

**FREQUENTLY ASKED QUESTIONS
PERSONAL INJURY COURTS (DEPTS. 91, 92, 93, 97 & 98)**

TO UNDERSTAND PROCEDURES IN THE PERSONAL INJURY (PI) COURTS, PLEASE CAREFULLY REVIEW THE LOS ANGELES SUPERIOR COURT'S (LASC'S OR COURT'S) AMENDED GENERAL ORDERS AVAILABLE ON THE COURT'S WEBSITE (www.lacourt.org; PI Courts link)

The Court provides the following answers to frequently asked questions.

ASSIGNMENT OF CASES TO PI COURTS:

1. How is a case assigned to the PI Courts? The Court relies on information provided in the Civil Case Cover Sheet Addendum (Form LACIV 109) that plaintiffs prepare and file with the initial complaint.

The Court defines personal injury as:

“an unlimited civil case described on the Civil Case Cover Sheet Addendum and Statement of Location (LACIV 109) as Motor Vehicle-Personal Injury/Property Damage/Wrongful Death; Personal Injury/Property Damage/Wrongful Death-Uninsured Motorist; Product Liability (other than asbestos or toxic/environmental); Medical Malpractice-Physicians & Surgeons; Other Professional Health Care Malpractice; Premises Liability; Intentional Bodily Injury/Property Damage/Wrongful Death; or Other Personal Injury/Property Damage/Wrongful Death. An action for intentional infliction of emotional distress, defamation, civil rights/discrimination, or malpractice (other than medical malpractice), is not included in this definition. An action for injury to real property is not included in this definition.”

Los Angeles County Court Rules, rule 2.3(a)(1)(A).

Accordingly, the court will assign cases to the PI Courts if any of the following boxes on the Civil Case Cover Sheet Addendum are checked:

A7100 Motor Vehicle – Personal Injury/Property Damage/Wrongful Death
A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist
A7260 Product Liability (not asbestos or toxic/environmental)
A7210 Medical Malpractice – Physicians & Surgeons
A7240 Medical Malpractice – Other Professional Health Care Malpractice
A7250 Premises Liability (e.g., slip and fall)
A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)
A7220 Other Personal Injury/Property Damage/Wrongful Death

Matters described elsewhere on the Civil Case Cover Sheet Addendum (any boxes on pages two and three) are not properly assigned to the PI Courts.

2. Can the Court, on its own or at the request of a party, transfer a case from a PI Court to an Independent Calendar (IC) Court for all purposes? Yes. Using the Motion to Transfer Complicated Personal Injury Case to Independent Calendar (IC) Court, (Form LACIV 238 available online, PI Courts link) any party may move to transfer a case from a PI Court to an IC Court. The PI Courts will transfer a matter to an IC Court if the case is not a “Personal Injury” case as defined in the Seventh Amended General Order re Personal Injury Court (“PI Court”) Procedures, or if it is deemed “complicated.” In determining whether a PI case is more “complicated” than the PI Courts can manage, the PI Courts will consider, among other things, whether the case involves numerous parties, cross-complaints, and/or numerous anticipated pretrial motions and hearings.

3. When is a case too “complicated” for the PI Courts? The five PI Courts (Departments 91, 92, 93, 97 and 98) are managing all pretrial matters for more than 30,000 cases with the expectation that cases involving motor vehicle PI accidents, premises liability “slips and falls,” and medical malpractice do not generate more than a few pretrial motions, hearings, or other court proceedings. Although the Trial Courts presently handling PI trials are prepared to conduct long and complex trials, the PI Courts are not equipped to handle extensive pretrial proceedings. For example, a PI case that involves numerous causes of action, multiple parties, one or more cross-complaints, several discovery disputes and issues of first impression will require more pretrial court resources than the PI Courts can offer. At the direction of Department One, the PI Courts transfer such cases to Independent Calendar (IC) Courts because the IC Courts have greater capacity to manage such cases. The PI Courts routinely transfer elder abuse cases and landlord/tenant habitability cases to the IC Courts on that basis.

4. If the PI Courts transfer a case to an Independent Calendar (IC) Court, where will the case be reassigned? At the direction of Department One, the PI Courts will return cases filed before March 18, 2013, to the IC Court assigned to the case before it was transferred to the PI Courts. If the judge presiding in the previous IC Court is no longer available, the case will be assigned to another IC Court in the same District. The Court will likewise reassign a case filed on or after March 18, 2013, to an IC Court in the District where the injury or damage occurred.

