

Department O Courtroom Information
Hon. Judge Christian R. Gullon

Department O
Pomona Courthouse
400 Civic Center Plaza (5th floor)
Pomona, CA 91766
Courtroom Telephone Number: (909) 802-1126
Judicial Assistant: Nicole Gonzalez
Courtroom Assistant: Sylvia Martinez

Court Reporters:

Pursuant to Government Code Section 69959 and Code of Civil Procedure Section 367.75(d)(2)(A), Court Reporters are not permitted through the use of remote technology, and the official reporter or the official reporter pro tempore shall be physically present in the Courtroom.

Ex Parte Information:

For Attorneys: Ex Partes are heard Monday through Friday at 9:00 a.m. Parties are to e-file the Ex Parte the day prior before 10:00 a.m. Ensure to give proper 24 hours' notice.

Litigants in Propria Persona: Litigants in Propria Persona are permitted to file Ex Partes in-person by 8:30 a.m. the day the Ex Parte is to be heard. Litigants in Propria Persona are required to give the opposition 24 hours' notice.

Case Management Conferences

Case Management Conferences are held Monday through Friday at 9:00 a.m. The parties and counsel must comply with the California Rules of Court, rule 3.722, et seq., and Local Rule 3.25 in connection with such conferences. Any counsel who attends the Case Management Conference must be fully knowledgeable about the case, be able to commit to the party's position on issues and be able to address any questions the Court may have. Counsel must meet and confer, in person or by telephone, to consider each issue identified in California Rules of Court, rule 3.724, no later than thirty (30) calendar days before the conference. The parties and counsel shall file a Case Management Statement using Judicial Council Form CM-110 no later than fifteen (15) calendar days before the date set for the conference.

All defendants must be served with the complaint by the Case Management Conference. If any Defendants have not been served, Plaintiff or Plaintiff's Counsel must submit a declaration to the Court seven (7) days prior to the hearing explaining why service has not been completed, documenting the

efforts that have been made to complete service, and specifying the date by which service is proposed to be completed. (Cal. Rules of Court, rule 3.110.)

Final Status Conference

Pursuant to LASC Local Rule 3.25 (f) & (g), Counsel must attend a Final Status Conference, which the court will set not more than ten days prior to the trial date. The parties are to provide the Court with the below indicated Trial Documents no later than 5 Court Days prior to the Final Status Conference. **All Counsel are to be physically present on the Final Status Conference Date.**

Guidelines for Trial

All Counsel are to prepare a Joint Trial Binder which is to include the following:

Tab A Trial Briefs:

Trial Briefs. Trial Briefs are strongly encouraged to be filed and should contain:

- A brief description of the facts, claims, and defenses subject to litigation.
- The elements and burden of proof for each of the cause(s) of action.
- A list of major legal issues anticipated with points and authorities supporting and defending the issues.
- A brief statement of the relief claimed, and calculations of damages sought.
- Any further information that counsels believes may assist the court in ruling upon trial objections or matters that may arise during trial.

Tab B Motions in Limine:

Motions in Limine. Counsel must comply with LASC Local Rule 3.57. If more than one Motion in Limine is filed, each shall be numbered consecutively. Opposition papers shall include the number of the motion to which it corresponds. Motions in Limine are to be placed in numerical order starting with Plaintiff's Motions in Limine then Defense Motions in Limine. All replies and opposition are to be placed directly behind the Motion in Limine in question.

Tab C - Joint Statement & Tab D - Witness List:

The Court requests that Counsel submit a Joint Witness List and Joint Statement of the case to be read to the jury. The Joint Witness List shall identify each witness by name and estimate the length of the direct, cross, and redirect examination of each witness, and include a total number of hours for all witness testimony.

Tab E - List of Jury Instructions & Tab F - Full Text Jury Instructions:

At the Final Status Conference, Counsel shall provide the Court with a Joint List of all Jury Instructions requested and a copy of all requested instructions fully filled out. Those instructions not agreed upon should be attached separately and the party making the request should be identified. No later than two days before the conclusion of evidence, the Court will require Counsel to meet and confer for the purpose of creating a final set of instructions. Submission of the Joint Jury Instructions shall not be deemed a waiver of any objection to the giving of an instruction on the Joint List. Parties are to abide by California Rules of Court Rule 2.1055.

