

## **COURTROOM 41 –RULES & PROCEDURES**

### **HON. CARLA J. ORTEGA**

#### **I. General Matters**

It is the Court's policy to provide a dignified forum in which to resolve disputes in a peaceful, professional, legally correct and expeditious manner. All of the following rules and procedures are designed to achieve these goals. It is not the Court's intention to prohibit a party from raising any issue by any means allowed by Rule of Court, Code or statute. If any of the rules or procedures discussed herein creates a problem, counsel should raise the matter with the Court at the earliest opportunity.

#### **II. Case Management**

Counsel and self-represented parties must comply with all applicable rules, statutes and/or deadlines associated with ensuring a case is "at issue." In particular, litigants shall: (a) comply with deadlines related to service of summons of complaints and filing proofs of service thereof, (b) timely file and serve responses to complaints, (c) timely file requests for entry of default and default judgment, (d) timely post jury fees, and (e) timely file complete and accurate case management statements.

If the Court determines that the case is not at issue at the Case Management Conference ("CMC"), the conference will be continued. If the continuance is due to a failure to adhere to applicable rules or deadlines, the Court is likely to set an OSC re: the imposition of sanctions. (CRC 3.110(i).)

The Court expects that counsel will be prepared to discuss the current status of the case, discovery, amenability to mediation, and any unusual factual, legal, or evidentiary issues that may need resolution. Counsel who fails to appear will typically be set for an OSC hearing why monetary sanctions should not be issued.

Those parties who have filed an appearance but do not appear at the CMC will be deemed to have consented to any orders made at the CMC, including but not limited to: order setting the date for trial, order that case be a nonjury trial, order for mediation, and a discovery or motion scheduling order.

To avoid having an OSC re: imposition of sanctions set, counsel and self-represented litigations should:

1. Be adequately informed about the case and ensure a timely CMC statement has been filed at least 15 days before the CMC. (CRC 3.725). Parties are encouraged to file a joint statement.
2. Avoid delays in service and/or delays in filing proof thereof with the court. (CRC 3.110(a)-(f) & 3.740; Gov't Code. § 68616(a).) Litigants should move promptly to

comply with applicable service deadlines, including by seeking authorization to employ alternative methods of service if appropriate.

3. Avoid delays in requesting entry of default and/or default judgment. (CRC 3.110(g)-(h).)
4. Take care to respond to pleadings with reference to the name by which the party was identified in the complaint (i.e. if a defendant's name is "John W. Smith" but the complaint identifies him as "John Smith," the answer would appropriately state it is made on behalf of "John W. Smith ESA John Smith.")
5. Timely post jury fees. (Code Civ. Proc. § 631.) If fees are not posted by the CMC and a bench trial is set, a party may preserve the right to jury trial by: (a) posting jury fees by close of business on the date of the CMC, (b) filing a declaration confirming that fees have been timely posted, and (c) submitting a proposed order changing the bench trial to a jury trial.

### **III. Alternative Dispute Resolution Status Conferences**

The Court's trial calendar is impacted, by the number of cases assigned to the courtroom and matters are frequently set for trial years in advance. To keep the parties focused on resolution and preparation for trial, the Court may set status conferences regarding alternative dispute resolution ("ADR Status Conferences"). ADR Status Conferences must be attended by counsel of record who will be trying the case and all self-represented parties. The parties must meet and confer in advance of the ADR Status Conference in conjunction with drafting a Joint ADR Status Conference Statement. The ADR Status Conference Statement shall be filed and served at least five (5) court days before the ADR Status Conference and must contain the following:

1. A brief summary of the nature of the case; the causes of action in the complaint/ cross-complaint; the primary monetary damages and/or other relief sought; and the primary defenses asserted.
2. A summary of any and all efforts made by the parties to resolve the case to date.
3. Additional steps the parties plan to take to resolve the case going forward and whether there is anything the Court can do to assist.
4. The parties' readiness for trial and identification of any issues that may require court involvement, such as bifurcation, consolidation, dispositive motions, or particularly complicated evidentiary issues that will need to be decided before trial.

