

COURTROOM 41 –RULES & PROCEDURES

HON. RONDA J. McKAIG

Informal Discovery Conferences

Parties can request an Informal Discovery Conference ("IDC") in unlimited civil cases pursuant to Code of Civil Procedure section 2016.080. Requests for an IDC should comply with the requirements of section 2016.080. Additionally, requests 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.

IDCs are limited to 15 minutes for basic discovery disputes and 30 minutes for complex discovery disputes. To request an IDC, requesting papers with the subject line "REQUEST FOR IDC" must be emailed, with a simultaneous email copy to all other counsel/self-represented parties, to Courtroom41@ventura.courts.ca.gov. Responding papers must be emailed to Courtroom41@ventura.courts.ca.gov not later than five (5) days after the requesting papers are emailed. Requesting and responding papers shall not exceed five (5) pages in length, excluding declarations. If both parties do not agree to participate, the Court will not grant the request for an IDC. If the request for an IDC is granted, court staff will contact the parties to schedule the IDC.

Law & Motion Procedures

The Court strictly adheres to the motion practice statutes and rules set forth in the Code of Civil Procedure and the Rules of Court, including the format and content of pleadings, page limitations, and required notice.

In light of the COVID-19 pandemic, the Court encourages appearances to be made through Court Call. You may contact Court Call at www.courtcall.com or by calling 888-882-6878. For any party who has received a fee waiver from the Court, contact Court Call to determine if it will waive its fee.

Exhibits submitted in support of or opposition to motions must be tabbed at the bottom of the pleadings. Exhibits must be identified and authenticated by a supporting declaration.

Parties should limit exhibits to only those relevant and necessary to the motion. If an exhibit is more than five (5) pages, please highlight the relevant portions of the exhibit.

The law and motion calendar is called Monday through Friday at 8:30 a.m. Please check in with Court Call no later than 8:20 a.m.

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: <http://www.ventura.courts.ca.gov/CivilCaseSearch/CaseDocuments>. Parties appearing for oral argument should address the tentative decision.

The Court hears no more than two summary judgment motions each week and they are set on Mondays at 8:20 a.m. Summary judgment motions may be heard on a calendar date other than a Monday if approved by the Court for good cause.

Trial Setting Conferences

Trial Setting Conferences ("TSC"s) must be attended by counsel of record who will be trying the case and all self-represented parties. The parties must meet and confer and serve and file a single, written, Joint TSC Statement at least seven (7) days before the TSC. The Joint TSC Statement shall not exceed five (5) pages and must contain the following:

1. A brief summary of the nature of the case, including the date(s) of the incident(s) or event(s) or transaction(s) that is (are) the subject(s) of the action; a concise description of the incident(s) or event(s) or transaction(s) that is (are) the subject(s) of the action; the causes of action in the complaint and any cross-complaint; the primary monetary damages and/or other relief being claimed; and the primary defenses being alleged.
2. The status of discovery, including that which has been completed as well as that yet to be completed, and the dates upon which the parties anticipate discovery will be completed.
3. Any issues of statutory priority.
4. Readiness for trial, including the date requested to begin trial.
5. Whether the case will be tried before a jury or the Court in whole in or in part.
6. The timing of dispositive motions prior to trial.
7. Amenability of the parties to any form of Alternative Dispute Resolution ("ADR").
8. Reasonable time estimate for trial.
9. Any issues of bifurcation.
10. Any other issues or circumstances materially affecting resolution of the case.

Trial Rules and Procedures

1. **Witness and Exhibit Lists**: Witness and exhibit lists should be exchanged at least thirty (30) days before trial.
2. **Trial Briefs**: Trial briefs shall be no more than five (5) pages and shall be served on all parties and lodged with the judicial assistant three (3) court days before the trial.
3. **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. Motions that seek orders compelling compliance with existing law should generally not be asserted. As part of any meet and confer, the parties should agree upon an acceptable schedule for the service of motions, oppositions thereto and reply briefs in support (if necessary), such that the parties can complete this briefing in advance of trial. All motion in limine briefing shall be lodged with the judicial assistant 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 the Court.
4. **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.
5. **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. Any waiver of jury after the timely posting of jury fees shall be confirmed on the record on the first day of trial.
6. **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.

7. Zoom/Remote Technology: If the parties agree, the Court is amenable to the use of Zoom or similar technology to conduct court trials remotely or to allow witnesses to appear remotely at jury trials. The Court has no current ability to conduct jury trials remotely but would entertain proposals by parties seeking to do so. If the parties choose to utilize remote technology for a court trial, they must meet and confer and submit a joint trial plan to the Court at least seven (7) days before a trial. The trial plan should include the identification of the party or parties who will host any remote proceedings, the identification of any counsel, parties, and/or witnesses who will appear remotely, the plan for using exhibits with those appearing remotely (including impeachment materials), and discussion of how the court, judicial assistant, and/or court reporter will participate in the remote proceedings. If the parties intend to use remote technology for a witness appearance at a jury trial, they should submit a request for remote witness appearance on the first day of trial that addresses the logistics indicated above. Parties may use third party vendors to assist in remote proceedings.
8. 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. One copy 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 each have their own copies.
9. 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.
10. 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. 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. Special jury instructions are generally not encouraged.
11. 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 any technical support. 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.

12. **Jury Selection: While social distancing requirements are in effect, the Court will pre-hardship jurors. Prospective jurors will be seated in the gallery and the Court and counsel will conduct voir dire of 20 - 30 jurors at a time.** When there are no spacing requirements in effect, the Court uses a "six-pack" jury selection process. The six additional prospective jurors are seated in chairs in front of the jury box, designated as seats 13 - 18. 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. Once the Court has ruled on all cause challenges, next in line prospective jurors from the six-pack will be asked to fill empty seats in the box, starting with the lowest number seat. Once there are 12 jurors in the box, the parties will exercise peremptory challenges. Peremptory challenges may be exercised only as to the 12 prospective jurors in the box. For each prospective juror in the box removed by the exercise of a peremptory challenge, the next-in-line prospective juror from the six-pack will be selected as a replacement before proceeding to the exercise of the next peremptory challenge. A group of seven new prospective jurors are seated once the six-pack is empty and there are 11 prospective jurors in the box. Voir dire may continue only as to the new group of seven.
13. **Acceptance of Panel and Selection of Alternate Jurors:** When all parties "pass" on the exercise of peremptory challenges as to the 12 prospective jurors in the box, 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. Prospective alternate jurors will be selected, subject to peremptory challenges, based on their position in the six pack, starting with the prospective alternate juror in seat 13. 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).
14. **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.
15. **Trial Schedule:** Where scheduling permits, the trial will occur between 10:00 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.

16. 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.