective jurors who fill seats of those previously excused. In the typical case, counsel should conduct their voir dire within 40 minutes for the first group of potential jurors, and within 20 minutes for each subsequent group. Counsel may have more time if the case warrants it.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name & Address): Telephone No.: _____ Fax No. (Optional): _____ E-Mail Address (Optional): _____ ATTORNEY FOR (Name): _____ Bar No: _____	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 _____ (NAME OF PARTY) _____ (DATE)
 (SIGNATURE OF ATTORNEY)

_____, Attorney for Plf/Def/X-Compl/X-Def _____ (NAME OF PARTY) _____ (DATE)
 (SIGNATURE OF ATTORNEY)

_____, Attorney for Plf/Def/X-Compl/X-Def _____ (NAME OF PARTY) _____ (DATE)
 (SIGNATURE OF ATTORNEY)

_____, Attorney for Plf/Def/X-Compl/X-Def _____ (NAME OF PARTY) _____ (DATE)
 (SIGNATURE OF ATTORNEY)

**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

PROCEDURAL STIPULATIONS

Case Number: _____

Case Name: _____

It is hereby stipulated between counsel
for the respective parties in the above titled action:

Please initial boxes
Counsel for Plaintiff Counsel for Defendant

1. That the jury instructions and the Exhibits may go
into the jury room during the deliberations

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2. That counsel and the parties need not be present when, during jury
deliberations, the jurors are excused for recesses, return from recesses
and/or are discharged in the evening and resume in the morning.

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3. 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 determination that all jurors are present.

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4. That in the absence of the trial judge, the verdict may be
received by any judge of this court.

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5. 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.

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6. That after giving the admonition required by Code of Civil
Procedures section 611, the court need not repeat or remind the
jury of the admonition at each subsequent recess or adjournment.

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7. 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.

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8. That at the conclusion of the trial, all juror questionnaires, if any, may
be destroyed.

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9. Counsel stipulate that jury voir dire and the Court's reading of the jury
instructions to the jury need not be reported by the Court Reporter.

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10. Counsel stipulate to the return of all depositions lodged once the verdict
or decision has been rendered unless ordered filed by the Court.

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11. Counsel stipulate that copies of the exhibits may be used in lieu
of originals.

--	--

X

Counsel for Plaintiff

X

Counsel for Defendant

Date

Date

EXHIBIT NO.☐ ID only (Date)☐ **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, Executive Officer and Clerk

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

EXHIBIT NO.☐ ID only (Date)☐ **IN EVIDENCE** (Date)

<input type="checkbox"/> Plaintiff/People	<input type="checkbox"/> Defendant	<input type="checkbox"/> Joint
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JOINT EXHIBIT LIST

Case Number:	
Case Name:	
Court Clerk:	
Department:	
Type of Hrg:	

For Court Use Only

[illegible]

		Joint List of Anticipated Witness Trial Testimony			
	Witness	Title and/or Role in Case	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.					