

DEPARTMENT 34

Judge: Michael Paul Linfield
Judicial Assistant: Reyna Navarro
Courtroom Assistant: Vanessa Galindo

Telephone: (213) 633-0154
Email: SMCdept34@lacourt.org

I. JUSTICE AND JUDGING

- A. “The basic purpose of a trial is the determination of truth . . .” (*Tehan v. United States* (1966) 382 U.S. 406, 416; *Allen v. Superior Court of Alameda County* (1976) 18 Cal.3d 520, 532.) A judge is “charged with ascertaining the truth, not just playing the referee.” (*Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, 1285.)
- B. “As members of the legal profession sworn to uphold our fundamental constitutional values, we will not and must not rest until the promise of equal justice under law is, for all our people, a living truth.” (California Supreme Court, Statement on Equality and Inclusion, June 11, 2020, available at <https://newsroom.courts.ca.gov/news/supreme-court-of-california-issues-statement-on-equality-and-inclusion>.)
- C. The purpose of these orders is to ensure that substantive justice is fairly, fully and expeditiously achieved.
- D. The Court will actively work with counsel in any and all efforts to promote justice, efficiency and the cooperative resolution of disputes. The Court is amenable to informally mediating demurrers, discovery disputes and other law and motion matters. Please feel free to set up a conference call with all counsel and the Court to discuss matters that will aid in this effort.

II. COURT HOURS and GENERAL RULES

- A. The Court opens its doors at 8:15 a.m.; the Court begins its morning calendar promptly at 8:30 a.m.
- B. When you check in for the law and motion calendar, please inform the Court Attendant of your name, the party you represent, and the number of your case on the morning's calendar.
- C. L.A. Court Connect is available for telephonic appearances and may be used as provided for by CRC 3.670.
 - 1. When appearing remotely, the Court would appreciate all counsel to be seen as well as heard.
- D. Even when appearing remotely, it is expected that counsel will follow the typical rules and procedures related to court appearances in order to maintain the decorum of the Court. This includes rules related to attire and the consumption of food and drink during the proceedings. Counsel shall use their best efforts to eliminate all visual and auditory distractions when appearing remotely.
- E. Ex parte applications are heard Monday through Friday at 8:30 a.m.
- F. Courtroom Demeanor
 - 1. The Court expects counsel to be courteous and professional at all times – not only to opposing counsel, but to all parties, witnesses and court staff. All counsel are required to use proper courtroom decorum and to instruct their clients and witnesses to observe proper courtroom decorum. Please address all persons – including parties, witnesses and counsel – by last name and title, if any.

III. CASE MANAGEMENT CONFERENCE

- A. At least 15 days prior to the Case Management Conference, the parties must meet and confer to discuss the issues identified in California Rules of Court, Rules 3.724 and 3.727.
- B. The Court reminds the parties that CRC Rules 2.724 and 3.727 are relatively detailed, and more than a pro-forma meeting is required to comply with these Rules.
- C. The Court will normally set the trial date – and indicate the number of days the trial will last – at the CMC. Counsel should consider the trial date and time estimate to be firm. (See CRC Rule 3.1332 and ¶ XIII below.)

IV. PARTICIPATION BY ATTORNEYS FROM UNDERREPRESENTED GROUPS

- A. The Court strongly encourages parties to permit less experienced lawyers, in particular attorneys from traditionally excluded groups, to actively participate in proceedings by presenting argument at motion hearings or examining witnesses at trial. The Court is amenable to permitting more than one lawyer to argue for one party if this creates an opportunity for such attorneys to participate.

V. INFORMAL DISCOVERY CONFERENCES

- A. Many discovery disputes are amenable to informal resolution, thereby obviating the time and expense of a formal motion to compel. In such cases, the Court will make every effort to be available for conference calls, video calls, or in-chambers meetings with all counsel.
 - 1. If there are many discovery requests at issue, please prepare a joint statement setting out each request and the parties' separate positions with respect to each request.
 - 2. This joint statement must be no longer than 4 pages in length.
- B. Please call the Court to schedule a date and time for such an informal mediation.
- C. Counsel for all parties must be notified of any Informal Discovery Conference.
- D. The Court strongly encourages the parties to schedule an informal resolution of discovery disputes prior to the filing of a motion to compel.

VI. SCHEDULING OF LAW AND MOTION HEARINGS

- A. You may schedule a motion – be it a demurrer, discovery motion, motion for summary judgment, etc. – for any day you wish. The Court generally does not limit the number of motions that may be heard on any given day. Therefore, as long as you give the statutorily-required notice, you may schedule your motion as expeditiously as you wish.

VII. MOTIONS TO COMPEL DISCOVERY

- A. A party wishing to file *e.g.*, a Motion to Compel Further Responses to Demands for Production of Documents, Special Interrogatories and Form Interrogatories must file three (3) separate motions – one for each form of discovery.
- B. If there are numerous or particularly complicated motions to compel further discovery, the Court will order counsel to attend an Informal Discovery Conference prior to ruling on the motion(s). The moving party is strongly encouraged to arrange for an Informal Discovery Conference prior to the date for the scheduled hearing on the motions.

