



**Hon. Debre K. Weintraub** \_\_\_\_\_  
SUPERVISING JUDGE OF CIVIL,  
LOS ANGELES SUPERIOR COURT



**Hon. Michelle R. Rosenblatt (Ret.)** \_\_\_\_\_  
MEDIATOR, ADR SERVICES, INC.



## Are you (truly) ready for trial?

DEPARTMENT 1

ANNOUNCING “READY” FOR A PERSONAL-  
INJURY TRIAL IN DEPARTMENT 1

You have completed your discovery. Your case has not settled. The writing is on the wall: you are going to trial on a personal-injury case in the Los Angeles Superior Court. You are all set to announce ready for trial in Department 1. What happens next?

As a litigator, you know that there are many components to being ready for trial. You have to know your case – your client, your witnesses and your evidence. You must be prepared to champion the positive evidence and diffuse the damaging evidence. You have to know your opponent, the claims and the evidence that the other side may seek to use. However, if you do not know what the Los Angeles Superior Court expects of you when you announce “ready” for a personal-injury trial in Department 1, the Court’s Civil Master Calendar courtroom, then you will not be truly ready for trial.

### Know the rules

Review the Los Angeles County Court Rules and the Personal Injury General Orders. The Los Angeles Superior Court website ([www.lacourt.org](http://www.lacourt.org)) lists all the General Orders and other relevant information regarding the workings of the Personal-injury Courts.

The Los Angeles Superior Court defines a personal-injury case as: an unlimited civil case described on the Civil Case Cover Sheet Addendum and Statement of Location (LACIV 109) as Motor Vehicle-Personal Injury/Property Damage/Wrongful Death; Personal Injury/Property Damage/Wrongful Death-Uninsured Motorist; Product Liability (other than asbestos or toxic/environmental); Medical Malpractice-Physicians & Surgeons; Other Professional Health Care Malpractice; Premises Liability;

Intentional Bodily Injury/Property Damage/Wrongful Death; or Other Personal Injury/Property Damage/Wrongful Death. An action for intentional infliction of emotional distress, defamation, civil rights/discrimination, or malpractice (other than medical malpractice), is not included in this definition. An action for injury to real property is not included in this definition.

(Super. Ct. L.A. County, Local Rules, rule 2.3(a)(1)(A), Filing and Transfer of Actions.)

In 2013, the Los Angeles Superior Court, in response to statewide budget reductions, centralized the management of more than 18,000 general jurisdiction personal-injury cases to the Stanley Mosk Courthouse. In 2014, the Court authorized the filing and setting of general jurisdiction North District personal-

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injury cases at the Antelope Valley Courthouse.

There are five personal-injury courts at the Stanley Mosk Courthouse that handle all pretrial general jurisdiction personal-injury cases for the County of Los Angeles with the exception of Antelope Valley. Each of the five departments – Department 91, 92, 93, 97 and 98 – has an inventory that averages over 6,000 cases. The personal-injury courts manage all pretrial law and motion for cases involving motor-vehicle-personal-injury accidents, premises liability, slip and falls and medical malpractice.

These cases generally do not generate considerable law and motion. Given an inventory of over 30,000 cases, the personal-injury courts are unable to handle cases that have extensive law and motion. As such, a personal-injury case that involves numerous causes of action, multiple parties, one or more cross-complaints, several discovery disputes, and/or issues of first impression requires more pretrial court resources than the personal-injury courts can address.

At the direction of Department 1, the personal-injury courts deem these cases “complicated,” and they are transferred to an independent calendar court located throughout the County of Los Angeles. You may not believe that your case is “complicated” in the Webster’s Dictionary sense; however, this is a term of art that the Los Angeles Superior Court uses to describe cases that are so time consuming that they need to be managed in an independent calendar courtroom.

The “complicated” personal-injury case is often tried in the assigned independent calendar court. However, the judge in that independent calendar court has the discretion to send the case to Department 1 when the case is ready for trial to be assigned out to a dedicated trial court.

