

Riverside Historic Courthouse
Department 7
O.G. Magno,
Superior Court Judge

Pre-trial and Trial Orders

Unless contrary orders are made by written order or on the record in open court, the following orders apply in all trials set in Department 7. References to “counsel” include self-represented parties. Failure to comply with these orders may subject parties and/or counsel to sanctions, including sanctions pursuant to Code of Civil Procedure section 177.5.

A. Ex Parte Applications and Orders Shortening Time

1. *Ex Parte* applications will be heard Monday through Friday at 8:30 am. The Court may exercise its discretion to deny or grant an *ex parte* application without a hearing.
2. The Court will not consider a request to shorten time for notice or advance a hearing date for a motion **unless the motion has been filed with the Clerk’s Office**, a hearing date is on calendar, and the appropriate filing fee for the motion has been paid (or a fee waiver obtained). The Court will not “deem filed” any motion that has not been properly filed.

B. Pre Trial

1. **All parties shall comply with Riverside Superior Court Local Rule 3401. Failure to comply with Local Rule 3401 may result in sanctions pursuant to CCP §575.2.**
2. Requests to continue trial must comply with California Rule of Court §3.1332(b); only by noticed motion or if exigent circumstances exist, requests can be made by *ex parte* application. All trial related *ex parte* applications will be heard Monday through Friday at 8:30 am. **No requests for trial continuances will be considered on the trial setting conference hearing or the day of trial.**
3. Trials are set and called on Fridays at 8:30 am. Short cause trials (4 hours or less) may commence the day set for trial. Parties in all other trials should be prepared to participate in a pretrial conference on the day set for trial, and should be prepared to begin trial the following Court day.
4. Parties are required to have trial related documents pursuant to Local Rule 3401 in a hard copy and in a digital format when it is submitted.
5. The Court encourages parties to participate in pretrial mediation. All parties, counsel, insurance representatives and any other persons necessary to participate in settlement discussions and enter a settlement on the record pursuant to CCP section 664.6 are required to appear on the day set for trial, unless the Court has excused that appearance in advance, based on a finding of good cause.

6. If Department 7 is engaged in trial, there is more than one matter ready for trial in Department 7 on the day set for trial, or in any other circumstance such that Department 7 is not available for trial, the matter may will be traileed and parties given 24 hour notice to be assigned to another available trial department, (2) until Department 7 is available, or, (3) be traileed or continued, at the Court's discretion.
7. All Parties must comply with Department 7's filing Motions In Limine Orders (provided at the Trial Readiness Conference date).

C. All Trials

1. Department 7 is in session for long cause trials Monday through Thursday, from 9:30 to 12:00 and 1:30 to 4:00.
2. Other than parties and retained expert witnesses, all witnesses are excluded from the courtroom until they are called to testify. No motion is necessary.
3. No evidence excluded by the Court's rulings on a motion in limine, or any other order, shall be referred to or inquired about, and no reference shall be made to the motion in limine or the ruling on the motion, in the presence of the jury. Counsel shall instruct and advise each witness of this order.
4. Counsel must schedule and have available more witnesses than they believe will be necessary each day. Parties shall at all times have at least one witness, in addition to the witness testifying, in the courthouse and ready to testify. No recess or continuance will be granted for lack of an available witness absent proof of service of a subpoena or notice to appear. A party may be compelled to rest its case if witnesses are not available.
5. Before leaving the courtroom at the end of each trial day, Counsel shall notify opposing counsel of the identity of all witnesses that will be called the following trial day, including the order in which they will be called.
6. Court will address admissibility of all exhibits once the case is closed to evidence.
7. Any party who intends to read from a deposition transcript during trial shall lodge the original transcript (in digital format) with the court no later than 9:30 am on the day the witness is scheduled to testify.
8. Department 7 is a digital courtroom, equipped to allow the electronic presentation of evidence. Counsel is encouraged to present evidence electronically to the extent possible, and to meet and confer regarding the joint, electronic presentation of evidence.

D. All Jury Trials

1. Voir Dire shall not begin until all parties have complied with Local Rule 3401, and, in particular, provided the Court with required jury instructions and verdict forms.
2. The Court prefers to provide the jury venire a reading of the statement of the case as opposed to a "mini opening" statement by the parties, pursuant to CCP §222.5.

