

Issue Conference Checklist

Note to Counsel: These are the principal items that the Court will discuss at the Issue Conference. It is not an exclusive list, and the Court is open to hearing any additional concerns or questions you may have.

Parties

What parties are left?

Are any likely to settle between now and trial?

Have any issues been settled? Are any likely to settle before trial?

Have Does been dismissed?

Claims:

Which claims are asserted against which parties?

Does plaintiff/cross-complainant wish to dismiss any?

Is there a request for bifurcation? Severance? Consolidation?

Will all issues tried to jury?

If there are equitable issues, in what order will they be tried?

Court Reporter

Do you want one? *If so, the Court will want a live feed.*

Daily stipulations to use of court reporter?

Do you want voir dire reported?

Time estimate

Go over spreadsheet and time estimates. (*See issue conference order.*)

Jury Selection:

Fees

Have jury fees been paid?

Discuss with clerk how and when additional fees will be paid. CCP 631(e)

Hardships

Discuss procedures for hardship and selection. Set schedule for jurors to return after filling out questionnaire/hardship screen.

Statement of the case for the jury panel

If we will be screening several panels for hardship, the statement should be a short, non-argumentative description of the case. Alternatively, do you want to give a mini-opening of a minute or two each?

Questionnaire:

Do you want one?

Have you agreed on one? If not, review competing versions or objections to individual questions.

Make sure the instructions comply with *Bellas v. Superior Court*, (2000) 85 Cal. App. 4th 636

- *[T]he constitutionally permitted procedure mandates that the judge advise members of the venire at the time the questionnaires are distributed that, upon completion, they will become public records accessible to anyone, and as an alternative to writing in sensitive personal data, jurors can answer those questions on the record in chambers with counsel present. Even in that event, trial judges should take care that the individual prospective juror is not given either explicit or implicit assurances that the transcript of in camera questioning will be protected from public disclosure in all instances. Id. 85 Cal. App. 4th at 639*
- *"[n]o explicit or implicit promise of confidentiality should be attached to the information contained in the questionnaires; rather the venirepersons shall be expressly informed the questionnaires are public records." Id. 85 Cal. App. 4th at 645*
- *[W]e again entreat trial judges to insist that venire panels be advised in unambiguous language at the time questionnaires are distributed that they will become public records accessible to anyone and, as an alternative to writing in sensitive personal data, jurors can respond to questions asked on the questionnaire on the record in chambers with counsel present. Id. 85 Cal. App. 4th at 652-653*

Discuss procedure for making copies of the blank and completed questionnaires.

Alternates: How many?

Voir Dire:

Discuss how voir dire will be conducted.

How many sides?

How many peremptories and how allocated?

E.g. If two sides, 6 peremptories as to the jury; one per alternate (say 4 alternates); CCP §§231, 324

[Therefore, need $12+4+12+8+x = 36$ jurors in panel + x (for cause)]

Do you want to make a “brief opening statement?” See CCP 222.5.

How much time do you want for voir dire of the first 18? Then next 7?

If there are multiple parties on a side, how will you (collectively) exercise your peremptories?

Pre-instructions:

Which CACI preliminary instructions are to be given? Default list is:

100 *Preliminary admonitions*

101 *Overview of trial*

102 *Note taking*

103 *Multiple parties*

104 *Non-person party*

105 *Insurance*

106 *Evidence*

107 *Witnesses*

108 *Duty to abide by translation provided in court (?)*

109 *Removal of claims or parties (?)*

111 *Alternate jurors*

112 *Questions from jurors*

113 Bias

114 Sidebars

116 Why electronic communications and research are prohibited

200 Obligation to Prove – More Likely True than Not True

201 More Likely True – Clear and Convincing Proof (?)

202 Direct and Indirect Evidence

Stipulated Facts

Requests for Judicial Notice

Exhibit lists and stipulations re exhibits

Proper form for clerk. (*See issue conference order.*)

Stipulations on admissibility, or at least authenticity, foundation, relevance

Numbering, handling documents

Copies in lieu of originals

Witness binder and court binder

Depositions

Lodge originals with clerk.

Any video deposition testimony to be used?

As to any depositions to be used, deadline to exchange page/line; objections, counter objections; schedule hearing on objections.

Opening

Time estimates

In what order will defendants go?

Will you use exhibits, videos, animations, demonstratives in opening?

When will you exchange the material to be used? Schedule time to hear objections.

Order of Evidence

In what order will D's present their case?

In what order will D's cross-examine?

Do multiple parties on a side want to keep the same order or vary it with each witness?

Witness issues

Any interpreters?

Any disabilities requiring accommodation?

Exclude lay witnesses? Exclude experts?

When will you tell the other side which witnesses are coming up? How many hours/days in advance?

Scheduling problems? Taking witnesses out of order.

Anticipated Evidentiary Problems (other than those raised by MILs)

Demonstrative exhibits/Animations/recreations

No speaking objections

Expert witness qualifications

Notebook for Jurors?

Jury Instructions

Verdict form

Audio Visual Equipment

Set up time to walk through with bailiff

Have a separate person to work the technical equipment

Protocols

Water, coffee

Trial schedule: Will there be dark days?

What time to come in on law and motion day?

Daily meetings before trial, during breaks, after trial. Limited sidebars.

Settlement

Do you want an MSC?

Motions in Limine

Begin hearing them; determine which need further briefing/information

Requests for 402 hearings; determine if a 402 is needed, and set a schedule.