### **IV. Informal Discovery Conferences**

Parties may request an Informal Discovery Conference ("IDC") in unlimited civil cases, but only after the parties have met and conferred in a good faith attempt to resolve the discovery dispute. (See Ventura Superior Court Local Rules, Rule 8.10(c).)

The Court expects that a good faith attempt to resolve the discovery dispute involves more than a cursory phone call, email, or letter exchange. The parties should diligently attempt an informal resolution of the discovery dispute to the fullest extent possible before requesting an IDC, including demonstrating a willingness to compromise to the extent consistent with the rights and duties of the parties.

Parties may request an IDC, by filing and serving a joint request with the clerk of the court. A courtesy copy of the filed joint request shall promptly be emailed to the assigned department and all parties to the action with the subject line “REQUEST FOR IDC.” The email shall include the case name and number.

Note: If both parties do not agree to participate, the Court will not consider nor grant a request for an IDC.

Requests for an IDC should include the following:

1. The nature of the discovery dispute, including the interrogatory or request number at issue, the response and objections thereto, the significance of the information sought, and the burden or expense of compliance.
2. A summary of efforts made by the parties to resolve the discovery dispute, including any proposals for resolution.
3. Any issues of timing concerning the disputed discovery.
4. The willingness of the parties to modify the discovery request or response to address the discovery dispute.

If the request for an IDC is granted, court staff will contact the parties to schedule the IDC. IDCs are limited to 15 minutes for basic discovery disputes and 30 minutes for complex discovery disputes. Requesting and responding papers must be emailed to [courtroom41@ventura.courts.ca.gov](mailto:courtroom41@ventura.courts.ca.gov) not later than five (5) days before the IDC and shall not exceed five (5) pages in length, excluding exhibits, and exhibits should include only such information as is necessary to explain the discovery dispute.

## **V. Law & Motion Procedures**

The Court expects all litigants to strictly adhere to applicable provisions of the Code of Civil Procedure and the Rules of Court, including the format and content of pleadings, page limitations, and required notice.

The Court may call the calendar out of order depending upon the nature and complexity of the matters. The Court typically takes name change petitions first.

All pages of exhibits submitted in support of or opposition to motions should be consecutively numbered at the bottom of the page and references to exhibits in briefs or declarations should include the page number. Exhibits must be specifically identified and authenticated by a compliant supporting declaration. Parties should limit exhibits to only those relevant and necessary to the motion, with relevant portions highlighted.

Law and motion matters are heard Monday through Friday promptly at 8:30 a.m. The courtroom does not permit Zoom appearances on law and motion matters. Counsel or self-represented parties may appear by Court Call provided they make a reservation no later 4 p.m. the court day prior (no exceptions for weekend, holidays or court closures) and provided they check in with Court Call no later than 8:20 a.m. the day of the hearing.

The Court may issue written tentative decisions, time permitting. Tentative decisions are published by 5:00 p.m. the day before the hearing on the Ventura Superior Court website. Parties appearing for oral argument should address the tentative decision. Parties may submit on the tentative decision by email to [courtroom41@ventura.courts.ca.gov](mailto:courtroom41@ventura.courts.ca.gov) before 8:00 a.m. the day the matter is called. All parties must be copied on the email. If fewer than all parties submit on the tentative, the hearing will proceed and the tentative ruling is subject to change. However, if no one appears for argument, then the tentative ruling will most likely become the final ruling.

The Court typically directs the moving party to serve and file a notice of ruling and proposed order regardless of who prevails on the motion. Parties given the task of submitting a notice of ruling and/or proposed order are encouraged to attach and incorporate by reference the tentative decision (if it has been adopted by the Court without modification) or the Clerk's Minutes in lieu of quoting the ruling verbatim in the body of the notice or proposed order.

There is no "second call" on the law and motion calendar in Courtroom 41. While the Court attempts to accommodate calendar preferences, litigants should be prepared to have their matters heard during the time the Court is in session conducting the law and motion calendar. The law and motion calendar concludes when the last matter is heard, typically no later than 10:00 a.m.

Summary judgment/summary adjudication motions are heard on Thursdays at 8:20 a.m. The Court generally will not schedule more than two summary judgment/summary adjudication motions each week.