3. No witness shall testify, no exhibit shall be introduced, and no counsel shall ask a question or make any comment in the presence of the jury, concerning any of the following subjects:
 - a. Settlement negotiations, mediation efforts, statements made during or in reference to those events, or documents prepared for or during those events;
 - b. The income, wealth or financial condition of any party;
 - c. Any past or current litigation involving, or claims by or against, any party;
 - d. The retention of counsel by an insurance company, unless the insurance company is a party;
 - e. Whether a party is now or was formerly insured against any type of loss or liability.
 - f. Motions in limine, the Court's rulings on motions in limine, or orders excluding testimony or evidence.
4. A document used solely to refresh a witness' recollection shall not be displayed to the jury.
5. During voir dire, opening statement and closing argument, counsel may enter the well after requesting approval.
6. If there are multiple alternate jurors and it becomes necessary to discharge a juror and substitute an alternate juror, prior to the commencement of deliberations or during deliberations, the alternate shall be the next in random order determined at the commencement of voir-dire.
7. Upon receiving any question, request or notice from the jury after deliberations have begun, the Court shall prepare a proposed response. The Court shall contact all parties by telephone and read the question and proposed response. If no party objects to the proposed response, the response shall be given. If any party objects to the proposed response, the Court shall notify all parties and give not less than 30 minutes for parties to appear to address the response on the record. If any party does not appear after that notice, the Court may respond without that party's participation.

O.G. Magno
Judge of the Superior Court

COURT ORDERS RE: MOTIONS IN LIMINE (PROVIDED AT TRC DATE):

1. Discuss each proposed motion in limine to determine whether the relief sought is opposed, and if so, whether the parties can agree to a resolution. *Riverside Local Rule 3401 (3)(d)*. The Court will not consider motions in limine absent an indication of a meet and confer before filing the motion in limine.
2. Every motion in limine submitted to the Court shall be in writing, shall be numbered sequentially according to the party or side bringing it (e.g., Plaintiff's No. 1, Plaintiff's No. 2, Defendant Smith's No. 1, Defendant's #2, etc.), and shall be tailored to the specific issues of the case and to the specific evidence expected to be introduced at trial.
3. Motions in limine shall not seek declarations of existing law of general application, e.g., that the opposing party may not introduce inadmissible hearsay; or to exclude evidence of collateral source. *Riverside Local Rule 3401 (6)(b)*.
4. Discovery motions must have been heard at least 15 days before date initially set for trial. CCP §2024.020(a). The Court will not entertain a motion seeking to exclude evidence merely because it differs from a party's discovery responses. *Riverside Local Rule 3401 (6)(e)*. A motion in limine deals with the admission of evidence—it is not a late-filed motion to compel discovery. A motion in limine to assert a late-filed motion to compel is improper.
5. A motion in limine, although it may have the effect of foreclosing critical issues and thus dictating a result, **cannot** be a substitute for a summary judgment or a subtle effort to reconsider such a motion. A "motion in limine" is a procedural mechanism to limit in advance testimony or evidence in a particular area. A motion in limine is not the proper vehicle for seeking a dispositive ruling on a claim, particularly after the deadline for filing such motions has passed. *Hana Financial, Inc. v. Hana Bank*, 735 F.3d 1158 (9th Cir. 2013), *aff'd*, 135 S.Ct. 907 (U.S. Jan 21, 2015).
6. Matters that are lacking in "factual support or argument" are not properly the subject of motions in limine. *Kelly v. New West Federal Savings*, 49 Cal. App. 4th 659, 670, 56 Cal. Rptr. 2d 803 (2d Dist. 1996). The court should not have to rule in a vacuum or guess at what evidence should be included within the scope of its ruling. *Kelly* at 670. ("[U]ntil the evidence is actually offered, and the court is aware of its relevance in context, its probative value, and its potential for prejudice, matters related to the state of the evidence at the time the objection is made, the court cannot intelligently rule on its admissibility." *People v. Jennings*, 46 Cal. 3d 963, 975 n.3, 251 Cal. Rptr. 278, 760 P.2d 475 (1988), as modified, (Nov. 10, 1988).
7. Matters of day-to-day trial logistics and common professional courtesies should not be the subject of motions in limine. *Kelly v. New West Federal Savings*, 49 Cal. App. 4th 659, 671, 56 Cal. Rptr. 2d 803 (2d Dist. 1996). Examples include: an order that counsel inform other counsel the day before which witnesses will be called the next day; that no exhibits be shown to the jury without first having been seen by all counsel and the court. Procedural matters and items relating to jury selection most often can be addressed orally and informally, and later preserved on the record if necessary. *Kelly* at 671.
8. Any party submitting any motions in limine shall submit a single proposed order encompassing all motions made by that party. *Riverside Local Rule 3401 (6)(f)*.