Tab G – Joint Verdict Forms:

The parties shall prepare and file a joint proposed general verdict form or special verdict form. The parties are urged to agree on a verdict form. If the parties cannot agree on a joint verdict form, each party must separately file a proposed verdict form. Please also submit the Verdict Form to the clerk via email (POMDeptEAO@LACourt.org) in MS Word format.

Tab H – Joint Exhibit List:

Counsel shall submit a Joint Exhibit List beginning with the number 1 and provide three copies of the exhibit list with columns for the Clerk and the Court to use to indicate whether the exhibit is marked and received into evidence. Exhibits shall be numbered in conformance with Rules 3.52 – 3.53. If ten (10) or more exhibits are to be used, copies of the exhibits shall be placed in one or more 3-ring binders. Non-documentary exhibits shall be represented in the binder with a simple written description. Counsel is required to review each exhibit prior to trial with a view toward resolving any objections as to foundation. Submission of the joint exhibit list shall not be deemed a waiver of any objection to the admission into evidence at trial of any exhibit on the Joint List.

On the day of trial, Counsel are to provide TABBED Joint Exhibit Binder set for the Court, Judicial Assistant, the witness stand, and opposing Counsel for a total of four (4) binders.

Tab I – Deposition Designations:

Counsel shall submit a Joint Deposition Designation List beginning with the number 1 and provide three copies of the Deposition Designation List with columns for the Clerk and the Court to use to indicate whether the Deposition Designation is admitted or not. The Joint Deposition Designation List is to include whether excerpts are stipulated or the Legal Grounds for Objections.

Tab J – Operative Pleadings:

Counsel for the Plaintiffs and/or Cross-Complainants are requested to provide the Court with a copy of the Operative Complaint(s) prior to trial. Counsel should indicate prior to Trial any cause(s) of action which will be dismissed.

Trial (LASC Rule 3.37, et seq.)

Counsel shall always conduct themselves in a courteous and professional manner. This applies not only to the Court and opposing Counsel, but to all Parties, Court Staff, and Witnesses. Counsel are to inform their Clients and Witnesses to observe proper courtroom decorum. No food or beverages are to be brought into the courtroom other than bottled water. No gum chewing is permitted. If counsel has questions about courtroom decorum, they should speak to the Courtroom Assistant. Water will be provided by the courtroom assistant during the trial.

The court will conduct the trial in conformance with Chapter 3 of the Los Angeles County Superior Court Rules and requests that counsel comply with the following procedures in the interest of judicial efficiency.

At the Pretrial Conference on the first day of trial, the Court will confer with Counsel and, when appropriate, set time limits for the examination of all Witnesses which shall be binding unless Counsel obtains leave of court to examine a Witness beyond the time limit. If a Witness is required to testify for both the Plaintiff(s) and Defense, the cross-examination of the Witness will not be limited to the scope of the direct examination, so that each Witness is called to the witness stand only once. Except for unusual circumstances, the court will not allow questioning of any witness beyond redirect and re-cross examination.

Counsel are to remain at the lectern or at counsel table during jury selection, opening statements, examination of witnesses, and closing arguments. Counsel must request permission from the Court to approach a Witness. If counsel plans to display any exhibits or other graphic items during opening statements or closing arguments, Counsel must give advanced warning to opposing Counsel, the Court, and to the Courtroom Assistant in order to avoid delay in the proceedings. Counsel must be fully familiar with the operation of any audio-visual equipment they intend to utilize during the trial in order to avoid delay.

Voir Dire. The Court will conduct a relevant thorough Voir Dire of the venire. Prior to trial, Counsel may suggest relevant areas of inquiry for inclusion in the Court's Voir Dire. Voir Dire by Counsel will be confined to any time limits imposed by the Court prior to the commencement of trial. Time limits will be based on the facts made known to the Court prior to trial.

