

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF ORANGE  
3 LAMOREAUX JUSTICE CENTER  
4

5 INITIAL STANDING ORDER FOR ALL CASES ASSIGNED TO  
6 JUDGE ERIC J. WERSCHING  
7 DEPARTMENT L67  
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10 Whenever a new or existing case is assigned to Judge Wersching, the Court issues this Initial  
11 Standing Order ("ISO"). This Order sets out the Judge's rules and expectations that all parties<sup>1</sup> must  
12 follow. In addition to this ISO, parties are required to follow the California Code of Civil Procedure,  
13 California Rules of Court ("CRC"), and the Local Rules of Orange County Superior Court  
14 ("OCLR").<sup>2</sup>

15 The Court hereby ORDERS as follows:  
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17  
18 **I. CIVILITY AND PROFESSIONALISM**

19 Parties must be civil, respectful and professional at all times. The Court expects the parties to be  
20 familiar with and follow the California Guidelines of Civility and Professionalism, *available at:*  
21 [http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-](http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism)  
22 Professionalism, as well as the Orange County Bar Association's Civility Guidelines. Uncivil or  
23 unprofessional behavior will not be tolerated and may be met with sanctions. The Court expects  
24 parties to resolve all disputes regarding scheduling or time extensions without the necessity of Court  
25 involvement.  
26

27 <sup>1</sup> As used herein, the term "parties" includes individual parties and their respective counsel, if any.

28 <sup>2</sup> For your convenience, the most recent version of the CRC and the OCLR are available on the Court's website at <http://www.occourts.org/directory/local-rules/>.

1       **II.     CONTINUANCES AND EXTENSIONS OF DEADLINES**

2       This Court has a *strong interest* in adhering to scheduled dates. Changes in dates are generally  
3 disfavored absent a showing of good cause. Accordingly, the Court will address continuances  
4 pursuant to these guidelines:

5       •   Request for Order (“RFO”) and Trial Setting Conference (“TSC”):

6           Only one (1) continuance will be freely granted. Telephonic continuances may be  
7 requested at any time prior to, but no later than, *the day before the hearing at 12:00 PM*.  
8 Telephonic continuances will be granted only if both parties agree to the continuance, as  
9 confirmed either by (1) being on the phone together or (2) making separate calls to the  
10 Courtroom Clerk. After one (1) continuance, telephonic or not, appearances by both sides  
11 will be required to request any further continuance.

12       •   Trial, Mandatory Settlement Conference (“MSC”), Pretrial Conference (“PTC”) and  
13 Specially Set Matters:

14           Trial, MSC, PTC and Specially Set Matter dates set by the Court are *firm* and will rarely  
15 be changed. Any request, whether by stipulation or motion, to continue these matters must  
16 be filed directly in the Department and must be supported by a sufficiently detailed  
17 explanation of the grounds for the requested continuance or extension of time. The Court  
18 will only continue these matters upon a showing of good cause. If the parties are not  
19 prepared to go forward, then the Court reserves the option to vacate all pending dates.

20       •   Domestic Violence Matters:

21           Continuances of Domestic Violence Matters will not be granted telephonically.

22           Stipulations extending scheduling dates do not become effective *unless and until this Court so*  
23 *orders.*

24       **III.     MEET AND CONFER**

25       Pursuant to CRC 5.98, all parties and all attorneys are required to meet and confer to resolve as  
26 many issues as possible prior to an RFO hearing. This meeting shall be conducted in person,  
27 telephonically or through a videoconferencing platform. This meet and confer shall include  
28 discussing “financial issues” as referenced below, which shall encompass agreeing and/or narrowing

1 areas of disagreement as to the various inputs relevant to any required XSpouse™  
2 calculations/submittals.

3 CRC 5.98 likewise requires the parties to exchange all documentary evidence (other than rebuttal  
4 or impeachment documents) that will be relied upon to prove a material fact. This is a requirement of  
5 the CRC and this Court. The Court may decline to consider documents that were not exchanged  
6 before the hearing. This requirement does not apply to cases involving domestic violence in which  
7 an active restraining order exists and the protected party is self-represented. *Under no circumstances*  
8 *may a restrained party communicate directly with a protected party under the guise of complying*  
9 *with any meet and confer requirement.*

#### 10 11 **IV. MEDIATION**

12 If child custody or visitation is at issue and the parties have not attended mediation with Family  
13 Court Services within the past 120 days, the parties are ordered to attend mediation prior to their  
14 hearing date. Pursuant to OCLR 703(c)(1), the Court may impose a \$100 sanction on the parties for  
15 failure to appear at mediation or for failure to cancel the appointment upon reaching an agreement.