## **VI. Trial Setting Conferences**

If a trial setting conference is set by the Court, the parties are required to meet and confer in good faith and file a Joint Trial Setting Conference Statement which sets forth the following information:

- 1) A brief summary of the case;
- 2) Status of discovery and motions to be filed before trial;
- 3) Whether parties are requesting a jury or bench trial;
- 4) Reasonable time estimated for trial;
- 5) Readiness for trial including date(s);
- 6) Whether parties are amenable to ADR including mediation, arbitration or a mandatory settlement conference, unless a separate ADR Status Conference has already been set and the joint statement submitted; and
- 7) Any other issues or circumstances materially affecting resolution of the case.

The Joint Trial Setting Conference Statement must be filed and served no later than five (5) calendar days prior to the Trial Setting Conference.

## **VII. Trial Rules and Procedures**

1. **Important:** The Court does not accept E-Filing of trial documents. Parties are directed to submit all trial documents (PDF files only, no external links or document depository systems) by email to the courtroom as directed below. The submitted documents are considered *courtesy copies* only. **Parties must submit all original trial documents to the courtroom clerk on the 1st day of trial and/or the master trial calendar call date.** When trial documents are emailed to the Court, the subject line should include the name of the case, the case number and a description of the document being emailed as authorized herein. All parties shall be copied on any email to the Court. Once trial documents are received by the Court, they do not need to be resubmitted in the event the trial trails.
2. **Courtroom Demeanor:** Counsel shall appear for trial in person unless otherwise authorized by the Court. Counsel and litigants are expected to be prepared and professional and shall make all reasonable efforts to ensure the trial is efficient. Counsel shall not direct arguments to one another and shall not refer to parties or counsel except by surname.
3. **Stipulations to Reduce the Length of Trial:** Counsel should consult with each other regarding all possible stipulations and reduce them to writing. In particular, counsel should consider waiving the necessity for authentication/foundational evidence regarding all trial exhibits, unless authentication is an important issue.
4. **Witness and Exhibit Lists:** Witness and exhibit lists should be exchanged at least fourteen (14) days before trial. Thereafter, the parties shall compile a master exhibit list that removes duplicate exhibits, provides a brief description of each exhibit and indicates whether there will be any objection to admissibility. The parties shall also compile a master witness list that describes the witness's relationship to the case, the general subject matter of his/her testimony, and includes time estimates for direct and cross examinations. The master witness and exhibit lists shall be emailed to [courtroom41@ventura.courts.ca.gov](mailto:courtroom41@ventura.courts.ca.gov) three (3) court days before trial.
5. **Witness Scheduling:** Counsel has full responsibility to arrange for the appearance of witnesses during the presentation of their case so as to eliminate any possible delay in the proceedings. The court strongly encourages counsel to confer during trial as to when witnesses are needed. Counsel are expected to inform the court immediately upon discovering a problem with scheduling that might delay the trial so that arrangements can be made for the appearance of other witnesses out of order. **If counsel does not comply with this procedure and there are no witnesses available to testify it is equivalent to resting their case.** Counsel are required to inform each other at the end of the trial day who their witnesses will be for the following day.

Witnesses who are excused by the court following their testimony are not subject to recall unless requested by counsel, or for good cause shown pursuant to Evidence Code Section 778.

