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Courtroom Information for Department 50

TO REDUCE THE RISK OF EXPOSURE TO THE CORONAVIRUS, YOU ARE STRONGLY ENCOURAGED TO APPEAR BY TELEPHONE OR VIDEO (WHEN AVAILABLE) FOR COURT APPEARANCES

1. Ex Parte Applications

Notice must be given via telephone, in person, electronically if permitted by the CCP or CRC, by other agreed-upon methods evidenced in writing, or, if time permits, with five days of mail time. A party is deemed to have waived any objection to email, text or facsimile notice if no objection is raised in the opposition to the application. If the party does not attend the ex parte hearing, no waiver is implied. The declarations regarding notice must contain all the information listed in CRC 3.1204(b).

Ex parte applications are heard on Monday through Friday at 8:30 a.m.

Please prepare written oppositions. There rarely is a court reporter, so the Court needs to have parties make a written record of their opposition; additionally, the written opposition is very helpful to the Court in understanding why you are opposing the ex parte application. The Court generally reviews ex parte matters in chambers, but the Court may ask to hear from the parties if the Court needs clarification or further information.

2. Initial Case Management Conference (“CMC”)

At the initial CMC, the Court will set the trial date, the Final Status Conference (“FSC”) date (typically, 8 court days before the trial) and an MSC Status Conference date. At the MSC Status conference, the Court may order the Plaintiff to take the lead in working with other counsel to secure an MSC date with the LA Superior Court’s MSC program within a certain number of days following the CMC. If the parties prefer to mediate,

they may do so, but they must not relinquish their MSC date until they have completed mediation. Once mediation has been completed, the parties must promptly inform the LA Superior Court's MSC program that they will not need the MSC date. If the matter is resolved by a **settlement agreement**, the parties must call the courtroom immediately, advise the clerk or the courtroom assistant of the **settlement agreement**, and promptly file a Notice of Settlement pursuant to Rule 3.1385 of the California Rules of Court.

3. Discovery Issues

The Legislature added Section 2016.080 to the Code of Civil Procedure, effective January 1, 2018. That section provides, at subdivision (a): "If an informal resolution is not reached by the parties, as described in Section 2016.040, the court may conduct an informal discovery conference upon request by a party or on the court's own motion for the purpose of discussing discovery matters in dispute between the parties." Pursuant to that Section, and the Court's power to "amend and control its process and orders so as to make them conform to law and justice" pursuant to CCP § 128(a)(8), the Court orders that parties who wish to bring *any* discovery motion must participate in an Informal Discovery Conference ("IDC") and the meet and confer process outlined below.

Lead or other designated counsel for the parties with full authority are ordered to participate in the IDC. If a motion has been filed (which the Court **strongly discourages** doing before an IDC has been completed), after consulting with opposing counsel regarding available dates, the moving party must make a prompt reservation for the IDC using the Court's online reservation system. If counsel for a party does not agree to continue the date for bringing a discovery motion, the party seeking the discovery may seek such relief via ex parte application; the relief will be granted in most circumstances. The Court hopes to avoid the unfortunate circumstance of having a motion for sanctions only after the parties have resolved their dispute.

Once the moving party has confirmed an IDC date, if the next mutually available IDC date is after the date that the opposition to any filed motion(s) is due, the moving party must use the Court's online reservation system to continue the motion(s) to a post-IDC hearing date. Counsel are ordered to

have with them whatever materials are needed to make the IDC session productive and successful.

Prior to the IDC date, lead or other designated counsel for the parties, with full authority, are to meet and confer, **in person¹ or via telephone** if they have not already done so, to resolve as many of the issues as possible before the IDC. (See CRC Rule 3.670(f)(2).) If the parties resolve their discovery disputes before the IDC date, the moving party is ordered to take both the IDC and any motion(s) off calendar as soon as possible.

The party seeking the additional discovery must file Dept. 50's one-page IDC form in the department seven days prior to the IDC, and the responding party may file the same form in the department setting forth a response three days prior to the IDC. The IDC forms are available from the courtroom assistant in Dept. 50. **Do not attach any documents, do not type in miniscule font and do not use more than the allotted space on the IDC form to describe the dispute. The Court does not need a lot of information on the IDC form – just the basic issue in contention. You may have available any relevant documents for the IDC.**

If other discovery issues arise that the parties agree could benefit from an IDC, the Court will make itself available for other discovery issues as well. Additionally, if the parties have reached a breaking point in a deposition where one party feels that they must adjourn the deposition to immediately bring a discovery motion pertaining to the deposition, the parties may call Dept. 50 - (213) 633 -0650 and ask if the Court is available to informally try to resolve the dispute so the deposition can be completed. This type of IDC should be saved for those very rare occasions when counsel cannot work matters out enough to complete the deposition and then seek an IDC regarding the remaining disputed testimony.