#### 16 17 18 **V. WITNESSES**

19 Pursuant to FC § 217 and CRC 5.113(e), any party who wishes to call a witness other than a party  
20 to testify at an RFO hearing shall, upon filing the RFO or any responsive papers, also file and serve a  
21 witness list with the names of all anticipated witnesses and a brief description of each witness'  
22 anticipated testimony. An estimate of the length of time for the testimony should be included.  
23 California Judicial Council Form FL-321 may be used for this purpose (and can be found at  
24 <http://www.courts.ca.gov/documents/fl321.pdf>).

#### 25 26 **VI. EXHIBITS**

27 All exhibits—*whether for hearing or trial*—must be pre-tagged prior to hearing/trial. Exhibit  
28

1 tags are attached. Staple the exhibit tag to the *top right* corner of each exhibit, or, if the exhibit is a  
2 photograph, tape the exhibit tag to the back.

3 Petitioner shall use numbers. Respondent shall use letters. Moving party (on domestic violence  
4 matters) shall use numbers. Responding party (on domestic violence matters) shall use letters.

5 To the extent the proffered exhibit comprises multiple pages, each page of the exhibit *must be*  
6 *marked sequentially*. For example, in reference to Exhibit 1, it *must be paginated* as 1-1 on the first  
7 page, 1-2 on the second page, and so on. During trial/hearing, exhibits may be marked and received  
8 out of order.

9 If there are *more than ten* exhibits, in addition to being pre-tagged, they must be placed in a 3-  
10 ring binder with tabbed dividers. Each tab should bear the corresponding exhibit number/letter.

11 Prior to the commencement of any hearing/trial, the parties will make *four (4) copies* of their  
12 exhibits available: one for the clerk, one working copy for the judge, one for the opposing party, and  
13 one for the witness.

14 *Exhibits (binders) are to be provided to Department L67 two (2) court days prior to the*  
15 *scheduled trial/hearing.*

16  
17 **VII. OBJECTIONS AT HEARINGS/TRIALS**

18 Speaking objections *shall be avoided*. Proper objections should be made as follows:

- 19 1. State the word "Objection";  
20 2. State the legally recognized basis for the objection; and  
21 3. Remain silent and await the Court's ruling on the objection.

22 The Court's ruling on an objection is not a request for further comment by counsel. If the Court  
23 requires additional input on an objection, then the Court will request additional input. Following an  
24 objection, parties may request to be heard, and the Court may grant or deny that request.

25  
26 **VIII. FINANCIAL ISSUES**

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1 In any trial or hearing where financial matters are at issue (e.g., child support, spousal  
2 support, attorney's fees, payment of debts, or calculation/payment of arrearages), both parties must  
3 comply with OCLR 702. Accordingly, the parties must file and serve current income and expense  
4 declarations. "Current" is defined as being completed within the last three (3) months provided that  
5 no facts have changed. See CRC 5.260(a)(3) (support) and 5.427(d) (attorney's fees). The following  
6 supporting documents must be exchanged between the parties and made available at the hearing:

- 7 • The three most recent pay records showing year-to-date wages, salaries, overtime,  
8 commissions, bonuses, and withholdings;
- 9 • Records showing rents, trust income, workers' compensation benefits, unemployment  
10 insurance benefits, disability benefits, social security benefits;
- 11 • The most recent W-2, 1099, and K-1 forms;
- 12 • A copy of signed and filed state and federal income tax returns with schedules for the two  
13 most recent years;
- 14 • If self-employed, profit and loss statement and balance sheets for the last two years.

15 Failure to comply with this requirement may result in the Court drawing an adverse inference against  
16 the non-complying party.

17 In addition, if child support or temporary spousal support is at issue, both parties shall provide  
18 the Court with competing (or joint where the parties agree) XSpouse™ calculations (based upon the  
19 most recent financial information) supporting their respective positions on the amount of support  
20 sought. In those instances where support is not at issue but attorney's fees (or other similar relief) are  
21 sought, which in turn requires a consideration of a party's financial capacity or needs, the parties  
22 shall nonetheless provide XSpouse™ calculations to demonstrate the parties' respective disposable  
23 net incomes after accounting for support obligations and/or tax consequences. Where retroactivity is  
24 sought, and income amounts vary during the retroactivity period in question, separate XSpouse™  
25 calculations shall be provided for each such timeframe.

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27 **IX. PROPOSED ORDERS**  
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1 Unless the Court orders otherwise or the parties stipulate to the contrary, the moving party (i.e.,  
2 the party who filed the RFO) shall prepare the proposed order after hearing. The parties shall  
3 comply with CRC 5.125 in preparing and submitting the proposed order (and any objections or  
4 alternate proposed order). Alternatively, the Court may from time to time permit the parties to  
5 “waive notice,” in which case the Court’s unsigned minute order will serve as the order of the Court.  
6

7 **X. GETTING TO TRIAL**  
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9 Parties requesting a trial must file an “At Issue Memorandum for Trial Setting” (Orange County  
10 Form L-0031). See OCLR 709. The parties must have complied with Family Code § 2104 requiring  
11 exchange of Preliminary Declarations of Disclosure (“PDDs”) prior to filing the “At Issue  
12 Memorandum.”

