

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 J. WERSCHING**

7 **DEPARTMENT L67**

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10 Whenever a new or existing case is assigned to Judge Wersching, the Court issues this Initial
11 Standing Order ("ISO"). This Order sets out the Judge's rules and expectations that all parties¹ must
12 follow. In addition to this ISO, parties are required to follow the California Code of Civil Procedure,
13 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 **I. CIVILITY AND PROFESSIONALISM**

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19 Parties must be civil, respectful and professional at all times. The Court expects the parties to be
20 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-](http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism)
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.

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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/>.

1 II. CONTINUANCES AND EXTENSIONS OF DEADLINES

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

- 5 • Request for Order (“RFO”) and Trial Setting Conference (“TSC”):

6 Only one (1) continuance will be freely granted. Telephonic continuances may be
7 requested at any time prior to, but no later than, *the day before the hearing at 12:00 PM*.
8 Telephonic continuances will be granted only if both parties agree to the continuance, as
9 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.

- 10 • Trial, Mandatory Settlement Conference (“MSC”), Final Status Conference (“FSC”) and
11 Specially Set Matters:

12 Trial, MSC, FSC and Specially Set Matter dates set by the Court are ***firm*** and will rarely
13 be changed. Any request, whether by stipulation or motion, to continue these matters must
14 be filed directly in the Department and must be supported by a sufficiently detailed
15 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.

- 16 • Domestic Violence Matters:

17 Continuances of Domestic Violence Matters will not be granted telephonically.

18
19 Stipulations extending scheduling dates do not become effective ***unless and until this Court so***
20 ***orders.***

21 III. MEET AND CONFER

22 Pursuant to CRC 5.98, all parties and all attorneys are required to meet and confer to resolve as
23 many issues as possible prior to an RFO hearing. This meeting shall be conducted in person,
24 telephonically or through a videoconferencing platform. This meet and confer shall include
25 discussing “financial issues” as referenced below, which shall encompass agreeing and/or narrowing
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1 areas of disagreement as to the various inputs relevant to any required DissoMaster™
2 calculations/submittals.

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

10 11 **IV. MEDIATION**

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

16 17 18 **V. WITNESSES**

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

25 26 **VI. EXHIBITS**

27 All exhibits—***whether for hearing or trial***—must be pre-tagged prior to hearing/trial. Exhibit
28

tags are attached. Staple the exhibit tag to the **top right** corner of each exhibit, or, if the exhibit is a photograph, tape the exhibit tag to the back.

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

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

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

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

Exhibits (binders) are to be provided to Department L67 two (2) court days prior to the scheduled trial/hearing.

VII. OBJECTIONS AT HEARINGS/TRIALS

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

1. State the word "Objection";
2. State the legally recognized basis for the objection; and
3. Remain silent and await the Court's ruling on the objection.

The Court's ruling on an objection is not a request for further comment by counsel. If the Court requires additional input on an objection, then the Court will request additional input. Following an objection, parties may request to be heard, and the Court may grant or deny that request.

VIII. FINANCIAL ISSUES

In any trial or hearing where financial matters are at issue (e.g., child support, spousal support, attorney's fees, payment of debts, or calculation/payment of arrearages), both parties must

1 comply with OCLR 702. Accordingly, the parties must file and serve current income and expense
2 declarations. "Current" is defined as being completed within the last three (3) months provided that
3 no facts have changed. See CRC 5.260(a)(3) (support) and 5.427(d) (attorney's fees). The following
4 supporting documents must be exchanged between the parties and made available at the hearing:

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

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

15 In addition, if child support or temporary spousal support is at issue, both parties shall provide
16 the Court with competing (or joint where the parties agree) DissoMaster™ calculations (based upon
17 the most recent financial information) supporting their respective positions on the amount of support
18 sought. In those instances where support is not at issue but attorney's fees (or other similar relief) are
19 sought, which in turn requires a consideration of a party's financial capacity or needs, the parties
20 shall nonetheless provide DissoMaster™ calculations to demonstrate the parties' respective
21 disposable net incomes after accounting for support obligations and/or tax consequences. Where
22 retroactivity is sought, and income amounts vary during the retroactivity period in question, separate
23 DissoMaster™ calculations shall be provided for each such timeframe.