4. Pretrial motions

The parties are encouraged to meet and confer prior to filing any motions, *including summary judgment and summary adjudication motions.*

¹ Hereinafter, whenever the Court refers to meeting “in person,” that phrase includes “meeting” via Zoom, WebEx or other equivalents.

Motions are heard on Monday through Friday. Parties **must** obtain and reserve a motion hearing date and time via the online Court Reservation System (CRS) on the L. A. Superior Court website. Select “LA Court Online, Court Reservation System” at www.lacourt.org to reserve the motion date. Motion fee payments are required at the time reservations are made online. Please do not call the courtroom to reserve a motion date. Courtesy **conformed** copies of the moving, opposing, reply and supporting papers (e.g. request for judicial notice, declarations, exhibits, etc.) must be lodged on the date of filing or, if the filing is efiled on a holiday or weekend, on the next business day.

Evidence

Please carefully consider the evidence submitted in support of any motion so as to avoid unnecessary objections. For example, be sure that (a) the evidence proffered is authenticated by a person who is competent to do so, and (b) there is an adequate foundation laid for admission of the evidence. An attorney may be able to authenticate that excerpts from a deposition are true and correct copies, but an attorney may not be able to establish that a document is what the attorney’s client claims it is (e.g., a copy of the contract signed by the parties) even if the opposing side produced it in discovery.

Please carefully consider what is hearsay and what may be an operative fact; please determine if there is an exception to hearsay that applies.

Try not to include too much information that is not relevant to the motion. Some background or context is helpful, but too much leads to needless objections based upon relevance. To avoid excessive objections, the parties can inform the Court that they have stipulated that certain information is provided only for background or context and that the Court is not to consider that information as part of the material issues in dispute.

Be sure to include a reference to both a question and an answer when identifying deposition testimony (not just the answer), and be sure to mark the question and answer even if the question appears five pages before the answer as a result of intervening colloquy.

If the Court finds that the parties have raised a large number of objections (typically more than 25 in total), the Court may order the parties to meet

and confer in person or via telephone to resolve the objections before the Court considers the motion.

Motions for Summary Judgment or Summary Adjudication

Motions for summary judgment/adjudication must be reserved as soon as possible because available dates for such motions are often very near the trial dates. Do not wait until discovery has been completed to reserve a date if you think you may bring an MSJ/MSA because dates may not be available.

Concurrently with the filing of the reply brief on an MSJ/MSA, the moving party must lodge spiral-bound compilations (preferred if available to you – if not, binders can be used) containing the moving and supporting papers, the opposing and supporting papers and the reply and supporting papers, all indexed and tabbed. Supporting papers include separate statements, declarations, exhibits, requests for judicial notice and any objections. Do not include proofs of service or proposed orders. It is not necessary to file courtesy copies in addition to the spiral-bound (or binder) compilations.

All Motions

PLEASE PROVIDE TABS FOR ALL DECLARATIONS AND EXHIBITS ATTACHED TO MOTIONS. IT IS VERY DIFFICULT TO FIND EVIDENCE WHEN IT IS NOT TABBED. YOUR MOTION COULD BE REJECTED FOR FAILURE TO COMPLY WITH THE RULES REGARDING TABBING.

Please provide courtesy copies of all motion, opposition and reply papers. If your motion has been filed more than 30 calendar days before the hearing date, please wait to file the courtesy copies of the motion until 16 court days before the hearing. Tentative rulings, when available, are usually posted on the Court's website (check as late as the morning of the hearing).

The parties may arrange for a privately retained court reporter at hearings. For more information about the Court's court reporter policy, consult the Court's website at www.lacourt.org.

All motions in limine and motions that affect the order of proof, such as motions pursuant to CCP Sections 597 (trial of special defenses), 598 (change in the order of proof or bifurcation of the trial), and 1048 (consolidation or severance), must be filed and served with sufficient statutory notice under CCP Section 1005 so that they may be heard no later than at the FSC. Motions in limine must comply with L.A. Superior Court Rule 3.57 and Kelly v. New West Federal Savings, 49 Cal. App. 4th 659, 670-71 (1996).