#### **Fourth Amended General Personal Injury Order**

For a personal-injury case to be ready for trial, the parties must be in compliance with the Fourth Amended General Final Status Conference Personal

Injury (PI) Courts (“Fourth Amended General Personal Injury Order”) regarding all trial readiness documents. These documents include: trial briefs (optional); motions in limine; a joint statement to be read to the jury; a joint witness list with time estimates; a joint exhibit list; a joint list of proposed jury instructions – agreed and contested; a complete set of full-text proposed jury instructions, editing all proposed California Civil Jury Instructions (“CACI”) to insert party names and eliminate blanks and irrelevant material and special instructions in a format ready for submission to the jury with the instruction number; and a joint proposed general verdict form or special verdict form. If the parties cannot agree on a joint verdict form, each party must separately file a proposed verdict form. The parties must place all the trial-ready documents in a three-ring binder. The parties must also have three sets of tabbed, internally paginated and properly marked exhibits, organized numerically in three-ring binders. The one exception is if the parties have a joint signed exhibit list as well as electronic copies of the exhibits. However, the trial judge may still require the parties to provide a hard copy of the exhibits at the start of trial. (See, Fourth Amended General Personal Injury Court Order.) Therefore, as a practical matter, once the case leaves Department 1, counsel should plan to bring exhibit books to the trial court.

#### **The day of trial**

It is now the day of trial. You are ready. You have cleared your calendar, you have subpoenaed your witnesses to appear on the trial date in the Personal-injury Court as required by the Fourth Amended General Personal Injury Order and assembled your trial readiness documents. After you have announced ready in the personal-injury court, and the personal-injury court finds the parties ready for trial, then and only then will you be sent to Department 1. In Department 1, you will receive an assignment to one of the dedicated civil trial courts located throughout the County of Los Angeles. In addition to the dedicated

civil trial courts, Department 1 also assigns shorter personal-injury cases to judges who are currently assigned to criminal courts. Once in Department 1, the Court will double-check to ensure you have complied with the Fourth Amended General Personal Injury Order. Department 1 assigns cases to the trial courts based on which trial courts are open for a trial assignment, the location of the accident or where the injury occurred, and an even distribution of work among the trial courts.

Once Department 1 gives the parties a trial assignment, either side, if the parties have not previously used a peremptory challenge, may file a Section 170.6 peremptory challenge against the judge assigned to hear the case. Department 1 operates as a Master Calendar Court for purposes of motions to disqualify judges under Code of Civil Procedure Section 170.6. The Court allows twenty minutes from the time the trial assignment is announced for either party to timely file a Section 170.6 challenge. After the twenty minutes has elapsed, the assignment is final. Written forms for Section 170.6 motions are obtainable in Department 1. Any motion to disqualify a judge pursuant to Code of Civil Procedure Section 170.6 submitted after Department 1 transfers the case to a trial court is untimely.

#### **Ready means ready**

A trial can be sent out on the date of trial to any one of the dedicated trial courts in the County of Los Angeles. Trial counsel may have to begin motions in limine and jury selection the same day. On the other hand, the case may not begin until a week or so later if the trial court to which it is assigned is engaged at the time of the assignment. The trial may be estimated for five days, but may not actually begin in the trial court for up to a week. Having this possibility in mind, you should be certain that your witnesses are available and your calendar is clear.

#### **Know thy case**

When you gather your trial documents, it behooves you to review your

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pleadings. Decide whether you need every cause of action and be prepared to tell your trial judge and opposing counsel if you are going to pare it down. The trial judge will be appreciative. Review the answer. The answer sets forth what affirmative defenses may be brought at trial.

The jury instructions are a roadmap for what elements the Plaintiff has to establish at trial. Therefore, when you pull your jury instructions you should note the elements the Plaintiff is required to prove. You can then confirm that you have the proper witnesses and that you are asking all of the questions and bringing forth all of the evidence you need.