Conduct by Counsel (BE ON TIME)

1. Counsel should make every effort to be civil and polite towards opposing counsel, witnesses, and court staff.
2. Opening statement is not argument. State only the expected evidence; do not state your opinions as to its force or an expected verdict.
3. Movement about the courtroom during the examination of witnesses: stay clear of the well, do not lean on the bar, and do not encroach on the jury box.
4. Counsel must not add their own commentary, and refrain from editorializing the state of the evidence during the presentation of the evidence.
5. EXHIBITS: 1) pre-marked and digitally submitted; 2) need to authenticate, even if there is a stipulation (place on the record at the time that it is being presented); 3) counsel is not allowed to approach the witness while testifying. USE ELMO.
 - Admissibility of exhibits will be heard at close of evidence
6. OBJECTIONS SHALL BE DIRECTED TO THE COURT IN LEGAL FORM WITHOUT ARGUMENT. Parties request permission to approach the bench (sidebar) will be rarely granted.
7. Deposition transcripts for impeachment: the court needs to be assured that the part of the deposition is material or relevant; *CCP 2025.620(e)*. (One method is to ask the witness if he testified differently at the deposition).
8. Refrain from admonishing a witness while the witness is testifying; you may request that the court admonish the witness.
9. Witnesses and all individuals will be addressed formally by their *last names*; with the exception of minors and individuals with similar last names.
10. Witnesses shall be admonished by counsel NOT to communicate with the jurors. Obviously, you are not to communicate with jurors; don't even say hello; I will instruct the same of the jurors.
11. *Parties will be held to time limits presenting evidence; daily witness schedule; length of time per witness.*

JURY SELECTION

1. Process of Time qualification through questionnaire (30-36 jurors).
2. Juror questionnaire – parties will be provided questionnaires overnight.
3. Stipulation to impanel less than 12 jurors.
4. Limit on the length of voir dire by counsel.
5. Delayed disclosure of alternate jurors to the alternate jurors.
6. Stipulation of Number of alternate jurors; to waive alternate jurors.

IMPROPER VOIR DIRE QUESTIONS

CA CCP § 222.5 (b)(3):

(3) For purposes of this section, an “improper question” is any question that, as its dominant purpose, attempts to ***precondition the prospective jurors to a particular result, indoctrinate the jury, or question the prospective jurors concerning the pleadings or the applicable law.*** (emphasis added by court).

Standards of Judicial Administration §3.25 (f) improper questions:

When any counsel examines the prospective jurors, the trial judge should ***not*** permit counsel to attempt to ***precondition the prospective jurors*** to a particular result or allow counsel to ***comment on the personal lives and families*** of the parties or their attorneys. Nor should the trial judge allow counsel to question the jurors concerning the ***pleadings, the applicable law, the meaning of particular words and phrases,*** or the comfort of the jurors, except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to insure the selection of a fair and impartial jury. (emphasis added by court).

Certain types of questions and areas of inquiry are improper and should not be permitted by the court except in unusual circumstances. Cal Rules of Ct, Standards of Judicial Admin 3.25(f). These include questions that:

- Precondition the prospective jurors to a particular result; ***(DAMAGES: NO AMOUNT OR NUMBER)***
- Comment on the personal lives and families of the parties or their attorneys;
- Concern the pleadings, the applicable law, the meaning of particular words and phrases; or
- Focus on the comfort of the jurors.

Voir dire questions also may be excluded if they appear to be intended solely to accomplish one of the following improper purposes:

- To educate the jury panel to particular facts of the case,
- To compel jurors to commit themselves to vote in a particular way,
- To prejudice the jury for or against a particular party, or
- To argue the case.
- Instruct on matters of law.

People v. Williams, 29 Cal. 3d 392, 407, 174 Cal. Rptr. 317, 628 P.2d 869 (1981)) *People v. Visciotti*, 2 Cal. 4th 1, 47-48, 5 Cal. Rptr. 2d 495, 825 P.2d 388 (1992); *Rousseau v. West Coast House Movers*, 256 Cal. App. 2d 878, 882, 64 Cal. Rptr. 655 (2d Dist. 1967)):

Mini openings: may be made before examining the jury. (Code Civ. Proc., § 222.5, 2d para.; CRC §4.202) Voir dire is not intended to educate jurors as to the facts of the case. *People v Williams* (1981) 29 C3d 392, 408. The trial court can limit the amount of case-specific facts the parties can put in a mini-opening and also may deny counsel the right to make mini-openings to more than one jury panel. *Alcazar v Los Angeles Unified Sch. Dist.* (2018) 29 CA5th 86, 98. Moreover, like voir dire, the mini-opening may not be used to pre-condition jurors.

The purpose of these statements is to place the voir dire questions in context and to generate interest in the case so that prospective jurors may be less likely to claim marginal hardships. Many judges find that these statements make the prospective jurors more engaged in the proceedings and give them a good sense of the nature of the conflict.

Because a court retains discretion to reject improper content in brief opening statement made to prospective jurors, proper exercise of such discretion does not violate either spirit or purpose of statute indicating that trial judge “shall” allow brief opening statement by each party prior to commencement of oral questioning phase of voir dire process. *D.D. v. Pitcher* (Cal.App. 5 Dist. 2022) 295