THE PARTIES MUST ASSIGN DIFFERENT NUMBERS OR LETTERS TO THEIR MOTIONS IN LIMINE (e.g., Plaintiff's motions in limine may be numbered 1-5; Defendant's motions in limine may be lettered A-E; additional parties may use double numbers or letters or some other agreed-upon designation to avoid duplication and confusion.)

If the motions in limine will be numerous and time-consuming, the parties must contact the courtroom assistant in Dept. 50 to schedule a separate hearing for the motions in limine.

5. The FSC: Trial Documents and Exhibit Binders

The FSC typically begins at 9:30 a.m. Trial counsel must attend the FSC.

Trial Documents for the FSC

Except as to motions in limine, which must be filed and served per code, the parties have a joint obligation to meet and confer, and to file and serve on the ***fifth court day prior*** to the FSC, the documents described below (the "Trial Documents"). The Trial Documents must comply with LA Superior Court Rule 3.25 (f)-(h). ***Simultaneously with the filing of the Trial Documents, the parties also must lodge by 4 p.m., an indexed and tabbed three-ring Trial Readiness Binder containing copies of all of the Trial Documents and the motions in limine, and indexed and tabbed Exhibit Binders.*** If the motions in limine are too voluminous to fit in the Trial Readiness Binder, they may be filed in a separate binder properly labeled with the case name and with an index and tabs.

(a) Trial Briefs (optional though strongly encouraged)

Each party may file a Trial Brief succinctly identifying the following:

- (1) The claims and defenses to be tried.
- (2) The major legal issues with supporting points and authorities.
- (3) Any other information that may assist the Court at trial.

(b) Joint List of Stipulated Facts

The parties must file a joint list of all relevant facts not in dispute. For jury trials, the Joint List of Stipulated Facts must be in a form and tone (*i.e.*, not “legalese”) that can be read to the jury as stipulated facts.

(c) Relief Requested

The parties must file a Joint Statement of Relief Requested, including itemization of all elements of damages claimed, if any, by each party, other than emotional distress and punitive damages.

(d) A Joint Written Statement of the Case to be Read to the Jury

For jury trials, the parties must file a Joint Written Statement of the Case for the Court to read to the jury panel. This statement should be no more than one or two paragraphs that simply inform the jury panel of the nature of the case and each party’s basic claim (*e.g.*, a contract dispute, a discrimination claim, etc.) If for some reason the parties cannot agree upon the wording of a sentence, put the alternative versions of the sentence in brackets and bold and the Court will rule on it.

(e) Joint Witness List and Trial Time Estimate

The parties must file a Joint Witness List, identifying the witnesses each party intends to call, except for impeachment witnesses. The Joint Witness List must include the name of each witness who is actually going to testify, whether that person is a fact witness or an expert witness, and the expected length of the direct and redirect, the cross-examination and recross-examination, and the total time for that witness. At the end of the list, the parties must provide a total time for the witnesses plus the time

estimates for jury selection, opening and closing. The parties must come to the FSC prepared to give a realistic time estimate for the trial, using 4.5-hour days for jury trials and 3 hours for court trials. (The Court typically hears court trials only in the afternoons unless out-of-town witnesses need to be completed faster; in that case, the trial days may commence in the morning).

The parties must identify any potential witness scheduling issues and special requirements. The parties are encouraged to accommodate each other with regard to taking witnesses out of order if reasonably necessary. Unless good cause is shown, no undisclosed witnesses may be called.

(f) Joint List of Proposed Jury instructions

The parties must file a Joint List of Proposed Jury Instructions, organized in numerical order, specifying the instructions upon which all sides agree and the contested instructions, if any. The Joint List of Jury Instructions must include a space by each instruction for the Court to indicate whether the instruction was given, not given or given as modified. It must also provide a place for the Court to date and sign list.

(g) Jury Instructions

The parties must prepare a complete set of full-text proposed Jury Instructions, editing all proposed Judicial Council of California Civil Jury Instructions (“CACI”) to insert party names and eliminate blanks and irrelevant material. The parties must prepare instructions in a format ready for submission to the jury with the instruction number, title and text only (*i.e.*, there should be **no** boxes or other indication on the printed instruction itself as to the requesting party, revised date, tear offs, etc.)

