



Michelle Williams Court

SUPERVISING JUDGE
LOS ANGELES SUPERIOR COURT CIVIL DIVISION

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It takes a village

THE CODA TO THE PERSONAL INJURY HUB AND A LOOK AT PROACTIVE CASE MANAGEMENT

A return to all-purpose assignments for all unlimited jurisdiction cases

In 2013, the Los Angeles Superior Court made the very difficult decision to consolidate all personal injury cases into the Personal Injury Hub (PI Hub). Necessitated by severe budget challenges, the PI Hub was designed to minimize staff resources and was premised on a model of no-to-little case management based on data available at the time. The Hub model was never intended to be permanent.

At its inception in October 2013, the PI Hub inventory consisted of 21,243 cases. In October 2021, the inventory had more than doubled to 46,109, due in

large part to the lack of incentive to exercise diligence in pursuing discovery and preparing for trial. The rate of case filings quickly eclipsed the rate of case dispositions, causing cases to age beyond standard and creating a traffic jam of cases ripe for trial to be sent to an available trial court.

In 2022, the court took the first steps to make the shift back to a case-assignment model that prioritizes timely and efficient adjudication and active case management by the assigned judicial officer.

Effective January 8, 2024, all unlimited civil cases, including personal-injury cases, must be filed in the judicial district where the incident arose, or in

the Central District, as directed by Los Angeles Superior Court Local Rule 2.3. No newly filed cases will be assigned to the Personal Injury Hub. Personal-injury cases pending in one of the PI Hub courts at the Spring Street Courthouse prior to January 8 will remain assigned to those courts until they are transferred, sent for trial, or otherwise resolved.

Post-transition cases will be assigned to a judge for all purposes. Parties will have the information needed to decide whether to exercise a peremptory challenge soon after filing or service. Judges presiding over more contested personal injury cases will be able to engage in active case management to get those cases resolved or tried.

Case management standards

The California Rules of Court (CRC) include Standards of Judicial Administration that require judges to be strongly committed to reducing delay and maintaining a current docket. This is especially true now, with increased filings and the transition away from the PI Hub model. “[T]he court, not the lawyers or litigants, should control the pace of litigation.” (Cal Standards of Judicial Admin. Standard 2.1.) A strong judicial commitment is essential to reducing delay and once achieved, maintaining a current docket. (*Ibid.*)

To provide guidance in achieving this goal, the CRC also articulates time standards for case disposition. “They are administrative, justice-oriented guidelines to be used in the management of the courts. They are intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts. The goals apply to all cases filed and are not meant to create deadlines for individual cases. Through its case management practices, a court may achieve or exceed the goals stated in this standard for the overall disposition of cases. The goals should be applied in a fair, practical, and flexible manner.” (Cal Standards of Judicial Admin. Standard 2.2)

The goal of each trial court is to manage unlimited civil cases from filing so that 75% are disposed of within 12 months, 85% are disposed of within 18 months, and 100% are disposed of within 24 months. (Cal Standards of Judicial Admin. Standard 2.2.)

While disposition of 100% of unlimited civil cases within two years sounds like an aspirational goal, it is possible. But it requires concerted effort of *all* stakeholders. Given the adversarial nature of litigation, incompatible litigant expectations, and competing litigation strategies, working together can be difficult. If lawyers practice law with professionalism and civility, they can be active participants in working with the judge to develop a case management plan, tailored to the goals of their clients and the workings of the court, to set the case on a path to resolve within the time

prescribed by the Standards of Judicial Administration.

The Case Management Conference

The Case Management Conference is crucial to setting the stage for the pace of litigation in any given case.

Judges who engage in active case management take the Case Management Conference very seriously and expect lawyers appearing at them to be prepared and knowledgeable about the case. With increasing dockets, lawyers should expect more judges to use the Case Management Conference to engage in long-term planning and to express expectations about the course and speed of litigation.

The CRC includes the case evaluation factors judges are required to consider when developing a case-management plan. “In setting or exempting a case from a case disposition time goal, the court shall estimate the maximum time that will reasonably be required to dispose of the case in a just and effective manner.”

(Cal. Rules of Court, rule 3.715; LASC Local Rule 3.24.) These factors include:

- (1) Type and subject matter of the action;
- (2) Number of causes of action or affirmative defenses alleged;
- (3) Number of parties with separate interests;
- (4) Number of cross-complaints and the subject matter;
- (5) Complexity of issues, including issues of first impression;
- (6) Difficulty in identifying, locating, and serving parties;
- (7) Nature and extent of discovery anticipated;
- (8) Number and location of percipient and expert witnesses;
- (9) Estimated length of trial;
- (10) Whether some or all issues can be arbitrated;
- (11) Statutory priority for the issues;
- (12) Likelihood of review by writ or appeal;
- (13) Amount in controversy and the type of remedy sought, including measure of damages;
- (14) Pendency of other actions or proceedings which may affect the case;

- (15) Nature and extent of law and motion proceedings anticipated;
- (16) Nature and extent of the injuries and damages;
- (17) Pendency of under-insured claims; and
- (18) Any other factor that would affect the time for disposition of the case.

Every case is different. So, no single factor or combination of factors should control the design of the case management plan. (*Ibid.*) Judges also use these factors as a jumping-off point for discussion about how the litigation should proceed because development of a case-management plan is about more than setting deadlines. It is also about setting expectations, proactively identifying potential challenges to come, and building in mechanisms to facilitate the fair and efficient litigation of disputes and critical case milestones, like dispositive motions and other disputes which substantially alter the course of litigation.

