

DEPARTMENT 71

- **Judge:** Gregory W. Pollack
- **Courtroom Clerk:** Terry Abas (619) 450-7071
- **Independent Calendar Clerk:** Ernestina Castaneda (619) 450-7325
- **Courtroom Bailiff:** Dan DiValerio (619) 450-7336
- **Trials:** Mon., Tues., Wed. (**p.m.** only), and Thurs., 9:30 a.m. – 12:00 p.m. and 1:15 p.m. – 4:00 p.m., with a mid-morning break at 10:30 a.m. - 10:45 a.m. and a mid-afternoon break at 2:30 p.m. – 2:45 p.m.
- **Ex parte Hearings:** Mon., Tues., and Thurs., 8:45 a.m. – 9:30 a.m., but you must call the Calendar Clerk at (619) 450-7325 for a reservation for a hearing date. Moving papers for the ex parte hearing should be filed by 12 noon at least one (1) court day before the scheduled hearing. A courtesy copy should also be dropped off in Dept. 71 by 12 noon one day before the scheduled hearing. Ex parte hearings are encouraged in order to resolve discovery disputes as an alternative to formal motions, but the court requires that counsel meet and confer prior to any such ex parte hearing so that the disputed issues have been pared down as much as possible by the parties before presentation to the court. Remember: "Compromise is not a sign of weakness."
- **All requests to continue court dates, including the trial date, require an ex parte court appearance.**
- **Trial Calls:** Fridays at 8:45 a.m.
- **Trial Readiness Conferences:** Fridays at 9:00 a.m.
- **Law & Motion Hearings:** Fridays at 9:30 a.m.
- **Case Management Conferences/Status Conferences:** Fridays at 1:15 p.m.

- **Applications for Good Faith Settlement:** The application for good faith settlement pursuant to the Code of Civil Procedure 877.6(a)(2) and proposed order shall be concurrently filed, after which it will be held the requisite statutory period (20 days plus 5 for mailing). If no motion to contest is filed, the order will be signed and processed after the statutory period has run. Thereafter, the clerk will return conformed copies of the application and signed order. The proposed order should contain the following language:

The determination by the court that the settlement was made in good faith shall bar any other joint tortfeasor or co-obligor from any further claims against the settling tortfeasor or co-obligor for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault. CCP §877.6(c).

- **Guardianships, Publications of Summons and Default Prove-Ups:** Petitions for appointment of a guardian ad litem, applications for an order for publication of summons, and submissions of a default prove-up package may be filed ex parte without the necessity of a court appearance. Thereafter, the papers shall be reviewed by the Court, which may schedule a hearing if deemed necessary. Proposed default judgments claiming punitive damages and/or non-economic damages will usually require a hearing.
- **Sealing Records:** Requests to seal court records must comply with CRC 2.550 and 2.551. Note: "The court must not permit a record to be filed under seal based solely on the agreement or stipulation of the parties." CRC 2.551(a).

Law & Motion

1. The Court hears motions by reservation only. Counsel must first reserve a date for the motion by contacting the Calendar clerk at (619) 450-7325.
2. Law & motion hearings are held on Fridays, from 9:30 a.m. to 12 noon.
3. Unless the motion is unopposed, the court ordinarily does not post tentative rulings in advance of oral argument. However, prior to the commencement of oral argument, the Court will announce from the bench its

tentative ruling and reasons therefor so that counsel can appropriately focus their oral arguments.

4. A courtesy copy of any reply brief should be filed directly in Department 71 on the Friday before the Friday hearing, *i.e.*, one week before the hearing. This will allow the Court time to review the reply brief over the weekend, during which much of the law & motion preparation work is ordinarily performed. Reply briefs that are electronically filed or in-person with the business office on Friday generally do not make it into the system until the following week.

5. Following oral argument, the Court will issue a formal written ruling. This minute order will be the final order of the Court, and, accordingly, counsel do not need to submit a proposed order.

6. Please adhere to the page limitations for memoranda of points and authorities set forth within CRC 3.1113(d), *i.e.*, 15 pages for an opening or responding brief (20 pages if motion for summary judgment or summary adjudication) and 10 pages for a reply brief. Do not try to get around these limitations by using a small font or frequent, single-spaced footnotes. There is often truth to the adage, "More is less."