TRIALS:

5. What time are trials set in the PI Courts? 8:30 a.m., Monday through Friday.

6. Where should witnesses appear? Counsel should subpoena witnesses to appear in the PI Court. If the PI Court judge deems the case trial-ready, the PI Court will order the parties/counsel/witnesses to report to the Master Calendar Court in Department One. Department One will assign the case out for trial to a Court assigned to conduct the trial and will order all parties/counsel/witnesses to appear to that trial court.

7. What is a trial-ready case? The PI Courts will deem a case ready for trial when all parties have filed and/or are ready to lodge trial documents and exhibits as directed in the Fourth Amended General Order – Final Status Conference, Personal Injury (“PI”) Courts (e.g., binders containing trial documents, brief statements of the case, joint witness lists, joint exhibit lists, joint

instructions, special verdict forms and exhibit binders.) The PI Courts generally will not deem a case ready for trial unless all parties announce that they are ready to proceed with trial continuously from day to day until completed and provide a good faith estimate of the length of trial.

8. Are the PI Courts conducting Mandatory Settlement Conferences? Yes. Parties in cases assigned to Departments 91, 97, and 98 at the Stanley Mosk Courthouse may be ordered to participate in the Mandatory Settlement Conference Pilot Program for Personal Injury Cases supervised by the PI Court judges and staffed by volunteer settlement attorneys from the American Board of Trial Advocates (ABOTA), the Association of Southern California Defense Counsel (ASCDC) and the Consumer Attorneys Association of Los Angeles (CAALA). In addition to the Mandatory Settlement Conference Pilot Program, Mandatory Settlement Conferences may be held in all PI Courts at the discretion of the PI Court judge.

9. How does Department One assign out cases for trial? For purposes of motions to disqualify judges under Code of Civil Procedure Section (“C.C.P. §”) 170.6, Department One operates as a Master Calendar Court. Department One makes trial assignments based on three factors: (1) which trial courts are open for trial ; (2) where the accident or injury occurred (sending the case closer to that location if possible); and (3) the even distribution of work among the trial courts. Department One announces the identity of the judge and the location of the court where it will transfer a case twenty minutes before the transfer takes effect. This procedure gives the parties and counsel 20 minutes to determine whether to file a written motion to disqualify the trial judge under C.C.P. § 170.6. Written forms for § 170.6 motions are available in Department One. Under C.C.P. § 170.6, any motion to disqualify a judge after Department One transfers the case to a trial court is untimely.

10. Is there any way to anticipate which trial judge might be assigned to hear my case?
No.

11. Are general jurisdiction PI trials commencing on the trial date? Department One generally assigns every PI case out for trial on the same day, or within one week. In many cases, the trial court hears motions *in limine* and attends to other pretrial matters on the trial date and calls in a jury panel to commence jury selection that day or the following morning depending on a number of factors, including the number of jurors available for service that day.

12. What if all trial courts are unavailable? In the event that all Trial Courts are engaged in other trials or otherwise unavailable within one week of the trial date, Department One will transfer the case back to the PI Court to obtain a continued trial date.

13. Who hears motions *in limine*? In general, the trial court judge hears *in limine* motions.

14. How can I continue the trial date? Parties may submit a maximum of two stipulations to continue trial for a total/combined continuance of 6 months. The parties should file a [Proposed Order] and Stipulation to Continue Trial, FSC [and Related Motion/Discovery Dates] Personal Injury Courts Only (form LACIV 242 available online - PI Court link) (fee required). As long as all

parties agree to continue or advance a trial date for a total of six months or less, they do not need to show good cause or articulate any reason or justification for continuing or advancing a trial date. The Court encourages and expects the parties to meet and confer and to stipulate, rather than litigate, reasonable requests for continuance of trial dates.

Subsequent requests to continue trial will generally be granted upon a showing of good cause. Counsel are strongly reminded to manage pre-trial litigation and trial preparation to meet all pre-trial discovery and motion deadlines. The PI Courts generally do not regard the continuance of a trial as an emergency justifying ex parte relief.

15. What if I cannot reserve a motion hearing date more than 30 days before the scheduled trial date? If the Court Reservation System (CRS) indicates that a PI Court's earliest available motion dates are untimely (i.e., within 30 days of trial or after the trial date), the moving party should reserve the earliest available hearing date, and the moving party should file a noticed motion to continue trial.

Do not file an ex parte application for an order shortening time to hear the motion before the trial date unless there is a showing of irreparable harm or danger or other statutory basis for granting ex parte relief.

FINAL STATUS CONFERENCES (FSCs):

16. What time are FSC's in PI Courts? 10 a.m., Monday through Friday.

17. How far in advance of trial do the PI Courts calendar FSC's? The PI Courts calendar FSC's eight court days before the trial date. These dates are assigned upon filing of the complaint.

