

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

LAW & MOTION/CASE MANAGEMENT RULES

Department PS1

(Effective January 1, 2021)

****Department Rules subject to changes and/or updates given the fluid nature of the COVID-19 crisis, and the ever-changing availability of resources.**

1. **Hearing Times.** Unless otherwise indicated, the law and motion/case management (FastTrack) calendar in Department PS1 will begin at 8:30 a.m. Please check in with the courtroom clerk no later than 8:15 a.m. If appearing by WebEx please call between 8:00 a.m. and 8:15 a.m. If you do not check in with the courtroom clerk you risk being unable to appear.

2. **Law & Motion Tentative Rulings.** This Department publishes tentative rulings per California Rules of Court, rule 3.1308 (a) (1) and Riverside Superior Court Local rule 3316. Tentative Rulings for each law and motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at <https://www.riverside.courts.ca.gov/OnlineServices/TentativeRulings/tentative-rulings.php>. If you do not have internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

Hearings will not be held on law and motion matters if oral argument is not requested. To request oral argument, not later than 4:30 p.m. on the court day before the hearing, you must: (1) notify the judicial secretary for Department PS1 at (760) 904-5722 and; (2) inform all other parties. If no request for oral argument is made by 4:30 p.m., the tentative ruling will become the final ruling on the matter effective the date of the hearing.

3. **Ex Parte Applications.** Ex-parte applications are heard daily on the law and motion calendar, subject to the Court's availability. The Court may exercise its discretion to deny or grant an ex parte application without a hearing. In addition to complying with the California Rules of Court and applicable Local Rules governing ex parte applications, parties seeking ex parte relief must email a copy of any ex parte application (and all supporting documents) to the opposing party/counsel no later than 4:00 p.m. the day prior to the ex parte hearing. Any opposition to an ex parte application must be served on the moving party/counsel as soon as it is filed with the Court. Absent exceptional circumstances, no hearing will be conducted, and the ex parte application will be denied, if inadequate notice is given or if there is inadequate service.

Note: The court cannot advance a hearing date or shorten time to hear a motion, via ex parte application or otherwise, unless that motion has already been filed with the court and a hearing date set. A party desiring an order shortening time for a motion should not bring an ex parte application for such an order until that party has first (1) reserved a hearing date for the motion; (2) paid the appropriate filing fee or obtained a fee waiver; and 3) filed the motion.

4. **Case Management Rules.** This Court expects counsel and self-represented parties to comply with all case management rules set out in the California Rules of Court, including but not limited to rule 3.700 et seq. Failure to comply with these rules, or other Rules of Court may result in an order to show cause why sanctions should not be imposed, the continuance of the case management conference, or both.

Counsel appearing, including those making “special appearances,” at case management conferences or trial setting conferences must be familiar with the case and prepared to discuss and bind their client regarding issues listed in rules 3.724 and 3.727. Failure to meet and confer *in person or by telephone* as required by rule 3.724 may result in an Order to Show Cause re sanctions, continuance of the case management conference, or both.

In advance of any trial setting conference, counsel and self-represented parties are ordered to meet and confer and to prepare and file a declaration at least 10 days in advance of the trial setting conference addressing all of the following:

- Three available dates for trial, beginning on a Friday at 8:30 a.m., within approximately 6 months of the Trial Setting Conference. All counsel and self-represented parties must be available on the dates selected. Questions about the Court’s availability for “trial call” may be directed to the courtroom assistant before these dates are selected. (See PS1 Trial Rules.)
- Whether parties are requesting a bench or jury trial, and the length of the anticipated trial in hours, if possible. Counsel and self-represented parties should provide their best estimate and specify whether the estimate is based on an in-person or virtual trial. If parties are unsure how to estimate the length of time needed, they should provide detailed information about the number of witnesses they anticipate calling, specifying the number of experts, and should note any special circumstances, e.g., the need for one or more foreign-language interpreters, child witnesses, etc.
- If parties have timely paid jury fees, parties should address whether they will waive jury assuming the trial is conducted remotely via WebEx Video. Parties who have paid timely fees and wish to waive jury only while the

Court is unable to meet in person due to the pandemic will not be held to this waiver if the Court is able to conduct an in-person trial.

