

DEPARTMENT 4 TRIAL GUIDELINES

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DEPARTMENT 4 LONG CAUSE TRIAL PROTOCOL

FOR ALL HEARINGS OR TRIAL MATTERS WITH A TIME ESTIMATE OF MORE THAN ONE (1) HOUR

BEFORE TRIAL, PARTIES AND ATTORNEY'S ARE ORDERED TO:

1. MEET AND CONFER.

No later than 5 Court days after receipt of the Notice of Trial.

2. FILE A JOINT TRIAL BRIEF.

No later than 5 Court days prior to the trial date, the parties shall file the Long Cause Joint Trial Brief, NOT TO EXCEED 2 PAGES, indicating to the court what issues have been resolved and what issues remain contested

3. EXCHANGE;

No later than 5 Court days prior to the trial date the parties shall exchange:

- a. Witness lists
- b. Exhibit lists.
- c. Updated Income and Expense Declarations, including as attachments:
 - i. 2 years misstate tax returns:
 - ii. 2 months most recent pay stubs:
 - iii. 2 months most recent bank statements (all accounts personal and business):
 - iv. 2 most recent retirement account statements (401K, 457, IRA, Pension, other)
 - v. 2 most recent vehicle lease /loan applications:
 - vi. 2 most recent real property lease /loan applications:
 - vii. Any/all outstanding propounded discovery.

4. FAILURE TO COMPLY

THE COURT RESERVES THE AUTHORITY TO ORDER SANCTIONS, INCLUDING MONETARY SANCTIONS FOR FAILURE TO COMPLY WITH THIS STANDING TRIAL ORDER.

- a. OSC re Sanctions to follow the trial.

DEPARTMENT 4 TRIAL MANAGEMENT AND VOIR DIRE CONFERENCE GUIDELINES.

The following guidelines are intended to ensure that trials proceed efficiently and fairly for all concerned. They are not intended to restrict counsel unduly in the trial of cases. Counsel should feel free to make suggestions for the purpose of furthering the prompt and fair disposition of trials.

Matters to be discussed at the Trial management and Voir Dire Conference

1. Estimated length of trial, and the number of witnesses each side intends to call.
2. Any unusual trial scheduling problems with witnesses, counsel, or the court.
3. Evidentiary problems which are known or likely to arise, especially 352 motions.
4. Timing for submission of non-standard or special jury instructions will be discussed and set.
5. Need for Interpreter services:
6. Proposals for deviation from normal practice of instructing the jury before closing arguments.
7. Witness Lists, Exhibit Lists, and proposed Statements of the Case will be exchanged and reviewed.
8. All exhibits will be pre-marked for identification using numbers. The label should be on the lower right hand side of the last page of the exhibit. 4 copies of the exhibits (preferably in binders): 1 copy for the witness, 1 copy for the judge, 1 copy for clerk, 1 copy for opposing party.
 - a. Parties should confer as to the numbers in the exhibits. E.g. PLF get the first 200 and DEF gets 300, etc.
9. All motions in limine will be heard at the trial management conference. Motions in limine should be ready before announcing ready for trial, and will be exchanged, along with briefs and supporting points and authorities before the Trial Management Conference.
10. Orders granting in limine motions will be strictly enforced. Counsel should appropriately advise witnesses of any limitations of evidence. Excluded witnesses should wait near the courtroom until called, and will not attend any court session, including opening statements.
11. Absent a showing of good cause, counsel will disclose the identity of witnesses 24 hours in advance of calling them.
12. If counsel do not have witnesses available for the court day, you may be deemed to have rested.
13. All charts, graphs and demonstrative evidence (other than those which may be used in rebuttal) will be exchanged at the conference. Objections to their use will be heard at that time.
14. Trial time is usually 8:30 to 12:00 and 1:30 to 4:30, Monday through Thursday, with appropriate short recesses. Please be on time for all court sessions.
15. Counsel will be allowed a limited time for Voir Dire. The time allowed may be extended for good cause.
16. The Court uses a "6-pack" system for jury voir dire. Initially, 18 prospective jurors will be cause-qualified. Peremptory challenges to the first 12 will result in replacement, in order from the additional 6. In the event only 11 jurors remain, an additional 7 will be examined for cause. No further cause challenge or examination of the original 11 will be permitted.

DEPARTMENT 4 TRIAL GUIDELINES

Consistent with the interests of justice, this Court supports the goals and standards set forth in the following Standards of Professional Courtesy.