18. Are there any particular requirements for a PI Court FSC? Yes. They are outlined in the Fourth Amended General Order - Final Status Conference, Personal Injury ("PI") Courts.

19. How do I get a copy of the Fourth Amended General Order - Final Status Conference, PI Courts? Counsel may view the Fourth Amended General Order – Final Status Conference, Personal Injury ("PI") Courts on the Court's website in the General Jurisdiction PI Court section of the Civil tab, or obtain a hard copy in any of the five PI Courts. Upon the initial filing of the complaint, plaintiff(s) must serve the Seventh Amended General Order Re Personal Injury Court ("PI Court") Procedures and the Fourth Amended General Order - Final Status Conference, PI Courts.

20. Do I need to bring all of my exhibits and trial readiness documents to the FSC? If the parties have a joint signed exhibit list and electronic copies of their respective exhibits, then the parties are not required to produce exhibit binders at the FSC. However, the exhibit binders may be required by the assigned trial judge when the trial commences. In the absence of either a joint signed exhibit list or electronic copies, exhibit binders will be required of all parties at the FSC. All other trial ready documents must be brought to the FSC.

21. What if the other side fails or refuses to cooperate in preparing the FSC documents? Each party has an independent duty to comply with the FSC Order. The Court has discretion to impose sanctions for any unexcused failure to comply, ranging from monetary sanctions to exclusion of evidence, issue preclusion, denial of a claim or defense, dismissal, and/or default.

EX PARTE APPLICATIONS:

22. Are there any special rules regarding Ex Parte Applications in PI Courts? No. Under the California Rules of Court (C.R.C.), the PI Courts may only grant ex parte relief upon a showing, by admissible evidence, that the moving party will suffer “irreparable harm,” “immediate danger,” or where the moving party identifies “a statutory basis for granting relief ex parte.” C.R.C. Rule 3.1202(c). You must comply with C.R.C. Rule 3.1200, et seq., and Los Angeles County Court Rule (“Local Rule”) 3.5.

23. When do the PI Courts hear ex parte applications? You must file your ex parte application by 8:30 a.m., Monday through Friday, at the filing window, Room 102 and appear in the courtroom no later than 8:45 a.m. The PI Courts will deny or continue late-filed ex parte applications.

24. Should I come in ex parte to get a timely hearing date on a pretrial motion? In most circumstances, no. See FAQ #15 and FAQ #22 above.

NOTICED MOTIONS:

25. When do the PI Courts hear noticed motions? Except for motions to compel further discovery (which are heard at 10:00 a.m.), the PI Courts hear and decide motions at 1:30 p.m., Monday through Friday. **NOTE: TABBED COURTESY COPIES OF ALL OPPOSITIONS AND REPLIES MUST BE DELIVERED TO THE COURTROOM UPON FILING OF THE ORIGINAL DOCUMENT.**

Parties are to engage in an Informal Discovery Conference (IDC) with a PI Court judge before the Court hears a motion to compel further discovery. Please read FAQ #29 and FAQ #30 for additional information on IDC’s.

26. What if I reserved a hearing date for a motion that I no longer wish to pursue? As soon as a moving party realizes that it will not require a hearing on a reserved motion date in the PI Courts, that party must immediately use CRS to cancel the reservation. This procedure is imperative because other parties are actively searching CRS for available hearing dates. Please note, the filing fee paid at the time of reservation is non-refundable. Counsel/parties must also notify courtroom staff at the appropriate email address to take matters off calendar:

Department 91 at SMCDEPT91@lacourt.org
Department 92 at SMCDEPT92@lacourt.org
Department 93 at SMCDEPT93@lacourt.org
Department 97 at SMCDEPT97@lacourt.org
Department 98 at SMCDEPT98@lacourt.org

27. How do I get a hearing date for my motion? The parties use CRS (online at www.lacourt.org) to reserve a motion hearing date. After reserving a hearing date, the reservation requestor must submit the papers for filing with the reservation receipt number printed on the face page of the document under the caption and attach the CRS reservation receipt as the last page. If you are unable to utilize the online reservation system, you may reserve a motion hearing date by telephoning the PI Court courtroom between 3:00 p.m. and 4:00 p.m., Monday through Friday. To reserve an Informal Discovery Conference (IDC), please see FAQ #30.

28. Do the PI Courts post tentative rulings on motions? Time permitting, the PI judges post tentative rulings on the Court's website (www.lacourt.org, Civil - Tentative Rulings link). Instructions for communicating with court staff regarding tentative rulings, including instructions for submitting to the tentative rulings, are located on the Tentative Rulings screen on the court website. All tentatives posted on the website are also available for review in the courtroom on the day of hearing.