- If parties have timely paid jury fees they should address whether, assuming the trial will be conducted virtually via WebEx Video, they wish to stipulate to a panel consisting of fewer than 12 jurors (Cal. Const., art. 1, § 16) or to an “expedited” jury trial under Code of Civil Procedure section 630.01 et seq.
- Assuming any trial will be conducted virtually via WebEx Video, the declaration must include any specific reasons that counsel and self-represented parties believe that their specific case cannot be effectively tried in a virtual medium. For example, a party, or one or more key witnesses, will require the services of one or more foreign-language interpreters, or there is a specific piece of evidence (provide details) that cannot be effectively displayed via video. Absent extenuating circumstances, the Court will not allow any continuance of a virtual trial based on a specific issue raised for the first time at trial that could have been, but was not, raised in this required declaration.
- Whether the parties have participated, or will be participating, in some form of alternative dispute resolution. This should include information about the last date of ADR, or any scheduled dates, and should include information about whether the parties believe a Mandatory Settlement Conference may be beneficial. The Court will take this information into account when determining whether and when, if at all, to set a Mandatory Settlement Conference.
- The declaration may, but need not, address counsel and self-represented parties’ availability, or need, for a pretrial technology conference. (See PS1 Trial Rules.) Please check with courtroom assistant for Department availability.
- The declaration may address any other issues that are relevant to setting trial.

***The Court strongly prefers that this declaration be jointly prepared and filed. Failure to file a declaration, or to meet and confer, will result in issuance of an Order to Show Cause re sanctions; sanctions of up to \$1500 may issue, jointly and severally as against counsel and parties.

5. **Informal Discovery Conferences.** If all parties believe that one or more discovery issues may be resolved with the Court’s assistance, they may submit a request for a telephonic informal discovery conference. The parties may utilize

the process for email submission of the request more fully explained at: <https://www.riverside.courts.ca.gov/PublicNotices/Basic-IDC-and-VSC-Guidelines-for-COVID19-Closures.pdf>

The request must be jointly submitted by ALL counsel, and must contain ALL of the following information:

- The specific discovery issues to be resolved broken down categorically (by type and nature of information sought), with a brief description of each party's position on the disputed issue, no more than 1.5 pages per side.
- A detailed explanation of the party's efforts to meet and confer and resolve all disputed issues, no more than 1.5 pages.
- Contact information for all counsel who will be participating in the discovery conference, including email address and telephone number. The telephone number will be used by the Court to facilitate the discovery conference so counsel should provide a direct line or mobile number, if working outside the office.
- If the Court believes a joint session is most appropriate, it may request counsel to facilitate a conference call. The stipulation should specify which counsel will be responsible for facilitating a conference call, should one be necessary.
- Three proposed dates and times during which all counsel will be available for a telephonic conference with the Court. Counsel must stipulate to proposed times between 1:00 p.m. and 3:00 p.m., Monday through Thursday, and must select dates that are at least one week after the date the stipulation will be filed, and no more than four weeks after it will be filed.

*The Court notes that if the parties are able to resolve any discovery issues, their resolution will need to be memorialized in a stipulation or other agreement as the Court is unable to memorialize any agreement on the record with a court reporter at this time due to COVID-19 staff shortages.

6. **Alternative Dispute Resolution.**

- A. **Voluntary Settlement Conference.** Upon the joint request of ALL counsel, and subject to availability, the Court will set a telephonic Voluntary Settlement Conference. The request must be a joint request by ALL counsel, and may be submitted via email per the guidelines set forth at: <https://www.riverside.courts.ca.gov/PublicNotices/Basic-IDC-and-VSC-Guidelines-for-COVID19-Closures.pdf>

The joint request should contain ALL of the following information:

- A brief description of each party's position on the disputed issues in the litigation, which should be no more than 5 pages per side.
- A detailed explanation of the party's past efforts to resolve the case, if any, no more than 2 pages in length.
- A certification by each counsel that parties necessary to the resolution of this matter, including parties, party representatives, insurance adjusters, and the like, will participate in the Settlement Conference telephonically. Failure to produce parties as certified may, absent extenuating circumstances, result in sanctions.
- Contact information for all counsel, including email address and telephone number. The telephone number will be used by the Court to facilitate the Settlement Conference so counsel should provide a direct line or mobile number, if working outside the office.
- If the Court believes a joint session is most appropriate, it may request counsel to facilitate a conference call. The stipulation should specify which counsel will be responsible for facilitating a conference call, should one be necessary.
- Three proposed dates and times during which all counsel will be available for a telephonic conference with the Court. Counsel must stipulate to proposed times between 1:00 p.m. and 3:00 p.m., Monday through Thursday, and must select dates that are at least one week after the date the stipulation will be filed, and no more than four weeks after it will be filed.
- A fully executed copy of Local Form RI-C1028, available on the Court's website at <https://www.riverside.courts.ca.gov/FormsFiling/LocalForms/ri-ci028.pdf> (Stipulation to Allow Trial Judge to Conduct Settlement Conference).

Failure to include any of the above information in the request will result in the request being denied.

The parties may NOT include with the stipulation any attachments, other than Local Form RI-C1028. Stipulations containing longer attachments will be rejected.

The Court notes that if the parties are able to resolve their case, their settlement will need to be memorialized in a formal settlement agreement as the Court is

unable to memorialize settlements on the record with a court reporter at this time due to staffing shortages.