1. Counsel will obtain permission to approach a witness before doing so the first time.
2. Based on the time estimates made at the trial management conference, the jury panel will be time and hardship qualified.
 - a. Initial voir dire will be conducted by the Court. Counsel will be permitted a limited time to examine prospective jurors for cause and peremptory challenges.
 - b. Do not repeat the Court's questions.
 - c. Do not ask questions regarding hardships or personal comfort of jurors.
3. Challenges for Cause will be discussed at side bar or in chambers.
4. Peremptory Challenges: 10 for Criminal, 6 for Civil.
 - a. If there are more than 2 sides, the number of sides and challenges will be determined at the trial management conference.
5. Orders granting in limine motions will be strictly enforced. Counsel should appropriately advise witnesses of any limitations of evidence. Excluded witnesses should wait near the courtroom until called, and will not attend any court session, including opening statements.
6. Counsel should advise all witnesses and clients to avoid any contact with any juror.
7. Trial time is usually 8:30 to 12:00 and 1:30 to 4:30, Monday through Thursday, with appropriate short recesses. Please be on time for all court sessions.
8. If you do not have witnesses available for the court day, you may be deemed to have rested.
9. Remarks, argument, objections and requests by counsel during trial will be addressed to the Court, rather than directly to adversaries.
10. Objections will be made in legal form without argument (e.g. "Objection, hearsay") Counsel should never offer argument in support of an objection in the presence or hearing of the jury. Any argument on the objection will be heard at sidebar or in chambers.
11. Offers of proof will be made outside the presence of the jury.
12. Unless otherwise indicated by the Court, plaintiff's counsel will be seated nearest the jury box at counsel table.
13. All California case citations shall be in the form required by rule 3.1113. A copy of all non-California cases or other authorities cited shall be lodged with the Court in a separate document entitled "Non-California authorities cited by (a party) in support of (name of motion or other pleading.)"
14. Offers of, or requests for stipulation will be made privately, not in the presence of the jury.
15. Conferences at the bench or sidebar are not favored by the court. Counsel are responsible for raising issues and matters which may require hearing out of the presence of the jury to the attention of the Court during a time when the jury is not in session.
 - a. Sidebar sessions which are allowed will be off the record. If counsel request a matter placed on the record, the Court will make a responsive order.
16. In examining a witness, counsel shall not repeat or echo the answer given by the witness.
17. When a witness has completed his or her testimony, that witness will be excused unless counsel indicates that the witness should remain, subject to recall. Any witness that has been excused from further testimony may remain in the courtroom as a spectator.
 - a. It will be the responsibility of counsel to make an announcement at the time the witness steps down, that he or she should remain in the environs of the Court for a reasonable time to permit counsel to secure and serve a subpoena upon the witness and assume the responsibility of the witnesses' per diem and other expenses, as provided by governing rule or statute.

18. Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses or at any other time are prohibited.
19. Counsel shall not ask the court reporter to flag or mark a witness's answer to a particular question in the presence of the jury.
20. All exhibits are to be pre-marked for identification using numbers. Absent good cause no marking of exhibits will be permitted when the jury is in session.
21. When there are multiple defense counsel, they are directed to confer and designate the sequence they wish to be recognized during trial for the purpose of presenting opening statements and cross-examining witnesses. Absent agreement, counsel will be recognized in the order in which the defendants are named in the complaint. During trial, counsel may submit a list each morning, of the sequence to be called for cross-examination of each witness. Only the attorney that conducts direct examination will be permitted to object during cross-examination. Counsel who will be conducting cross-examination will be allowed to object while the witness is on direct.
22. From and after the moment the case is called for trial, any objection, motion or other application for relief made by any defense counsel, orally or in writing, shall be deemed to be adopted and joined by every other defendant without announcement of counsel to that effect, and the rulings of the Court shall be deemed applicable to every other defendant unless otherwise stated at the time the ruling is made. Accordingly, it is regarded as improper and unnecessary for counsel to rise and join an objection or motion. Counsel will be heard only for the express purpose of opting out of an objection or motion, or to make additional arguments.
23. Only one lawyer for each party may examine any one witness.
24. The deposition of an adverse party may be used for any purpose. It is unnecessary to ask a witness if he or she recalls it, or otherwise lay a foundation. Simply identify the deposition, page and line numbers and read the relevant portion.
25. The deposition of a non-party may be used for impeachment or if the witness has been shown to be unavailable. For impeachment, allow the witness to read to him or herself the designated portion first, ask simply if he or she gave that testimony, then read it.
26. A deposition may be used to refresh a witness's recollection by showing it to him or her, or, as with any other document, as a basis for relevant questions.
27. It is the responsibility of counsel anticipating use of a deposition at trial to check in advance of trial that it has been made available to the witness for signature and that the original is given to the clerk before the trial starts.
28. Counsel that desires daily or expedited transcripts during trial should inform the Court and opposing counsel of said intentions and make immediate arrangements directly with the court reporter.
29. In final argument, do not express personal opinions or ask jurors to place themselves in the position of a party or to consider possible consequences of the litigation beyond the evidence presented.
30. The Court will pre-instruct the jury as to preliminary matters (100 series) immediately before the commencement of opening statements. Written instructions are provided to the jury upon retiring to deliberate.

DEPARTMENT 4 JURY MANAGEMENT DURING TRIAL

Absent objection, the Court will follow these policies regarding the jury during trial:

1. Unless called to the attention of the Court all jurors shall be deemed to be in the jury box and in their proper places upon the court reconvening after each recess or adjournment.
2. After having once given the admonition required by CCP Section 611 or PC section 1122 the Court at each subsequent recess or adjournments need not repeat or remind the jury of said admonition.
3. Jury instructions and trial exhibits will be provided to the jury upon the commencement of deliberation without necessity of a request.
4. In the absence of counsel, the Court may;
 - a. During deliberation of the regular jurors, permit alternate jurors to either wait in the courtroom or leave and remain on call;
 - b. Upon a jury request for testimony to be read back, counsel will be advised of what testimony has been requested. If counsel do not wish to be present at the reading of that testimony, the reporter may read the testimony to the jury in the jury room without the presence of the Court or counsel;
 - c. Permit the jury, without being brought back into the courtroom to;
 - i. Leave the deliberation room for recesses and for the purpose of going to lunch, not in the custody of the bailiff;
 - ii. Report to the bailiff outside the deliberation room at the end of the lunch period
 - iii. Permit the jury to separate and return the next court day to resume deliberation should the jury be unable to reach a verdict at the close of regular session unless it is determined that further deliberation is not desirable.

DEPARTMENT 9 JURY MANAGEMENT DURING TRIAL