6. Trial Briefs: Trial briefs shall be no more than five (5) pages and shall be served on all parties and emailed to [courtroom41@ventura.courts.ca.gov](mailto:courtroom41@ventura.courts.ca.gov) three (3) court days before the trial.
7. Motions in Limine: The parties shall meet and confer on the necessity of any motions in limine and are encouraged to stipulate to the maximum extent possible to avoid the need for motions. Motions that seek orders compelling compliance with existing law should generally not be asserted. The parties should agree upon an acceptable schedule for the service of motions and oppositions, such that the parties can complete this briefing at least seven (7) days before trial. All motion in limine briefing shall be emailed to [courtroom41@ventura.courts.ca.gov](mailto:courtroom41@ventura.courts.ca.gov) three (3) court days prior to the date of the trial. Motions shall not exceed five (5) pages. No party shall bring more than five (5) motions in limine motions without leave of Court.
8. Statement of the Case: A short, non-argumentative statement of the case for reading to the jury during jury selection must be jointly filed at the same time as motions in limine are filed.
9. Jury Fees: All jury fees must be posted as required by the Code of Civil Procedure, the California Rules of Court, and the Ventura Superior Court Local Rules. When the case is called for trial, the parties should confirm whether the case will be a jury trial or whether all parties waive jury. Where parties choose to proceed by way of jury, a check shall be remitted to the judicial assistant on the first day of trial by any parties who have agreed to pay jury fees.
10. Court Reporter: It is the parties' responsibility to hire and pay for a court reporter. If the parties waive a court reporter, challenges to the sufficiency of the evidence to support the verdict or any ruling by the Court will be deemed waived on appeal. (*Aguilar v. Avis Rent A Car System, Inc.* (1999) 21 Cal.4th 121, 132.) Indigent parties who have received a fee waiver are entitled to a court reporter without charge upon timely written request in conformity with the Ventura Superior Court's Administrative Order No. 18.06, which is available in the clerk's office and the court's website.
11. Interpreters: Court provided interpreters are not guaranteed to be available in civil trials and are prioritized pursuant to Evidence Code § 756(b). See the Court's website [here](#) for more information. If necessary, parties should retain their own interpreters, calculate the additional time needed for examination and cross-examination on the witness list, and let court staff know prior to calling the witness.

12. Witnesses and Zoom Appearances: The parties are responsible for following applicable rules and protocols to secure the presence of witnesses at trial so as not to cause delay in the proceedings. The next day's witnesses will be disclosed by counsel at least one day prior.

If the parties agree, Zoom may be used to allow witnesses to appear remotely at trials. The Court can host; parties should contact the Judicial Assistant for login information. If the parties choose to utilize remote technology for a trial, they must meet and confer to determine how exhibits will be authenticated and shown to witnesses appearing remotely, *including impeachment materials*. The parties should also discuss how remote appearances impact the Court's ability to order witnesses to appear. It is counsel's responsibility to advise remote witnesses that they must be available when called, must have a strong internet connection and must testify from a location where the door can be closed so that there are no disruptions. Parties must advise the Court on the first day of trial if there are to be any remote appearances.

13. Exhibits: All exhibits, *including* impeachment materials, shall be pre-marked using numbers, with each party assigned a unique number range to avoid duplication. The parties shall agree on a master set of exhibits, *excluding* impeachment materials, and shall place such exhibits into numerically tabbed binders, which binders shall not be more than two inches. The spine of the binder shall be appropriately labeled and shall indicate the exhibit numbers contained therein. On the first day of trial, one copy of any binder shall be provided to the judicial assistant for marking and for use by the judge. One copy shall be placed on the witness stand for use by testifying witnesses. Counsel shall have their own copies.

Multi-page exhibits shall be numbered at the bottom of the page with the exhibit number plus the consecutive page number of the exhibit (i.e. Ex. 17-003 to refer to page 3 of exhibit 17). The Court will not admit pages of an exhibit in piecemeal fashion. If the parties wish to admit only certain pages of an exhibit, those pages should be separately tabbed and numbered as standalone exhibits.

14. Deposition Transcripts: Deposition transcripts on which the parties intend to refer to or read from at trial must be lodged with the Court on the first day of trial, and each transcript shall have its own notice of lodging.
15. Jury Instructions: Counsel shall meet and confer as to jury instructions and verdict forms. A joint set of agreed-upon jury instructions and verdict forms shall be lodged with the judicial assistant no later than the first day of trial. To the extent possible, the instructions and verdict forms shall be those approved by CACI. If objections are made to any jury instructions on other than relevancy grounds, the objecting party must also submit an instruction that is believed to be non-objectionable. Unless otherwise agreed, Plaintiff shall prepare, serve and lodge the final set of instructions and verdict forms. Special jury instructions may be prepared, served and lodged by the party seeking them.