Trials will be conducted five (5) days per week unless otherwise ordered. Court will convene promptly at the times previously set. Counsel should advise the Court well in advance if special circumstances require an adjustment to this schedule. During trial, the court intends to use all available trial time, and witnesses must be present for testimony at all times.

Objections. Only the grounds for objection shall be stated in the presence of the Jury, e.g., “Objection, leading.” No speaking objections or arguments are to be made in the presence of the Jury. If a request for a side bar conference is denied, Counsel may ask to place any additional matters on the record outside of the presence of the Jury at the next available recess.

Discovery Disputes and Informal Discovery Conferences:

The Court expects the parties to resolve discovery disputes among themselves in a courteous, reasonable, and professional manner. Pursuant to Code of Civil Procedure section 2016.040, the Parties and Counsel are ordered to meet and confer to make reasonable, good-faith efforts to informally resolve discovery disputes.

If the Parties are unable to settle their discovery disputes, pursuant to Code of Civil Procedure section 128(a)(3), the Court requests that they schedule an Informal Discovery Conference (“IDC”) prior to filing a discovery motion. The Court hears such conferences Monday through Thursday (at 9:00 a.m. and/or 10:00 a.m. and/or at 10:30 am – *at the discretion and convenience of the Court*). Moving parties can schedule an Informal Discovery Conference by e filing LACIV 094. The Court will assign a date/time and give notice to all parties.

At least five (5) court days before the Informal Discovery Conference, the parties and counsel shall file a joint statement that succinctly summarizes the nature of the dispute, the necessity for the discovery, the basis for any objection or withholding of information, and the overall status of discovery. Please deliver a courtesy copy of the succinct joint statement.

Addendum to Case Management Conference Order (Song-Beverly Litigation)

Discovery

1. General Orders:

a. Absent written agreement of the parties to the contrary, any formal discovery propounded and currently pending or outstanding by a party in this matter prior to the date of this CMC Order is stayed pending further order of the Court.

b. The Court finds under CCP § 2019.020(b) that the sequence and timing of discovery in this matter should be the subject of management by the Court in the interests of justice pending a future status conference, given the nature of the allegations in the Complaint and the defense raised in the Answer.

c. The parties are free to stipulate, in writing, to modify and/or delete any of these general orders, as they deem appropriate. A party may also seek to modify and/or delete any of these orders, via noticed motion, upon showing of good cause.

2. Production of Documents: Within 60 days of service of this Order both plaintiff and defendant shall provide copies of the following documents, which are in their respective possession, custody and/or control, to the opposing side(s):

a. Purchase or lease contracts concerning the subject vehicle, including any associated documents reflecting OEM or aftermarket equipment installed at the dealership, ELWs or service contracts, and any other writings signed by the plaintiff at the point of sale.

b. Work orders, repair orders, and invoices (including accounting and warranty versions) for any maintenance, service and repair activity concerning the subject vehicles.

c. Rental car or loaner agreements regarding alternative transportation provided during service or repair visits concerning the subject vehicle.

d. Records of communications with dealer personnel, and/or factory representatives and defendant's call center or customer assistance personnel concerning the subject vehicle.

e. Warrant claims submitted to and/or approved by defendant concerning the subject vehicle.

f. Warranty Policy and Procedure Manual or similar policies or claim-handling procedures published by Defendant from the date the subject vehicle was purchased or leased to the date the lawsuit was filed.

g. Defendant's written statements of policy and/or procedures used to evaluate customer requests for repurchase or replacement pursuant to "Lemon Law" claims, including ones brought under the Song-Beverly Consumer Warranty Act, from the date the subject vehicle was purchased or leased to the date the lawsuit was filed.