Preparation for the Case Management Conference

In most cases, attorneys should meet and confer at least 30 days before the Case Management Conference. (Cal. Rules of Court, rule 3.715.) Counsel should discuss the 20 matters required by rule 3.727 (issues like whether there are any related cases, whether there will be any cross-complaints, whether there may be a need to amend pleadings, alternative dispute resolution, anticipated discovery disputes, jury trial demand(s), etc.) and, in addition, consider the following:

- (1) Resolving any discovery disputes and setting a discovery schedule;
- (2) Identifying and, if possible, informally resolving any anticipated motions;
- (3) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;
- (4) Identifying the facts and issues in the case that are in dispute;
- (5) Determining whether the issues in the case can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;

- (6) Determining whether settlement is possible;
- (7) Identifying the dates on which all parties and their attorneys are available or not available for trial, including the reasons for unavailability;
- (8) Any issues relating to the discovery of electronically stored information, including:
 - (A) Issues relating to the preservation of discoverable electronically stored information;
 - (B) The form or forms in which information will be produced;
 - (C) The time within which the information will be produced;
 - (D) The scope of discovery of the information;
 - (E) The method for asserting or preserving claims of privilege or attorney work product, including whether such claims may be asserted after production;
 - (F) The method for asserting or preserving the confidentiality, privacy, trade secrets, or proprietary status of information relating to a party or person not a party to the civil proceedings;
 - (G) How the cost of production of electronically stored information is to be allocated among the parties;
 - (H) Any other issues relating to the discovery of electronically stored information, including developing a proposed plan relating to the discovery of the information; and
- (9) Other relevant matters.
(Cal. Rules of Court, rule 3.724)

Judges placing a premium on the Case Management Conference spend considerable time preparing. It is a good investment of time and client resources for attorneys to do the same. The Case Management Conference is *not* the time to send an appearance attorney to handle a hearing. Attorneys should appear at the Case Management Conference having completed a substantive meet and confer with all counsel, able to engage in a meaningful conversation about the case management plan and prepared to answer all questions raised by the pleadings and procedural posture of the case.

Evolving views on case management

The study of efficient case management is evolving; evolving by case type and by jurisdiction. In California, like other jurisdictions, the judicial branch has promulgated rules of court and is leveraging advances in technology to maximize judicial resources toward the goal of efficient and effective case management. The use of technology is complicated by the advent of AI and the limited understanding and regulation of the technology in the legal community. Unlike other jurisdictions, California judges are also subject to certain ethical, statutory, and case law-defined rules that limit the ways in which assistive technology can be used. While that limitation is real, it becomes incumbent on all of us to study technology and develop pathways to deploy it responsibly to support judicial administration, not replace it.

Evolving views on discovery

Initial disclosures

As of January 1, 2024, most civil cases filed in California state courts are subject to new mandatory discovery procedures as codified by Code of Civil Procedure section 2016.090, which requires parties to exchange the identity and contact information of each person likely to have discoverable information, a copy, or a description by category and location, of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, or that is relevant to the subject matter of the action or the order on any motion made in that action, unless the use would be solely for impeachment, any contractual agreement and any insurance policy under which an insurance company may be liable to satisfy, in whole or in part, a judgment entered in the action or to indemnify or reimburse for payments made to satisfy the judgment, and any and all

contractual agreements and any and all insurance policies under which a person may be liable to satisfy, in whole or in part, a judgment entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. (Code Civ. Proc., § 2016.090.)

This exchange, and the conversations that will inevitably flow from them, are consistent with a recognition that cooperative and substantive work in litigation is essential to effective case management. Mandatory disclosures set a tone of cooperation and efficiency in that they eliminate a source of frequent and expensive contention – the initial discovery dispute. While other disputes may ensue, they will more likely focus on areas of real dispute and consequence.

Depending on the timing of the Case Management Conference, the section 2016.090 exchange can be extremely helpful to prepare counsel for a meaningful meet and confer and to make persuasive arguments at the Case Management Conference concerning the setting of a discovery schedule, alternative dispute resolution, and trial readiness.

Informal discovery conferences

It will be interesting to see whether the section 2016.090 exchange requirement has an effect on the number of discovery disputes. Either way, counsel should inquire about the court's willingness to conduct Informal Discovery Conferences to discuss discovery disputes. More often than not, an IDC will resolve the dispute and is a good opportunity to discuss other discovery issues as well as the general progress of the case.

Civility matters

As we navigate the transition back to all-purpose assignments for all unlimited civil cases, our legal community is faced with the challenge of balancing increased dockets and case filings with effectively managing those cases so those that need to go to trial can do so in a timely manner. This requires heavy lifting by all

stakeholders, including the judiciary and the bar.

Civil litigation in 2024 requires professionalism, pragmatism, creativity, and civility. Zealous advocacy does not include creating a dispute or discord where none exists. Civility does not mean sacrificing your client's rights. A good lawyer zealously advocates a

position based on the law and the facts while remaining faithful to the oath we all take, which includes competent representation and eschews bias, bad faith, and intentional delay.

When lawyers advocate with civility, judges adjudicate cases with civility and an eye toward the case management standards, and all stakeholders do

what is necessary to prepare and use scarce judicial resources at their highest and best use, access to justice wins.

Hon. Michelle Williams Court is the supervising judge of the civil division of the Los Angeles Superior Court and a chair of the court's technology committee.