VIII. SPECIAL RULES FOR LEMON LAW CASES

- A. Counsel (or self-represented parties) must attend an informal discovery conference (see *supra*, ¶ V) before any discovery motion will be heard in a Lemon Law case.
- B. The Court urges counsel to stipulate to extend the 45-day timeframe in which to file a Motion to Compel. It is the Court's general practice "to toll the deadline for filing a discovery motion" in order to allow for an Informal Discovery Conference to be held.

IX. DEMURRERS

- A. Many special demurrers – even if successful – will not resolve, or even significantly alter, the course of the litigation. This is especially true when demurring on the grounds of uncertainty, failure to allege whether the contract is oral or written, or defects in, or misjoinder of, parties.
- B. The parties are required to meet and confer as required by Code Civ. Proc., § 430.41(a) prior to filing demurrers and are encouraged to correct any such defects through a stipulated amended pleading or amendment to the complaint.
- C. The Court will make every effort to be available for conference calls or in-chambers meetings with all counsel to aid in any such effort at informal resolution of these issues. You may call the Court to schedule a date and time for such an informal resolution prior to the filing of the special demurrer.

X. PERFUNCTORY MOTIONS

- A. Before filing a motion to amend a pleading or any other motion that the court has little discretion to deny, please ask opposing counsel to stipulate to the relief sought. The court will ordinarily enter orders based on stipulations in such matters.

XI. SUMMARY JUDGMENT AND ANTI-SLAPP MOTIONS

- A. On motions for which there are numerous exhibits and/or citations to case authorities (e.g., motions for summary judgment and anti-SLAPP motions) the court would appreciate a courtesy copy of the pleadings and exhibits on a flash drive. The flash drive should have the relevant pleadings, with the case authority and exhibits hyper-linked to the references within the pleading itself. Thus, in the memorandum of points and authorities, the case citation should be hyperlinked to the case itself (as is currently done on LEXIS or WESTLAW). Similarly, if the party is citing to a specific exhibit in a Statement of Undisputed Facts or MPA, the citation should be hyperlinked, so the Court can click on the hyperlink and the relevant page and line of the exhibit will be immediately accessible.

The courtesy flash drive should not be filed (since the underlying pleading and exhibits have already been filed). The flash drive should be delivered to Dept. 34 (and, of course, served on opposing counsel) when the pleadings are filed. (See also, CRC Rule 3.1350(i).)

XII. POSTING OF TENTATIVE DECISIONS

- A. The court posts its tentative decisions on-line at LACourt.org at least 48 hours prior to the scheduled hearing; tentative decisions are also available in the courtroom on the day of the hearing. The Court expects all counsel to have read the tentative prior to the hearing. Please inform the court in advance of the hearing should you wish to submit on the tentative.

XIII. CONTINUANCES OF TRIAL

- A. “To ensure the prompt disposition of civil cases, the dates assigned for a trial are firm. All parties and their counsel must regard the date set for trial as certain.” (CRC Rule 3.1332(a).)
 - 1. Since “continuances of trial are disfavored,” the mere fact that counsel have stipulated to continue the trial is not sufficient for the court to grant such a continuance. Rather, the Court will consider all of the factors in CRC Rule 3.1332(c) before determining whether a continuance will be granted.

XIV. MOTIONS FOR ATTORNEYS’ FEES

- A. On any complicated motion for attorney's fees – e.g., for attorneys’ fees after an anti-SLAPP motion or for attorney's fees after trial – the Court would appreciate receiving the actual billing records maintained by counsel.
 - 1. These billing records may be redacted so as not to disclose attorney-client communications.
- B. Please summarize, either in your declaration or at the end of the billing records, the amount of time (in hours and tenths of an hour) spent by each attorney on the motion or case.

XV. FINAL STATUS CONFERENCE

- A. **MEET AND CONFER**
 - 1. Prior to the Final Status Conference, counsel are ordered to meet and confer via a safe remote procedure to exchange, discuss, and prepare for submission to the court, all necessary documents indicated below. (See LASC Local Rule 3.25.) Counsel shall also attempt to reach stipulations with regard to ultimate facts and issues, and the foundation and admissibility of exhibits.
- B. **FILING AND SERVICE OF FSC DOCUMENTS.**
 - 1. Please serve and file all documents at least five (5) days prior to the FSC. (LASC Local Rule 3.25.)
- C. **TRIAL BRIEFS**
 - 1. It is helpful to the Court if trial briefs are filed in every case, even though they are not required. The trial briefs should contain:
 - a) A brief description of the claims and defenses subject to litigation;
 - b) A list of major legal issues anticipated with supporting points and authorities;

- c) A brief statement of the relief claimed, and calculations of damages sought; and
- d) Any other information which counsel believes may assist the court in ruling upon trial objections or matters that may arise in trial.

