

Superior Court of California County of Orange

HONORABLE BRADLEY S. ERDOSI

DEPARTMENT C27

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Welcome to Department C27. To help facilitate the efficient progress of your case, please review and follow the Department procedures and guidelines set forth below. The Parties are ordered to comply with these Department procedures, including the attached Conduct in Jury Trials.

CALENDAR INFORMATION

- A. Jury Trials and Court Trials** – Trial Call is on Mondays at 9:00 a.m. Full trial days are held on Tuesday, Wednesday, and Thursday from 9:00 a.m. to 4:15 p.m. *
- B. Status Conferences/Case Management Conferences (“CMCs”) / Order to Show Cause Hearings (“OSCs”)** – Monday at 10:00 a.m.*
- C. Law and Motion** – Monday at 2:00 p.m.**
- D. Ex Partes** - Monday, Tuesday, Wednesday, and Thursday at 1:30 p.m.
- E. Mandatory Settlement Conferences** – Friday at 8:30 a.m.*
- F. Default Prove-Up Hearings** – Friday at 10:30 a.m.*

* In-Person proceeding per Code of Civil Procedure section 367.75 and Orange County Local Rule 375.

** Remote proceeding per Code of Civil Procedure section 367.75 and Orange County Local Rule 375.

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: <https://www.occourts.org/media-relations/aci.html>. The Court's "Appearance Procedures and Information--Civil Unlimited and Complex" ("Appearance Procedures") and "Guidelines for Remote Appearances" ("Guidelines") also available at <https://www.occourts.org/media-relations/aci.html> 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.

Public Access: The courtroom remains open for all non-evidentiary proceedings conducted remotely.

NO FILMING, BROADCASTING, PHOTOGRAPHY, OR ELECTRONIC RECORDING IS PERMITTED OF THE VIDEO SESSION PURSUANT TO CALIFORNIA RULES OF COURT, RULE 1.150, AND ORANGE COUNTY LOCAL RULE 180.

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: These are proceedings at which live, oral testimony is expected, such as trials, small claims appeals, and judgment debtor hearings. Such proceedings 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 in advance.

- B. Court Reporters:** Department C27 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 in accordance with Orange County Bar Association Civility Guidelines, which can be found at https://www.ocbar.org/Portals/0/pdf/docs/civility_guidelines.pdf.
- 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.

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. Any opposition is due by 10:00 a.m. on the date of the ex parte hearing. The Court rules on the majority of ex parte requests in chambers. See Code Civ. Proc. §166(a)(1).

- F. Case Management Conferences (CMC):** Parties must be fully familiar with, and comply with as applicable, CRC 3.720 through 3.734, including but not limited to the requirement that all Parties file a Case Management Statement in compliance with CRC 3.725.

LAW AND MOTION MATTERS

- A. Reserving Hearing Dates:** 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.
- B. Taking Motions Off Calendar:** If the Parties wish to take a motion off calendar, counsel for the moving party must contact the courtroom as soon as possible to avoid the Court and staff working up a motion on which the Parties do not wish to proceed. Moreover, the Court will not allow a motion to be taken off calendar if a tentative ruling has been posted.
- C. Discovery Motions:** Reasonable, good faith, meet-and-confer efforts generally are required before filing any discovery motion. (See Code Civ. Proc., § 2016.040; *Clement v. Alegre* (2009) 177 Cal.App.4th 1277, 1293 [Discovery Act requires moving party to declare it made a serious attempt to obtain an informal resolution of each issue; rule designed to encourage Parties to work out their differences informally to avoid necessity for formal order, which lessens burden on court and reduces unnecessary expenditure of resources by litigants]; *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 402 [central precept of Discovery Act is discovery should be self-executing; discovery intended to operate with a minimum of judicial intervention].)

Accordingly, the Court strongly encourages the Parties to work out their differences informally. The moving and responding Parties are expected to engage in meaningful meet and confer conversations in person, telephonically, or over remote videoconference, not through email, prior to filing any discovery motion.

TRIAL PROCEDURES

- A. Trial Dates:** Trials are called on Mondays at 9:00 a.m. Usual trial days are Tuesday, Wednesday, and Thursday from 9:00 a.m. to 4:15 p.m.

- B. Pre-Trial Procedure / Rule 317:** The Court strictly enforces Orange County Local Rule 317, and any violations may result in continuance of the trial and/or monetary sanctions under Orange County Local Rule 381.

The Trial Notebook described in Orange County Local Rule 317 must be delivered to the courtroom by 12:00 noon on the Wednesday before the trial date. Submission of the Trial Notebook does not eliminate the obligation to also e-file all contents of the Trial Notebook. The Trial Notebook is essentially a courtesy copy the Court will use throughout the trial. The binder(s) containing the Trial Notebook must be no larger than 3 inches, and it is acceptable if more than one binder is used. Also, the Court requests the motions in limine be placed in a binder(s) separate from the other contents of the Trial Notebook. The Parties must e-file a fully executed Statement of Compliance (Form L-0081) and a copy also should be included in the Trial Notebook.

- C. Exhibit List, Exhibits, and Demonstratives:** The Parties are to cooperate in preparing a joint exhibit list and joint exhibit notebooks. The joint exhibit list must be e-filed and included in both the Court's Trial Notebook and each exhibit binder. Two additional copies of the joint exhibit list should be included with the Trial Notebook as described in Orange County Local Rule 317.