(h) Proposed Verdict Form

The parties must file a proposed Joint General Verdict form or a proposed Joint Special Verdict form (with interrogatories) acceptable to all sides. If, after making a good faith effort to resolve differences, the parties cannot agree on the verdict form, each party must either (a) insert the disputed wording in bold brackets, or (b) separately file a proposed verdict form if too much of the verdict form is in dispute (*e.g.*, because a ruling on a motion in limine is needed to resolve the issue).

(i) Objections to Proposed Jury Instructions and Proposed Verdict Form

The parties must file and serve their objections, if any, to the proposed jury instructions and to the proposed verdict form. The parties may explain the reasons for their objections. The Court will rule on the objections at the FSC.

(j) Joint Exhibit List

The initial exchange of the Joint Exhibit List must include a column in which the parties indicate whether the particular exhibit may be admitted without objection or, if not, the ground for the objection. ***This exchange must take place sufficiently in advance of the day that the final Exhibit List is to be filed and included in the Trial Readiness Binder so the parties will have had time to meet and confer in a serious and good faith effort to resolve all objections to each exhibit to be offered at trial.***

Any remaining unresolved objections must be listed on the Joint Exhibit List. If the Court sees the same objections repeated for many exhibits, the Court will conclude that the parties have not met and conferred in good faith to try to resolve the objections. Nearly all objections typically can be resolved through the meet and confer process. ***If the parties fail to meet and confer in good faith, the parties may find themselves ordered to meet and confer on the day of the FSC and potentially daily thereafter.*** (See discussion below regarding the Exhibit Binders.)

(k) Identification of Discovery to be Offered as Testimony

If depositions, responses to written discovery or other discovery materials are to be used in lieu of live testimony, the party proposing to do so must identify and state in writing all such excerpts to be used (other than for impeachment). **Parties must be sure to include both a question and an answer when identifying deposition testimony.** Opposing parties must state their objections, if any. The Court rule on the objections at the FSC. If the objections to such discovery testimony will be extensive, the parties should arrange for a separate hearing for the Court to rule on the objections.

(I) Jury Questionnaire

If either party requests a jury questionnaire, it must be exchanged sufficiently in advance of the FSC so the opposing parties may propose additional questions. The questionnaire filed must be a joint questionnaire.

Joint Exhibit Binders

For the trial, the parties must jointly prepare three sets of tabbed, internally paginated and properly marked exhibits (*i.e.*, the exhibit numbers must correspond to those on the joint exhibit list), organized numerically in three-ring binders (*i.e.*, one for the witness, one for the courtroom clerk, and one for the Court). The parties must mark all nondocumentary exhibits (*e.g.* a CD) and insert a brief written description of the exhibit behind the corresponding numerical tab in the exhibit binder. **Five court days prior to the FSC, the parties must lodge by 4 p.m. one complete set of all exhibit binders.** The Court will review the binders to be sure all exhibits (except nondocumentary exhibits that do not fit in the binder) are actually in the binders. If exhibits are missing, the parties may be required to work together on the day of the FSC until all exhibits have been inserted into the binder that the Court reviews, or the parties will be precluded from using the missing exhibits at the time of trial. Any exhibit or other visual or auditory aid that counsel wishes to use in opening statement must be shown to each other party at or in advance of the FSC.

6. Trials

Jury trials typically begin at 9:30 a.m. and court trials typically begin at 1:30 p.m. During trial, counsel may have continuing permission to approach witnesses, unless there is some hostility among the parties, the witnesses, and counsel. Side bar conferences are practically and logistically difficult. Any matters that must be heard outside the presence of the jury may be discussed at a break, unless it is an evidentiary emergency that cannot wait until a break.

The parties must provide a court reporter for any trial or submit agreed statements/proposed settled statements daily.

The Court no longer provides court reporters for civil trials unless a litigant with a fee waiver makes a timely request for a court reporter. To obtain

transcripts of trial, the parties must arrange for court reporters. Should the parties decide not to provide a court reporter, Dept. 50 requires the parties to provide initial drafts of partial proposed agreed statements or proposed statements of appeal on the morning following each day of trial. Consequently, there will be less time allotted each day for testimony and argument in order to facilitate efficient preparation of the record. See CRC 8.134/8.836 and 8.137/8.837.

7. Default Judgment

After the clerk has entered the default of all remaining defendants, plaintiff should efile all default judgment papers required by CRC 3.1800(a), with a courtesy conformed copy delivered to the court.

8. Dept. 50

The civil courts exist for you and your clients. Your suggestions, even if anonymous, on improving procedures in Dept. 50 are welcome.