24 25 **IX. PROPOSED ORDERS**

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

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

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

15 At the TSC, the Court will confirm that the parties have exchanged their PDDs, as required
16 above, and the Court will assess whether the parties are reasonably ready for trial. If the PDDs have
17 been exchanged and the parties are reasonably ready for trial, then the Court will set a date for a
18 Mandatory Settlement Conference. The Court may set other dates (e.g., Pretrial Conference or Trial
19 Date) if the Court so chooses OR The Court will set no other dates at the TSC.
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21 **b. Mandatory Settlement Conference (“MSC”)**

22 The Court expects full and complete compliance with OCLR 707 and CRC 3.1380. Moreover,
23 the parties shall check in with the Court before leaving for the day. If the MSC cannot occur at the
24 courthouse due to court closure, then the MSC must occur in person, telephonically or through a
25 videoconferencing platform prior to the MSC date and a declaration of completion must be jointly
26 filed with the Court stating that the meeting did occur and all required issues were discussed. *Under*
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1 *no circumstances may a restrained party communicate directly with a protected party under the*
2 *guise of complying with any MSC requirements.*

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

5
6 **c. Final Status Conference ("FSC")**

7 All pretrial motions must be filed and served *prior to the FSC* as follows:

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

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

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

- 15 1. **Joint** Statement of Issues to be Tried, including:
16 a. Identification of issues resolved between the parties with specificity; and
17 b. Identification of each issue left unresolved to be determined and ruled upon at
18 trial/hearing with *detailed* legal and factual specificity in support of each party's
19 position.
20 2. Witness List, including:
21 a. time estimate for direct examination; and
22 b. brief description of anticipated testimony.
23 3. Expert Reports³
24 4. If property is at issue, the parties are to prepare a *jointly* executed SCHEDULE OF
25 PROPERTY "FREDMAN FORM" (FL001 – San Luis Obispo). The Courtroom Clerk
26 will provide you with a copy upon request, if necessary.
27 5. If spousal support is at issue, the parties shall file a **Joint Statement of Family Code §**
28 **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 Position
To 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."
6. Trial Brief, setting forth the arguments and legal authority supporting the parties' position

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

on each of the issues identified for trial in the "Joint Statement of Issues to be Tried."
Trial Briefs shall not exceed twenty-five (25) pages absent leave of Court to file a Trial Brief in excess thereof.

7. **Current** Income and Expense Declarations⁴
8. *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 exchanged at least 45 days prior to the date set for trial and that a Declaration Regarding Service has been filed. 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 a TSC was not held in a matter, the parties must provide the information noted in Section X.c, above (i.e., "Final Status Conference"), no later than 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, the parties, including counsel, are ordered back each day to Dept. L67 at 10:00 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.

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.

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2 **XI. POST TRIAL SPOUSAL SUPPORT RFO**

3 If any request to modify a Post-Trial Spousal Support Judgment is made, the parties shall file a
4 **Joint Statement of Family Code § 4320 Factors**. Each factor (subdivisions (a) through (n) of §
5 4320) shall be listed in a separate row, and the chart shall have the following three columns:

- 6 a. Section 4320 Factor
7 b. Petitioner's Position
8 c. Respondent's Position

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

12
13 **XII. OTHER ISSUES**

14 a. **Court Reporter Fees**

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

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18 b. **Communication with the Court**

19 All appropriate inquiries should be directed to Judge Wersching's Courtroom Clerk at (657) 622-
20 5567. Counsel must not attempt to contact chambers directly. Counsel should list their email
21 addresses and phone numbers on their papers to facilitate communication by the Courtroom Clerk.
22 For assistance with determining the status of a proposed Stipulation and Order, proposed Order
23 and/or proposed Judgment that has been submitted to the Court for signature, counsel may contact the
24 Courtroom Clerk by telephone between the hours of 3:00 PM and 4:00 PM.

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26 c. **Notice of this Order**

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

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

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6 **IT IS SO ORDERED:**

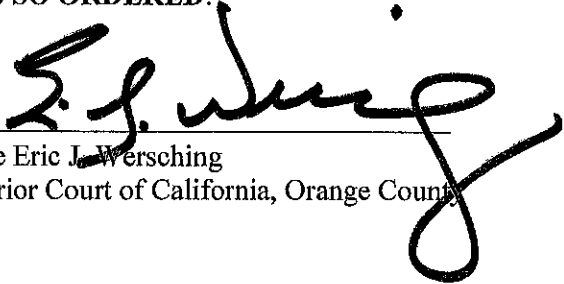
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8 _____
9 Judge Eric J. Wersching
10 Superior Court of California, Orange County
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EXHIBIT NO.☐ ID only (Date)☐ IN EVIDENCE (Date)☐ Plaintiff/People☐ Defendant☐ Joint☐ Petitioner☐ Respondent☐ Court☐ (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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