h. A list of or compilation of customer complaints in defendant's electronically stored information database that are substantially similar to the alleged defects claimed by plaintiff, in vehicles purchased in California for the same year, make and model of the subject vehicle. A substantially similar customer complaint would be the same nature of reported symptom, malfunction, dashboard indicator light, or

other manifestation of a repair problem as the description listed in any work order or repair order for the subject vehicle, other than routine or scheduled maintenance items. The list provided by defendant may be in the chart or spreadsheet format, and shall include the VIN, date of repair visit, dealership or other reporting location, and text of the other customers' reported complaint, but shall not include the other customers' names, addresses, phone numbers, e-mail addresses, or other personal identifying information.

i. Technical Service Bulletins and Recall Notices for vehicles purchased or leased in California for the same year, make and model of the subject vehicle.

j. Copies of any repair instruction, bulletin, or other diagnostic/repair procedure identified in any of the repair order/invoice records for the subject vehicle.

k. Receipts or other written evidence supporting any incidental or consequential damages claimed by plaintiff.

If a party believes any of this information should be subject to a protective order, that party shall serve and file a proposed protective order within 5 days of this Order and the parties shall meet and confer as to agreeable language for the same. The default will be the standard Protective Order provided by the LASC on its website.

The information may be provided to the opposing party in electronic form as a PDF at the option of the producing party.

Plaintiff and defendant shall serve verification with the documents they produce.

Any additional requests for documents may only be propounded by stipulation and/or court order (via motion upon showing of good cause).

3. Interrogatories: Within the time limits allowed by law, both plaintiff and defendant may propound one set of Judicial Council Form Interrogatories and one set of maximum of 35 special interrogatories. Any additional special interrogatories may only be propounded by stipulation and/or court order (via motion upon showing of good cause).

4. Deposition: Within the time limits allowed by law. Defendant may depose plaintiff, and plaintiff may depose the person most knowledgeable (PMK) as to up to 5 categories of information, plus a deposition of the PMK as to why the subject vehicle was not repurchased, in addition to depositions of any experts identified by the parties, after a formal demand and exchange of expert witness information, per CCP § 2034. Parties shall meet and confer as to whether there is a need to take any additional depositions. Any additional depositions may only be noticed and taken by stipulation and/or court order (via motion upon showing of good cause).

If a deponent resides out of state, the deposition may be taken by video conference or telephone. The parties will not be required to travel to California, and the attorneys will not be required to travel out of state.

5. Vehicle Inspection: Within the time limits allowed by law, the subject vehicle may be inspected by the parties at a mutual agreeable time and place. Unless otherwise agreed by the parties, the vehicle inspection (VI) process shall be as follows:

- a. Defendant shall show plaintiff's representative proof of insurance for the person/company who will be road testing the subject vehicle;
- b. The defense VI shall commence at 8:00 a.m. at an authorized service and repair facility closest to plaintiff's residence, and may continue until no later than 5:00 p.m. that same day;
- c. Plaintiff shall deliver the vehicle to the noticed place of inspection. If the subject vehicle has a dead battery, plaintiff's counsel shall notify defendant's counsel at least one court day before the VI, and the VI shall proceed with defendant paying for the tow or jump start to the place of inspection and taking reasonable steps to retrieve stored diagnostic codes and other onboard data before the battery is recharged or replaced.
- d. Defendant shall provide plaintiff's representative with duplicate copies of all paper and electronic documents created during and because of the VI, such as test results, the stored codes in the vehicle's internal network or in its control units, alignment sheets, etc.;
- e. If the subject vehicle is in then-current use by plaintiff, and if requested within a reasonable time, in writing, prior to the VI, plaintiff shall be provided a loaner or rental vehicle paid for by defendant for the duration of the VI, conditioned on plaintiff providing standard rental car disclosures such as proof of a current driver's license and insurance coverage, and with plaintiff responsible for the loaner vehicle's fuel. The loaner vehicle need not be the same model or type as the subject vehicle unless plaintiff agrees to pay for an upgrade;
- f. Defendant shall be permitted to run tests of relevant electronic control units (ECUs) and components, conditioned on defendant maintaining, downloading, or printing out stored data on the existing condition or historical information stored in an ECU; and
- g. Plaintiff's representative is permitted to conduct video and audio recording of the VI.