13 Once the “At Issue Memorandum” is filed, a Trial Setting Conference (“TSC”) will be set  
14 automatically. As set forth below, the TSC will set in motion a series of events designed to bring the  
15 case, in whole or in part, to a resolution by way of agreement or trial.  
16

17 **a. Trial Setting Conference (“TSC”)**

18 At the TSC, the Court will confirm that the parties have exchanged their PDDs, as required  
19 above, and the Court will assess whether the parties are reasonably ready for trial. If the PDDs have  
20 been exchanged and the parties are reasonably ready for trial, then the Court will set a date for a  
21 Mandatory Settlement Conference. The Court may set other dates (e.g., Pretrial Conference or Trial  
22 Date) if the Court so chooses OR The Court will set no other dates at the TSC.  
23

24 **b. Mandatory Settlement Conference (“MSC”)**  
25

26 The Court expects full and complete compliance with OCLR 707. Moreover, the parties shall  
27 check in with the Court before leaving for the day. If the MSC cannot occur at the courthouse due to  
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1 court closure, then the MSC must occur in person, telephonically or through a videoconferencing  
2 platform prior to the MSC date and a declaration of completion must be jointly filed with the Court  
3 stating that the meeting did occur and all required issues were discussed. *Under no circumstances*  
4 *may a restrained party communicate directly with a protected party under the guise of complying*  
5 *with any MSC requirements.*

6 In the event parties do not resolve their issues at or before the MSC, the Court may set a  
7 Pretrial Conference, which is typically the next step in the process of moving towards trial.

8  
9 **c. Pretrial Conference ("PTC")**

10 All pretrial motions must be filed and served *prior to the PTC* as follows:

- 11 1. Moving papers at least twenty-one (21) court days prior to the PTC;
- 12 2. Opposition papers at least nine (9) court days prior to the PTC; and
- 13 3. Reply papers at least five (5) court days prior to the PTC.

14 *Note:* All time extensions set forth in Code of Civil Procedure § 1005(b) for parties outside the  
15 State of California or outside the United States are applicable.

16 No later than five (5) court days before the PTC (or the Trial in the event there was not a Pretrial  
17 Conference), the parties *must file and serve* on all other parties, the following:

- 18 1. *Joint* Statement of Issues to be Tried, including:
  - 19 a. Identification of issues resolved between the parties with specificity; and
  - 20 b. Identification of each issue left unresolved to be determined and ruled upon at  
21 trial/hearing with *detailed* legal and factual specificity in support of each party's  
22 position.
- 23 2. Witness List, including:
  - 24 a. time estimate for direct examination; and
  - 25 b. brief description of anticipated testimony.
- 26 3. Expert Reports<sup>3</sup>
- 27 4. If property is at issue, the parties are to prepare a *jointly* executed SCHEDULE OF  
28 PROPERTY "FREDMAN FORM" (FL001 – San Luis Obispo). The Courtroom Clerk  
will provide you with a copy upon request, if necessary.
5. If spousal support is at issue, the parties shall file a **Joint Statement of Family Code §  
4320 Factors**. Each factor (subdivisions (a) through (n) of § 4320) shall be listed in a  
separate row, and the chart shall have the following three columns:
  - a. Section 4320 Factor
  - b. Petitioner's Position

<sup>3</sup> If experts are involved, the parties *must* file a stipulation as to undisputed and disputed issues.

1 c. Respondent's Position

2 To the extent the parties agree to the findings on any of the factors, those findings  
3 shall be included in the Petitioner's Position column, and Respondent's Position  
4 column shall merely say "Stipulated."

- 5 6. Trial Brief, setting forth the arguments and legal authority supporting the parties' position  
6 on each of the issues identified for trial in the "Joint Statement of Issues to be Tried."  
7 Trial Briefs shall not exceed twenty-five (25) pages absent leave of Court to file a Trial  
8 Brief in excess thereof.
- 9 7. *Current* Income and Expense Declarations<sup>4</sup>
- 10 8. *Proposed* XSpouse™ calculation for child support, if at issue