29. What is an Informal Discovery Conference (IDC)? An IDC is an informal, in-person, 30-minute meeting among counsel and the judge. On a daily basis, the PI Court judges are available to conduct IDC's by meeting in person with lead trial counsel on each side (or another attorney who has full authority to make binding agreements in discovery disputes.) The purpose of the IDC is to help the parties resolve discovery disputes by agreement rather than motion practice. To that end, the IDC judge may cite the parties to applicable code sections or other legal authorities. The judge may also promote compromise by suggesting agreements to narrow the scope of the requests, provide amended responses that better explain the responding party's compliance, or use an alternative, more efficient means of discovery. The PI Court judges will not make rulings in an IDC. The PI Court judges find that, most often, the parties amicably resolve their discovery disputes at, or as a result of, the IDC. The PI Court judges also find that subsequent discovery disputes among the participants are rare. The PI Courts may consider a party's failure or refusal to participate in an IDC in deciding whether to award sanctions requested on a motion to compel further responses to discovery.

30. How do I reserve a date for an IDC? Parties use CRS to reserve an IDC date (online at www.lacourt.org). Parties are to meet and confer regarding the available dates in CRS prior to accessing the system. After reserving the IDC date, the reservation requestor must file in the appropriate department and serve an Informal Discovery Conference Form for Personal Injury Courts, form LACIV 239 (the "IDC" Form"), at least 15 court days prior to the conference and attach the CRS reservation receipt as the last page. The opposing party may file and serve a responsive IDC Form, briefly setting forth that party's response, at least 10 court days prior to the IDC.

31. What if I have to file a motion to compel further discovery? The PI Courts will not hear motions to compel further discovery unless and until (a) the parties participate in an IDC; or (b) the moving party submits evidence, by way of declaration, that the opposing party has failed or refused to participate in an IDC. To allow time for an IDC at least 16 court days before the motion

hearing, parties must reserve a hearing on any motion to compel further discovery at 10:00 a.m., on a date at least 60 days after the date when the reservation is made. Parties must reserve an IDC with the same judge who is scheduled to hear any noticed motion. Likewise, a party who participates in an IDC regarding certain discovery requests, and then files a motion to compel further responses to the same discovery requests, must calendar the motion for a hearing before the same judge who conducted the IDC. After participating in an IDC, a moving party may advance the hearing on a motion to compel further discovery to 10:00 a.m., on any available hearing date that complies with the notice requirements of the Code of Civil Procedure.

SETTLEMENTS:

32. What should I do if a case settles? Please immediately file a Notice of Settlement in the PI Courts as required in California Rules of Court, Rule 3.1385. Please use CRS to take any pending motions off-calendar as soon as possible.

33. How can I obtain prompt approval of a minor's compromise?

a. If the settlement amount does not exceed \$50,000, file a Petition for Expedited Approval using Judicial Council Form MC350EX (Expedited Petition to Approve Compromise etc.). The Petition must be supported by a declaration from counsel that meets the requirements of California Rules of Court, Rule 7.955. The Petitions for Expedited Approval do not require a hearing. The PI Courts will endeavor to promptly approve or reject Expedited Petitions.

b. Parties may submit a written stipulation for Approval of a Compromise on Behalf of a Minor and/or a Person with a Disability, so long as the stipulation and petition include the following:

- (1) An agreement by all parties, including the petitioner, approving the Compromise and agreeing to proceed by way of stipulation rather than a hearing;
- (2) An articulation of good cause for not requiring a personal appearance by the person compromising the claim on behalf of the minor or person with a disability, and the minor or the person with a disability;
- (3) Affirmation in the stipulation and signed by the petitioner that the petitioner believes that the compromise is fair and reasonable;
- (4) An Attorney Declaration that complies with California Rules of Court, Rule 7.955;
- (5) An order prescribing the blocked account, if applicable; and
- (6) All other required documents (e.g. medical records, proof of service, draft Special Needs Trust).

When a stipulation and petition meet these requirements, the Court may sign an order approving the compromise by way of stipulation, but retains the authority to calendar the matter and hold a hearing.

c. Parties who elect to proceed by way of a noticed motion are required to use CRS to reserve a hearing date. If the compromise includes the creation of a special needs trust, one must reserve a hearing for “Petition for Compromise of Minors Claims with Special Needs Trust” and file the trust documents as an attachment to the Petition.

d. Do not file an ex parte application to obtain approval of a minor’s compromise unless there is possibility of danger to the minor or impending irreparable harm. See FAQ #22 above. The PI Courts do not regard the possibility of incurring additional attorneys’ fees as “irreparable harm.” Instead of filing an ex parte application, please reserve a date for a regularly noticed motion for approval of minor’s compromise using CRS.

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