- B. **First Friday Settlement Conference Program.** Upon the joint request or stipulation of ALL counsel, and subject to availability, the Court will refer cases to the First Friday Settlement Conference program, administered by the Desert Bar Association. More information about the program is available at <https://desertbar.com/what-is-first-friday>. Due to the pandemic, this program is no longer an in-person settlement program conducted on the First Friday of each month. Instead, the First Friday program is now being conducted virtually. This program, designed to provide 3 hours of early mediation at no cost to the parties, has limited availability. Cases selected for inclusion in the program will be matched with an available mediator. Parties will be ordered to contact the mediator to schedule a virtual mediation, which will be conducted over video or telephonic media, depending on arrangements made with the mediator. Parties will also be ordered to complete the mediation by a date certain. Failure to contact the mediator or complete the mediation by the specified completion date will result in an Order to Show Cause re sanctions and sanctions of up to \$1500 may issue, jointly and severally as against counsel and parties.

Stipulations requesting inclusion in the First Friday program may be submitted at any time during the litigation. Stipulations should include a specified completion date within 60 days of the date the request is made. Requests to participate in the First Friday program filed after a trial date is set will be considered requests to participate in any available court-based ADR program, including a Mandatory Settlement Conference. Assignment to a court-based ADR program is subject to availability.

- C. **Mandatory Settlement Conference.** Unless an attorney's appearance is excused in advance in writing by the Court, the principal trial counsel for every party -- including all plaintiffs, cross-complainants, and plaintiffs in intervention -- shall appear at the MSC via WebEx, or Zoom, per the instructions of the hearing officer, unless otherwise ordered by the Court.

The Court also orders:

- (1) Unless his or her appearance is excused in advance in writing, the handling insurance claims professional for every insurer insuring any party shall appear in person, and shall come with full authority to settle all claims against the insured. (Cal. Rules of Court, rule 3.1380(b).) "Full authority to settle" means the authority of the person present to bind the insurer (a) to pay an amount equal either to the sum of the claimants' settlement demands against the insured or to the policy limits, whichever is less (b) without consulting anyone not personally present at the settlement conference.

- (2) If the party is not a natural person, the person attending on behalf of a party shall come with full authority to settle all claims being asserted by that party or against that party. (Cal. Rules of Court, rule 3.1380(b).) As to a plaintiff, cross-complainant, or any other party seeking affirmative relief, “full authority to settle” means the authority of the person present to dismiss or compromise that party’s claims in exchange for consideration in any sum whatsoever without consulting anyone not personally present at the settlement conference. As to any defendant, cross-defendant, or defendant-in-intervention, “full authority to settle” means the authority of the person present to bind the party (a) to pay an amount equal to the sum of the claimants’ settlement demands against that party (b) without consulting anyone not personally present at the settlement conference.
- (3) Not later than 24 days before the MSC, the plaintiffs shall send written settlement demands to each defendant with whom the plaintiffs have not yet reached a settlement, describing both the amount of the demand and the manner in which it was calculated. By the same date, every cross-complainant, and every plaintiff in intervention that is seeking affirmative relief, shall send such written settlement demands to each and every cross-defendant and defendant in intervention with whom they have not yet settled.
- (4) Not later than 7 days before the MSC, every defendant and cross-defendant who received a settlement demand in accordance with the prior paragraph shall send a written response to that demand to the party that sent that demand. If the response includes a settlement offer, the response shall state both the amount of the offer and the manner in which it was calculated.
- (5) Any request to excuse any attorney, party, or insurance claims professional from personally appearing at the MSC shall be presented to the Court at least 10 days before the MSC and supported by a declaration by the person seeking to be excused from appearing that: (a) establishes the facts justifying the excuse; (b) states whether the party, attorney, or insurance claims professional was personally present at any prior mediations or settlement conferences; and (c) describes the extent to which that party, attorney, or insurance claims professional participated in any prior mediation, MSC, or informal settlement efforts. The request MUST be served on all parties. If a basis for the request is that some other person will be attending the MSC with full authority to settle, the declaration shall identify that person by name and shall expressly

state that the person has “full authority to settle’ as that term is defined in” this order.

- (6) Immediately upon learning an MSC has been set, trial counsel for each party shall mail a copy of this order to all handling insurance claims professional for that party’s insurance carriers. If trial counsel becomes aware that any insurance claims professional is refusing to attend the MSC, trial counsel shall advise the Court in writing of the name, address, and telephone number both of the person who is refusing to attend and that person’s supervisor.
- (7) No attorney, party, or insurance claims professional shall leave the MSC until he or she is excused by the Court.

***Failure to comply with these rules relating to Mandatory Settlement Conferences will result in issuance of an Order to Show Cause re sanctions; sanctions of up to \$1500 may issue, jointly and severally as against counsel and parties.