



**SUPERIOR COURT OF CALIFORNIA
County of Sacramento**

Public Notice-Civil Division

November 20, 2020

Civil Trial Process COVID-19 Protocols

Summary:

Long-cause civil trials, including jury trials, will resume commencing January 4, 2021. We anticipate that trials will take longer to complete than they did prior to the COVID-19 pandemic due to the health and safety protocols that the Court has implemented in response to public health orders and guidelines. In light of the fact that trials will consume more days to complete, the Court intends to have civil jury departments conduct trial sessions on Mondays through Fridays (as opposed to Mondays through Thursdays) to the full extent possible.

Pursuant to our COVID-19 Trial Setting Process (TSP) which we implemented in August 2020, the Court continues to require that all cases have a Mandatory Settlement Conference (MSC) in Department 59 prior to trial unless the case has been exempted under Local Rule 2.80.

If the Court has not been previously advised that a case has resolved prior to its trial date, counsel will be required to advise Department 47 no sooner than ten (10) court days prior to the assigned trial date and no later than 4:00 p.m. on the Tuesday before the trial date whether the case will be proceeding to trial and whether a jury is confirmed using the Civil Trial Readiness Notification link found on the Sacramento Superior Court website.

Parties will appear remotely via Zoom on the day set for trial in Department 47, the matter will be assigned for trial to an open trial department, pre-assigned to a trial department, or trailed. Although we will endeavor to make the trial assignment as soon as possible, in light of the reduced number of trials that can be accommodated, civil jury trials may be trailed or continued. Once the matter is assigned to a trial department, in addition to filing any pleadings, the attorneys shall submit a courtesy copy of any in limine motions electronically with the assigned trial department prior to the pretrial conference hearing. Parties shall then deliver the originals of any in limine motions directly to the trial department on the first day of trial.

Jurors are to be summoned in a number that will allow for seating within the courtroom (and satellite departments) while still maintaining physical distance. A modified schedule for the summoning of jurors or trial sessions may be necessary to alleviate large crowds gathering in the courtroom hallways at any one time. Jurors will deliberate in a vacant courtroom.

Locations for the seating of attorneys, parties, and jurors will be clearly marked within the courtrooms and hallways. It is likely that each side will be limited in the number of personnel (e.g., associates, paralegals, IT consultants, jury consultants, etc.) they may have in the courtroom at any given time considering that physical distancing will be necessary at all times. Attorneys are discouraged from “entering the well” except as necessary to approach the digital cart or as specifically allowed by the trial judge.

Trial Assignment Procedure

Notice of readiness to proceed to trial: No sooner than ten (10) court days prior to the assigned trial date and no later than 4:00 p.m. on the Tuesday prior to the assigned trial date, parties shall meet and confer and advise Department 47, of the readiness status of the case through the Civil Trial Notification link: <https://www.saccourt.ca.gov/civil/trial-notification.aspx>

1. This notice permits the Court to coordinate trial department availability with the Criminal Master Calendar Judge. Counsel shall provide the following information at that time:
 - a. Estimated length of trial, including jury selection and pretrial proceedings.
 - b. Issues related to the availability of witnesses or counsel that will impact the trial.