11 At the PTC, the parties must:

- 12 1. Bring and exchange all trial exhibits
- 13 2. If the parties have not filed a "Stipulation and Waiver of Final Declaration of Disclosure"  
14 (Judicial Council Form FL-144), then the Court will confirm that Final Declarations of  
15 Disclosure ("FDDs") have been exchanged at least 45 days prior to the date set for trial  
16 and that a Declaration Regarding Service has been filed. Failure to timely exchange  
17 FDDs and file the required Declaration Regarding Service may result in the PTC being  
18 taken off-calendar.
- 19 3. Meet and confer regarding stipulations to exhibits
- 20 4. Provide time commitments for trial, including opening statements, all examinations, and  
21 closing arguments

22 d. Trial

23 The dates set for trial are firm. Continuances will be granted only upon an affirmative showing of  
24 good cause requiring a continuance. *See* CRC 3.1332. Motions in Limine must be filed and served  
25 on the opposing party no later than five (5) court days before the trial date. Oppositions to any  
26 Motions in Limine must be filed and served no later than one (1) court day before the trial day.  
27 Reply briefs regarding such motions are not permitted. Parties should take special care to only file  
28 those Motions in Limine which are appropriate.

In the event a TSC was not held in a matter, the parties must provide the information noted in  
Section X.c, above (i.e., "Pretrial Conference"), no later than 5 court days before the trial date.

Trials set for the same day will be prioritized by issue, age of case, state of readiness, and time  
commitment. Trials not completed on the date set for trial shall continue day-to-day until completed,

<sup>4</sup> The Court **will not** consider an Income & Expense Declaration that has blanks or is not supported  
by all of the required documentation as set forth in Judicial Council Form FL-150, including tax  
returns and pay stubs, as appropriate.



1 unless otherwise ordered by the Court. After the start of a trial, the parties, including counsel, are  
2 ordered back each day to Dept. L62 at 10:30 AM for trial, and the Court will hear the matter in any  
3 available time it may have each day until the matter has been completed.

4  
5 **XI. POST TRIAL SPOUSAL SUPPORT RFO**

6 If any request to modify a Post-Trial Spousal Support Judgment is made, the parties shall file a  
7 **Joint Statement of Family Code § 4320 Factors**. Each factor (subdivisions (a) through (n) of §  
8 4320) shall be listed in a separate row, and the chart shall have the following three columns:

- 9 a. Section 4320 Factor  
10 b. Petitioner's Position  
11 c. Respondent's Position

12 To the extent the parties agree to the findings on any of the factors, those findings  
13 shall be included in the Petitioner's Position column, and Respondent's Position  
14 column shall merely say "Stipulated."

15  
16 **XII. OTHER ISSUES**

17 a. **Court Reporter Fees**

18 Prior to the start of any trial or hearing with a time estimate of one (1) hour or more, the parties  
19 must report to the Clerk's Office to pay their fees. *See* OCLR 709(D).

20  
21 b. **Communication with the Court**

22 All appropriate inquiries should be directed to Judge Wersching's Courtroom Clerk at (657) 622-  
23 5567. Counsel must not attempt to contact chambers directly. Counsel should list their email  
24 addresses and phone numbers on their papers to facilitate communication by the Courtroom Clerk.  
25 For assistance with determining the status of a proposed Stipulation and Order, proposed Order  
26 and/or proposed Judgment that has been submitted to the Court for signature, counsel may contact the  
27 Courtroom Clerk by telephone between the hours of 3:00 PM and 4:00 PM.

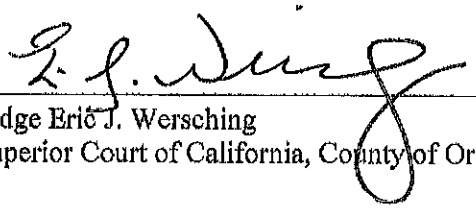
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**c. Notice of this Order**

Petitioner's counsel or Petitioner (if appearing on his or her own behalf) shall immediately serve this Order on all parties, including any new parties to the action.

*Failure to comply with any part of this Order may subject the litigant(s) in non-compliance to sanctions pursuant to Code of Civil Procedure § 177.5.*

**IT IS SO ORDERED:**

  
\_\_\_\_\_  
Judge Eric J. Wersching  
Superior Court of California, County of Orange

**EXHIBIT NO.**

ID only (Date)

IN EVIDENCE (Date)

Plaintiff/People     Defendant     Joint  
 Petitioner         Respondent     Court  
 (Other)

Atty/Party Introducing Sensitive Exhibit

Case No.

Vs.

David H. Yamasaki, Clerk of the Court

By \_\_\_\_\_, Deputy

**NOTE: THIS ITEM IS A PERMANENT COURT RECORD.  
DO NOT REMOVE FROM THE COURTROOM**

**EXHIBIT NO.**

ID only (Date)

IN EVIDENCE (Date)

Plaintiff/People     Defendant     Joint  
 Petitioner         Respondent     Court  
 (Other)

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Plaintiff/People     Defendant     Joint  
 Petitioner         Respondent     Court  
 (Other)

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