The joint exhibit list must include a caption page identifying it, and the list should be in a table format that includes the following columns: (1) "Exhibit Number," (2) "Description," (3) "Stipulation," (4) "Date Identified," and (5) "Date Admitted." All exhibits must be identified by a separate number; do not use letters. The description of each exhibit should include each exhibit's date or state it is undated. The stipulation column should state whether the Parties stipulate to authenticity, foundation, admissibility, or none. The exhibit list should NOT identify any exhibit as a plaintiff or defendant exhibit.

The Parties must appear on the date of trial with two (2) complete sets of the exhibits for the Court (in addition to the copies for the Parties). Each set of exhibits must be in three-ring binders that are no larger than three inches. The outside cover of each binder must include a caption page identifying the binder as an exhibit binder, the volume number of the binder (e.g., Volume 3 of 7), and the specific exhibits included in the binder (e.g., Exhibit Nos. 27-45). The outer spine of the binder also must identify the volume number and the specific exhibits included in the binder. Every binder must include a copy of the exhibit list and every exhibit must be separated with a numbered tab that corresponds to the exhibit list. Moreover, each page of each exhibit must be separately numbered with each exhibit starting with number one. For example, if Exhibit 7 is a three-page exhibit, its pages should be numbered 7-1, 7-2, and 7-3, and the first page of Exhibit 8 would then be 8-1. One set of the exhibits is for the Court, and one set is for the witness stand. The clerk does not need a separate set of exhibits. The first page of every exhibit in the witness copy should have an exhibit tag filled out and stapled to the top right corner. The form of the exhibit tag may be found on the court's website at <https://www.occourts.org/system/files/1529.pdf>.

In a two-party case, Plaintiff shall number its exhibits starting with 1; Defendant shall number its exhibits starting with 200. If 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 in agreeing on a number range for each party. No two Parties are to use the same number, and duplicate exhibits are to be avoided.

Each exhibit should be moved into evidence as soon as admissibility has been established; DO NOT wait until the end of a witness's testimony or the end of a party's case to move exhibits into evidence. **No exhibit shall be published to the jury prior to being admitted and without court approval.**

The Parties are expected to have already attempted to stipulate to the admissibility and/or foundation for all exhibits with those agreements reflected on the joint exhibit list.

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 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. The parties are required to comply with CRC 2.1040.

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.

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, counter-designations, and objections to the other side's designations, the transcript shall be submitted to the Court prior to commencement of trial. At that time, the parties also shall e-file a joint notice in table format that identifies each designated portion of testimony by page and line number, and any objections to each designated portion of testimony.

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. The joint witness list must include a caption page identifying it, and the list should be in a table format that includes the following columns: (1) a number for each witness, (2) "Witness," (3) "Title and/or Role in Case," (4) "Direct Examination Time Estimate," (5) "Cross Examination Time Estimate," and (6) "Total Time Estimate." Each time estimate column should include a total time estimate at the bottom so the list provides a total of all direct examination time estimates, a total of all cross-examination time estimates, and a total of all time estimates.

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, and to advise the Court at the earliest opportunity of any anticipated problems with the presence of witnesses.

The Parties shall advise their witnesses of the appropriate manner of testifying and the impact of the Court's rulings, if any, on the witnesses' testimony.

- 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 in the presence of the jury. Any stipulation to be read or submitted to the jury must be reduced to writing and e-filed with the Court to make it part of the court file. 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.

- G. Procedural Stipulations:** Counsel must review the proposed procedural stipulations attached hereto and discuss them during the Orange County Local Rule 317 Issue Conference. The Court will inquire of counsel during the pretrial conference regarding the stipulations to which they agree. The form should be completed, signed, and filed with the Court.

- H. Jury Instructions and Verdict Forms:** All proposed jury instructions and verdict forms must be submitted to the clerk as part of the Trial Notebook by noon on the Wednesday before trial per OCLR 317.

Prior to the commencement of trial, the Parties shall also provide the Court with a separately indexed joint compendium identifying all agreed upon and contested instructions or verdict forms, with all instructions attached and organized by proponent and competing verdict forms appended collectively (e.g., attachment A consists of jointly requested instructions, attachment B consists of instructions requested by Plaintiff but disputed by Defendant, attachment C consists of instructions requested by Defendant but disputed by Plaintiff, attachment D consists of the Parties' competing verdict forms).

- I. Judgments:** After the verdict is read and the jury discharged, the prevailing Party shall prepare a Proposed Judgment, which must include the exact wording of the verdict. Code of Civil Procedure 664 states that the judgment must be entered within 24 hours, with certain exceptions. Unless a Party objects or the Court orders otherwise, the Court will grant an extension of that time to file the Proposed Judgment. The Proposed Judgment must be e-filed, served on the opposing Party, and lodged with the Court in Department C27 within seven (7) calendar days of the reading of the verdict. The Court will hold the Proposed Judgment for three (3) court days to allow for objections to be filed.

CONDUCT IN JURY TRIALS
The Honorable Bradley S. Erdosi
Department C27

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 on the scheduled trial date, 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 in which 21 prospective jurors are initially questioned. 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 12 prospective jurors “in the box.” Any additional voir dire is directed only toward “new” prospective jurors who fill seats of those previously excused. The number of alternates selected will be based on the estimated length of trial.

PROCEDURAL STIPULATIONS

Case Number: _____

Case Name: _____

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

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

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.

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.

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

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.

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.

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.

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

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.

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

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

Please initial boxes
Counsel for Plaintiff Counsel for Defendant

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X _____
Counsel for Plaintiff

X _____
Counsel for Defendant

Date

Date