- c. Whether parties believe that any pretrial motions will require an evidentiary hearing.
 - d. Whether parties believe that aspects of the trial will require bifurcation.
 - e. Whether the parties are willing to waive jury and proceed by way of bench trial.
 - f. Whether a further settlement conference is warranted.
 - g. Whether the parties are willing to stipulate to an 8 person jury.
 - h. Whether any parties or witnesses will require a Court Interpreter.
2. The initial trial assignment appearance shall be held in Department 47 by video conference via a Zoom appearance by all counsel on Mondays and Tuesdays at 9:30 a.m. The Zoom meeting contact information for Department 47 is: **499 358 8070**. If there is a change in the Trial Assignment Department, counsel will be notified prior to the date assigned for trial.
3. If a case is not initially assigned to a trial department at the trial assignment hearing in Department 47 and is assigned at a later point, any party that intends to exercise a challenge to the assigned judge pursuant to CCP 170.6 shall notify Department 47 and send an email to the Court at “**Dept47@saccourt.ca.gov**” and the opposing attorneys no later than two hours after receiving the notice of the assignment. Counsel shall include a fully executed CCP 170.6 form with the email. The court shall cause the forms to be filed.
4. If the matter has been pre-assigned for trial, all parties shall electronically submit a courtesy copy of in limine motions with the assigned trial department by 9:00 a.m. at least one (1) court day prior to the scheduled trial date or earlier if directed by the trial judge. Motions shall be emailed to the assigned department and shall be served electronically on all opposing counsel. Department email addresses are in the format as follows: DeptXX@saccourt.ca.gov. Any witness necessary for an in limine motion shall be present either remotely or in person at the time of the pretrial conference directed by the trial judge.
5. The Trial Readiness Notification procedure is not a substitute for complying with Cal. Rules of Court, rule 3.1332 in the event that a party is seeking a continuance.

Pre-Assigned Trials

If the case has been pre-assigned to a judge for all purposes, the parties should meet and confer and provide the trial judge with the trial readiness information listed above no later than the Tuesday prior to the assigned trial date.

Witnesses

For witnesses that have been subpoenaed or are subject to a Notice to Appear, counsel should, in advance, make arrangements and obtain agreements for the witnesses to be on an “on call” status to avoid the necessity of any witnesses physically appearing at the courthouse prior to the time and date of their actual testimony. Only where necessary due to the refusal of a witness to agree to “on call” status, counsel should subpoena such non-cooperating witnesses to appear in Dept 47 for a day **after** the assigned trial date. Attorneys should notify witnesses once an assignment to a trial department is made. Public access to court facilities is restricted to counsel, parties and witnesses as indicated in the Presiding Judge’s public access orders. If a witness has been ordered to personally appear for trial, the party subpoenaing the witness must notify in advance the Court/Court Security of the witness’ identity or the witness may be refused entry into the courthouse by Court Security.

Jury Summoning, Selection & Deliberation Procedures

The Court will summon panels at staggered arrival times and where feasible, will summon for specific cases/departments. The Court is prepared to summon multiple panels at staggered times if necessary. Counsel are encouraged to meet and confer to develop a joint jury questionnaire so as to facilitate and shorten the period of jury selection and the use of satellite departments. The questionnaire may be augmented by oral questioning. The proposed questionnaires shall be submitted to the trial judge at the same time as in limine motions. While trial judges are encouraged to utilize the questionnaire process, such decisions remain subject to the trial judge’s discretion. If the trial judge approves the use of a questionnaire, the questionnaire will be supplied by the parties and provided to those jurors who have been hardship and preliminarily cause qualified. If using a questionnaire, the trial judge should allow one dark day in between the dissemination of the questionnaire and the return of the jury panel. In the interim, the Court will scan the completed questionnaires in order, according to the random juror list and email them to the respective parties. The parties will review the

questionnaire and provide notice to the trial court clerk of any stipulated excusals by 4:00 p.m. the day before the panel returns, subject to the trial judge's discretion. If the Court concurs with the stipulation, the court clerk would then contact the excused jurors and advise them that they need not return. The stipulated excusals will be put on the record at the next court session.

The number of jurors that can be seated in the audience while complying with physical distancing requirements is generally limited to 15 in the courtrooms on the 3rd, 4th and 5th floors (with possible slight variation if a particular department is configured so that it can seat more or fewer with physical distancing). Greater seating capacity is available in Departments 1, 3, 8 & 9 for larger trials. The Court intends to conduct voir dire in a hybrid procedure -- partially in-person and partially via video conference through Zoom to satellite departments. The first 15 jurors that appear on the random list will be seated in the trial judge's courtroom. The remaining jurors in the panel will be seated in a satellite courtroom(s) where the voir dire proceedings, via Zoom, will be projected onto the screen in the satellite courtroom(s). The trial judge will host a Zoom session into the satellite courtroom(s), thereby allowing for jurors in the satellite courtroom(s) to observe voir dire. As jurors in the trial courtroom are excused, jurors from the satellite courtroom(s) will be brought into the trial courtroom. All questioning of jurors will occur only in the trial judge's department. A bailiff or court attendant will be present in the satellite courtroom(s). The attorneys are permitted to have a representative in the satellite courtrooms if they so choose.