D. MOTIONS IN LIMINE

- 1. Prior to filing Motions in Limine, please familiarize yourself LASC Local Rule 3.57 and *Kelly v. New West Federal Savings* (1996) 49 Cal.App.4th 659, 670-671.
- 2. If at all possible, the Court will rule on the Motions in Limine prior to the start of trial. Proposed orders are not required.
- 3. If any party files more than one Motion in Limine, each must be numbered consecutively.
- 4. When there are more than five Motions in Limine, the court prefers courtesy copies to be submitted in a tabbed 3-ring binder, with each Motion in Limine and its opposition grouped together under the appropriate tab number.
- 5. Replies to Oppositions to Motions in Limine are not needed

E. JOINT WITNESS LIST

- 1. The parties are ordered to meet and confer and file a *joint* witness list prior to trial. Please indicate which party is calling each witness, the expected time on both direct and cross-examination, any potential scheduling problems, and any special requirements.

F. JOINT EXHIBIT LIST

- 1. The parties are ordered to meet and confer and file a *joint* exhibit list.
- 2. Counsel are to agree on a block of numbers to be allocated to each party for exhibits. (See LASC Local Rule 3.53.) The exhibit list shall include the exhibit number and a brief description of the exhibit.
- 3. Counsel are ordered to meet and confer and, if at all possible, to:
 - a) stipulate to the authenticity and foundation of exhibits; and
 - b) stipulate to the admissibility of as many exhibits as possible.
- 4. The Court has found that, by pre-admitting the exhibits, we avoid the repetition and ennui usually associated with authenticating and admitting exhibits in the presence of the jury.
- 5. Please indicate on your joint exhibit list which exhibits have been pre-admitted.

G. EXHIBITS AND EXHIBIT BOOKS

1. Remember: the jurors are trying your case. Keep them informed and engaged. If an exhibit is important enough to enter into evidence, it is important enough for the jurors to see. All jurors should be able to see an exhibit that has been admitted into evidence at the same time that the witness is being questioned about the exhibit.
 - a) This can be done by projecting the exhibit onto a screen, having iPads or other personal display panels for each juror and/or by preparing an exhibit book for each juror.
2. Five complete sets of all exhibits are required: one for the Court, one for our Judicial Assistant, one for the Witness, one for Plaintiff's counsel and one for Defendant's counsel.
3. In addition, the Court highly recommends that you prepare an exhibit notebook of the "most important" exhibits for each juror.
 - a) Each exhibit should be tabbed using the numbers on your Exhibit List.
 - (1) You will need 14 such exhibit books, one for each of the 14 jurors and/or alternates;
 - b) As long as the exhibit has been pre-admitted, it can be included in the jurors' notebook.
 - c) The jurors' exhibit notebook should be no larger than 3".
 - d) The jurors' exhibit notebook will be distributed at the beginning of trial

H. JOINT JURY INSTRUCTIONS

1. The parties are ordered to meet and confer and file a *joint* compendium of proposed jury instructions.
2. Please use the L.A. County format for jury instructions. It is helpful if you can print the final copy of the jury instructions on perforated paper.
3. Please divide your jury instructions into four sections:
 - a) Those jury instructions that are agreed upon by both parties.
 - b) Those jury instructions that Plaintiff believes should be given but that are opposed by Defendant;
 - c) Those jury instructions that Defendant believes should be given but are opposed by Plaintiff;
 - d) Those jury instructions that both parties believe should be given, but over which the wording is in dispute.
 - (1) For these last disputed instructions, please highlight the disputed verbiage.
4. Please be aware of LASC Local Rule 3.170:
 - a) "Before delivery of proposed CACI or other instructions to the trial judge and opposing counsel, counsel shall fill in all blanks, make all strike-outs, insertions and modifications

therein which are appropriate to the case. Submission of a form which requires additions or modifications to constitute a complete and intelligible instruction shall not be deemed a request for such instruction.”

I. VERDICT FORMS

1. The parties are ordered to meet and confer and file any proposed general or special verdicts.
 - a) Although special verdicts seem to be the norm these days, the Court has found that a general verdict form is often simpler and easier for the jurors to use. Please consider whether a general verdict form would be appropriate in your case.
2. If the parties cannot agree on the verdict form(s), each party is to present their proposed verdict form.
3. The parties are ordered to download a copy of their proposed verdict form(s) onto a flash drive in Word format and to have the flash drive in their possession during the trial.

XVI. TRIAL CONDUCT

- A. Counsel need not stand to make objections
- B. Please do not make speaking objections. Simply state “I object, your Honor.” and the grounds (relevance, hearsay, asked-and-answered, etc.) for your objection.
- C. Side-bars are discouraged
- D. There is a rostrum in the courtroom. The use of the rostrum is optional.
- E. The Court allows jurors to ask questions in writing. Any question from a juror will be shared with all counsel.
- F. Please familiarize yourself with LASC Local Rules 3.92 - 3.183 and conduct yourself in accordance with these Rules.

MICHAEL PAUL LINFIELD
Judge of the Superior Court

03/06/24