Decide what kind of a verdict form you would prefer to use. If you decide that a special verdict form rather than a general verdict form will be helpful in your case, you may want to review the CACI proposed special verdict forms.

Check the availability of your witnesses. Trial counsel is not ready if the key witnesses are not available during the time estimated for trial plus the potential time period that may elapse before the trial actually begins in the trial court.

Review your exhibits. You may want to think carefully about which demonstrative exhibits, such as photos, will be the most powerful and whether PowerPoint will enhance your presentation. In addition to all exhibits, all demonstratives including charts and PowerPoint must be shown to the opposing counsel so that if there are any objections they can be ruled on by the trial court in time for you to make any necessary changes.

### Know thy opponent

Judges want opposing counsel to get along, or to, at a minimum, be civil in the courtroom. Here are some tips. Reach out to opposing counsel with respect and tact. The Fourth Amended Personal Injury General Order requires that the parties provide a joint statement of the case, joint exhibit list, and joint witness list. Reviewing exhibits may require a “knees under the

table” meeting. The rules require that jury instructions and verdict forms must be shared and reviewed. Additionally, there are benefits to cooperation with opposing counsel that go beyond preparing joint documents.

Trials are fluid and no matter how much you prepare, trials have a life of their own and what happens is not always predictable. You or your opposing counsel may need to call a witness out of order because of a scheduling conflict or an emergency. If you have a history of cooperation, the opposing counsel will be more apt to agree. You may want to show the jury a photo before it is admitted into evidence because, as they say, a picture is worth a thousand words. For that you will need a stipulation. However, do not expect your opposing counsel to agree if you are unwilling to stipulate to something the opposing counsel needs. Perhaps a ministerial witness cannot come to court. It is efficient to stipulate to foundational witnesses who in and of themselves are not important to your case. It is cost effective to share technical equipment. If you want a court reporter, discuss sharing costs and agree on who will arrange for the reporter.

The rules provide that you share your motions in limine with your opposing counsel in advance of filing them and that you provide the Court with a declaration that you did so. If you actually talk to counsel and see which of the motions in limine can be resolved by stipulation, you may find this is not only efficient, but you may have an appreciative trial judge.

### Know thy court

A list of the dedicated civil trial court judges and a list of the criminal court judges to whom Department 1 may send your case is available on the Los Angeles Superior Court website. When Department 1 sends you to a courtroom, learn your judge’s trial preferences and practices. Here are your tips.

Introduce yourself to the Court staff. Find out if the judge has written trial policies. Ask the hours that the Court is in trial, the judge’s preferences for marking exhibits, and the logistics of positioning audio-visual equipment so that you can be certain nothing will block the jurors’ views. Lodge the original depositions with the Court and provide the clerk with the Fourth Amended Personal Injury General Order notebooks as well as the exhibit books for the judge and the witnesses.

Is there a demonstration, a video, an audio tape or a reenactment that you plan to use? Let the Court and opposing counsel know at the first opportunity. Find out if you need to bring your own computer equipment and screen. Most of the time the answer is “yes,” but as courtrooms become more technologically advanced, that may change, so it is helpful to ask.

### Are you (truly) ready for trial?

While every trial has a life of its own and it is not always predictable, if you are prepared and follow these steps, you can announce ready for trial in Department 1 and begin your trial with confidence.

*Debre Katz Weintraub is a judge for the Superior Court of Los Angeles County in California. She was reelected in 2014 for a term that expires in Jan. 2021. She received her bachelor’s degree from UCLA and J.D. from University of Southern California Law School.*

*Hon. Michelle R. Rosenblatt (Ret.) joined ADR Services, Inc. following 23 years on the bench, including nine years presiding over unlimited jurisdiction civil cases. She was judge of the Superior Court, County of Los Angeles 1997-2016. She received Pearl S. Vogel President’s Award, Valley Community Legal Foundation 2016 And Judge of the Year, San Fan Fernando Bar Assn. 2007.*