16. Jury Questionnaires: If either party intends to request the use of a jury questionnaire, the requesting party(ies) shall first meet and confer with other parties and attempt to reach agreement as to the questions, any sharing of costs and the logistics of completing, copying and distributing copies to the parties and the court. Thereafter, the requesting party shall serve and lodge with the judicial assistant a joint proposed jury questionnaire (including all written instructions to jurors) by the date of the trial call. The parties should specify whether they are requesting that jury questionnaires be used to pre-screen jurors or simply as a list of questions to be asked by the Court during jury selection. The Court will not prepare or copy questionnaires. For pre-screening, at least 80 copies of the approved questionnaire shall be lodged with the court on the first day of trial.
17. Brief Opening Statements Before Jury Selection: Any party may request court-approval to provide an abbreviated opening statement prior to jury selection. (Code of Civ. Proc., § 222.5, subd. (d).) The abbreviated opening statements shall not exceed two (2) minutes per party, and shall be neutral, non-argumentative descriptions of each party's claims and/or defenses.
18. Jury Selection: The Court uses a "six-pack" jury selection process. After voir dire, challenges for cause can be made as to any of the 18 prospective jurors and must be made outside the presence of the jury. After cause challenges are heard, the remaining twelve lowest numbered prospective jurors from the numerical list will be considered the presumptive panel and subject to peremptory challenges. Peremptory challenges may be exercised only as to the 12 lowest number prospective jurors from the numerical list. For each prospective juror removed by the exercise of a peremptory challenge, the next-lowest number prospective juror will be added to the presumptive panel prior to the exercise of the next peremptory challenge such that there will always be 12 jurors for whom challenges can be exercised. A group of seven new prospective jurors will be seated once the presumptive panel is reduced to 11 prospective jurors. Voir dire may continue only as to the new group of seven.
- Counsel shall not attempt to precondition the jury during voir dire. No personal stories are permitted and counsel are not permitted to voir dire on statements of law or jury instructions without prior permission of the Court.
19. Acceptance of Panel and Selection of Alternate Jurors: When all parties "pass" on the exercise of peremptory challenges as to the 12 prospective jurors on the presumptive panel, the parties will be deemed to have accepted the panel. The clerk will swear in the 12 jurors and the Court will proceed to the selection of alternate jurors. The Court will determine the number of alternate jurors to be selected with input from the parties. Each party will have one (1) peremptory challenge for each prospective alternate juror (e.g., 1 alternate = 1 peremptory challenge per party; 2 alternates = 2 peremptory challenges per party).
20. Bench Conferences: The Court discourages bench conferences except by invitation of the Court. The parties should make every effort to address in limine any and all anticipated



evidentiary or legal issues affecting the presentation of the evidence. Bench conferences are not reported.

21. Trial Objections: Speaking objections are not permitted, nor is argument regarding objections unless invited by the Court. State the legal objection only. Likewise, counsel should never suggest to any witness, with a speech appended to the objection, what the witness should say or has forgotten to say.
22. Audio/Visual: Parties are responsible for their own audio/visual needs at trial. All equipment must be tested in advance to avoid delay, and the Court will not provide technical support. Arrangements can be made by contacting Courtroom 41's Judicial Secretary at 805.289.8791. Any party showing a PowerPoint or similar presentation to the jury in opening statements or closing arguments shall provide a printed hard copy of the slides to counsel and the clerk not later than 15 minutes before the presentation. The clerk shall mark the presentation as a Court's special exhibit for purposes of appellate review. All presentations shall adhere to the Court's rulings, the evidence and the law. Any objections to a presentation shall be addressed outside the presence of the jury.
23. Trial Schedule: Where scheduling permits, the trial will occur between 9:30 a.m. and 12:00 p.m. and 1:30 p.m. to 4:30 p.m., with a 10-minute break in the morning a 15-minute break in the afternoon. The Court expects the parties, their attorneys, their witnesses, and the court reporter to be on time. Requests or discussions that must take place outside the presence of the jury should take place during non-trial hours so that jurors are not kept waiting.
24. Entry of Judgment: The Court will direct the prevailing party(ies) to serve and file a proposed judgment(s) consistent with the jury's verdict(s) and in conformity with the Rules of Court and the Code of Civil Procedure.