Given the space restrictions inside the trial department that will limit attendance by parties, attorneys and related individuals, and given the necessity for trials to be public proceedings, a civil trial may be live-streamed to the Court's YouTube webpage. However, for any trial that is live-streamed, jurors will be referenced by their juror ID number only and not their names. Juror faces will not be depicted on video at any point during the trial, including during voir dire.

Jurors will deliberate inside an available vacant courtroom upon conclusion of evidence. No court staff will be present in the courtroom during deliberations. Courtroom staff will post signs on the doors to the courtroom providing notice that a jury is deliberating in the courtroom.

Exhibits

The Court intends to limit and reduce the physical handling of exhibits. Exhibits in the form of documents or photographs shall be prominently marked by the offering party, shared with opposing counsel, and a copy of all exhibits shall also be provided to the court on a USB flash drive. The Court encourages the parties to reduce exhibits to photographs and documents (as opposed to other physical items) so as to lessen the need for parties, witnesses and jurors to handle physical evidence. The parties shall coordinate with the courtroom clerk regarding the receipt of any exhibits that are not capable of being stored on a USB flash drive. Each side shall also provide the court with a binder of their pre-marked exhibits. These binders will be available to witnesses during their testimony and shall be likewise marked as an exhibit. Once an exhibit is admitted into evidence by the Court, the parties should publish the exhibit in a manner that minimizes document handling, preferably by the use of electronic exhibits using the available projection devices. The court has available a laptop and visualizer/projection equipment for each department. If a witness is asked to mark on an exhibit, the attorneys should have their own copy of the exhibit available to place on the overhead projector and mark on at the witness's direction. This exhibit shall be marked as a subsection of the original exhibit. The Court discourages attorneys from approaching a witness during testimony. The parties shall provide the court with an electronic MS Word version of the comprehensive exhibit log for use by the trial court clerk. The exhibit log shall reference the unique exhibit numbers and include a brief objective description of each exhibit.

Public Access

The Court may permit limited public access to a trial department. The number of people permitted into a trial department will be subject to the available space in the courtroom based upon physical distancing requirements and is thereby extremely limited. Where the physical presence of the public is not permissible, the proceedings will be live-streamed to the Court's You Tube channels to afford required public access.

Seating both in the gallery and at counsel table is extremely limited. There may be insufficient space to permit parties and ancillary support personnel to be seated in the courtroom. Upon request by counsel, the Court may also allow counsel's offices to join the Zoom session so that they may observe the proceedings if they are not also being live-streamed. Live-streamed

and Zoom proceedings may not be recorded. The Court may make any necessary orders to ensure compliance with such requirement.

Trials & Physical Distancing

It is important that the administration of justice continues to the extent possible in an environment consistent with the safety of all those involved. The Court's operational plan will allow for trials to proceed under the current environmental circumstances while maintaining the safety of all participants, jurors, and court employees

Trials will be spread between multiple floors so all participants can comply with the physical distancing recommendations specified by public health professionals. Start times, break times, and adjournment times will be staggered to ensure there is no excessive gathering in any public area at particular times. Although not having static start, break and adjournment times is not ideal, strict adherence to these staggered times is absolutely necessary to ensure our building is safe for all court users. These times will be fluid, depending on the trials in session on any given day. Court staff will be notified daily of these staggered start, break, and adjournment times and will relay them to our judges. Please remember to advise all witnesses, litigants and counsel of the mandatory COVID-19 mitigation protocols that are applicable to all Sacramento court facilities. These protocols are posted on the Sacramento Superior Court website.