7. If your case has settled or you have decided to take the motion off calendar, please call the court *immediately* so that the Court does not spend valuable time preparing a ruling that is no longer required.

8. The parties are encouraged to meet and confer before filing demurrers, motions to strike, and discovery motions. Please feel free to schedule an *ex parte* appearance if you feel the matter can resolve with some Court assistance. If you choose this route, be sure to first meet and confer with counsel so that the issues are pared down by the parties as much as possible before presentation to the Court.

9. The Court allows all non-trial court appearances by MS Teams.

10. For motions for summary judgment or summary adjudication, the moving party shall deliver to Department 71 one week before the hearing, *i.e.*, the Friday before the Friday hearing, a binder containing the following tabbed documents:

1. Movant's memorandum of points and authorities;
2. Movant's supporting declarations, each of which is separately tabbed;

3. Opposition memorandum of points and authorities;
4. Opposition declarations, each of which is separately tabbed;
5. Movant's reply brief; and
6. The opposition separate statement that responds to movant's separate statement and sets forth other material facts that the opposing party contends are disputed, along with any response thereto by the movant. *See* CCP §437c(b)(3); CRC 3.1350(f).

Trial Guidelines

1. Be on time. Call the Court Clerk, Terry Abas at (619) 450-7071, if there is any reason why you may be late.
2. Stipulations should be in writing, signed by counsel.
3. No speaking objections. State only the legal ground(s) for your objection.
4. No swearing or foul language unless the attorney or witness is quoting what was, in fact, said.
5. You are not required to obtain permission from the Court to approach the witness or otherwise move within the well. You may place the podium wherever you like. You are not required to stand while addressing the Court.
6. The use of laser pointers is prohibited.
7. While arguing legal issues, address remarks to the Court rather than to opposing counsel.
8. Do not show a witness any document that has not already been marked, even if you do not intend to offer it into evidence.
9. Do not publish an exhibit, *i.e.*, show it to the jury, unless the exhibit has already been admitted into evidence.
10. Show all demonstrative evidence you intend to use in opening statement to opposing counsel. If there is an objection, the matter is to be brought to the Court's attention for a ruling prior to the commencement of opening statements.

11. Advise opposing counsel of your anticipated witness schedule (dates and times) as soon as practicable, and, unless the witness is a true impeachment witness, no later than the day before the witness is to testify. The Court will allow a witness to testify out of order if there is a legitimate scheduling conflict. "Down time" is unacceptable; there should be no gaps in time between witnesses.

12. Jury Selection:

- (a.) In most cases, the clerk will call and seat 40 prospective jurors. Initial questions will be directed toward these 40 jurors. Peremptory challenges are to be exercised only as to jurors 1 through 12. Jurors 13 through 40 will be substituted in for excused jurors in accordance with their numbers. At least two alternates will be selected.
- (b.) As a general rule, the Court will allow up to 25 minutes to each side to ask questions of the initial panel of jurors (40). Depending upon the complexity of the case or issues involved, more time may be provided upon request. In the event additional jurors beyond the original 40 are called, each attorney will be allotted additional time for voir dire. However, questions may be directed only to the newly called jurors.
- (c.) At the conclusion of questioning, the Court will call counsel to sidebar to make any challenges for cause.
- (d.) The purpose of voir dire is to elicit information from prospective jurors, not impart information to them. During voir dire, please do not argue your case or ask the jurors to promise you anything other than to follow the law as instructed by the Court. Do not construct hypotheticals involving evidence you intend to produce at trial. Do not attempt to precondition jurors.
- (e.) During voir dire [and trial], do not provide any personal information about yourself, e.g., "When I was stationed in Vietnam . . .," "I said to my wife last night . . .," "My 12-year-old daughter said to me . . .," etc. Your case is not about the lawyers. A lawyer's attempt to ingratiate himself with a jury based on his/her personal, professional or other life circumstances and/or accomplishments is inappropriate.

13. Acceptable client advocacy never includes making misrepresentations of law or fact to the Court.

14. Follow the Golden Rule: Treat people, including opposing counsel, the way you, yourself, want to be treated.

HON. GREGORY W. POLLACK
Judge of the Superior Court

To see the Advance Trial Review Order for Department 71, [click here](#).