

## **PERSONAL INJURY COURTS (DEPTS. 91, 92, AND 93)**

### **FREQUENTLY ASKED QUESTIONS**

**TO UNDERSTAND PROCEDURES IN THE PI COURTS, PLEASE CAREFULLY REVIEW THE LOS ANGELES SUPERIOR COURT’S (“LASC’S” OR “Court’s”) AMENDED GENERAL ORDERS AVAILABLE ON THE COURT’S WEBSITE ([www.lasuperiorcourt.org](http://www.lasuperiorcourt.org); PI Courts link) (Amended General Order re Personal Injury Courts; Amended General Order re Final Status Conference).**

**To supplement the Amended General Orders, the Court provides the following answers to frequently asked questions.**

#### **ASSIGNMENT OF CASES TO PI COURTS:**

- 1. How is a case assigned to the PI Courts?** The Court relies on the information in the Civil Case Cover Sheet Addendum (form LACIV 109) that plaintiff prepare and file with the initial complaint. The Court defines “personal injury” 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.” Los Angeles County Court Rules 2.3(a)(1)(A)(Proposed Revision 3.21.13).

Accordingly, the court will assign a case to the PI Courts if plaintiffs check any of the following boxes on the Civil Case Cover Sheet Addendum:

- A7100 Motor Vehicle – Personal Injury/Property Damage/Wrongful Death
- A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist
- A7260 Product Liability (not asbestos or toxic/environmental)
- A7210 Medical Malpractice – Physicians & Surgeons
- A7240 Medical Malpractice – Other Professional Health Care Malpractice
- A7250 Premises Liability (e.g., slip and fall)
- A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism etc.)
- A7220 Other Personal Injury/Property Damage/Wrongful Death

Plaintiffs who check the boxes for matters described elsewhere in the Civil Cover Sheet Addendum (any boxes on pages two and three of that form) are not properly assigned to the PI Courts.

- 2. Can the Court, on its own or at the request of a party, transfer a case from a PI Court to an Independent Calendar (“I/C”) Court for all purposes?** Yes. Using the Motion to Transfer Complicated Personal Injury Case to Independent Calendar Court, (form available on line, PI Courts link) any party may move to transfer a case from a PI Court to an Independent Calendar (“I/C”) Court. The PI Courts will transfer a matter to an I/C Court if the case is not a “Personal Injury” case as defined in the General Order re General Jurisdiction PI Cases, or if it is “complicated.” In determining whether a personal injury case is more “complicated” than the PI Courts can manage, the PI Courts will consider, among other things, whether the case will involve numerous parties, cross-complaints, witnesses (including expert witnesses), and/or pretrial hearings.
- 3. When is a case too “complicated” for the PI Courts?** The three PI Courts (Departments 91, 92 and 92) are managing all pretrial matters for more than 18,000 cases with the expectation that cases involving motor vehicle personal injury accidents, premises liability “slips and falls,” and alleged medical malpractice do not generate more than a few pretrial motions, hearings, or other court proceedings. Although the 31 Trial Courts presently handling PI trials are prepared to conduct long and complex trials, the PI Courts are not equipped to handle extensive pretrial proceedings. For example, a PI case that involves numerous causes of action, multiple parties, one or more cross-complaints, several discovery disputes and issues of first impression will require more pretrial court resources than the PI Courts can deliver. At the direction of Department One, the PI Courts transfer such cases to Independent Calendar Courts (“I/C Courts”) because the I/C Courts have greater capacity to manage such cases. The PI Courts routinely transfer elder abuse cases and landlord/tenant habitability cases to the I/C Courts on that basis.

**4. If the PI Courts transfer a case to an I/C Court, where will the case be reassigned?**

At the direction of Department One, the PI Courts will return cases filed before March 18, 2013 to the I/C Court assigned to the case before it was transferred to the PI Courts. If the judge presiding in the previous I/C Court is no longer available, the case will be assigned to another I/C Court in the same District. The Court will likewise reassign a case filed on or after March 19, 2013 to an I/C Court in the District where the injury or damage occurred.

**TRIALS:**

**5. What time are trials set in the Personal Injury Courts (“PI Courts”)?** 8:30 a.m., Monday through Friday.

**6. Where should witnesses appear?** Counsel should subpoena witnesses to appear in the PI Court. If the PI Court judge deems the case trial-ready, the PI Court will order the parties/counsel/witnesses to report to the Master Calendar Court in Department One. Department One will assign the case to one of 31 trial courts assigned to conduct trials in all limited jurisdiction cases and in general jurisdiction personal injury cases, (“Trial Courts”) (see FAQ #6 below) and order all parties/counsel/witnesses to appear in the Trial Court.

**7. What is a trial-ready case?** The PI Courts will deem a case ready for trial when all parties have filed and/or are ready to lodge, trial documents and exhibits as directed in the Amended General Order – Final Status Conference – Personal Injury Courts (*i.e., binders containing* trial briefs, brief statements of the case, joint witness lists, joint exhibit lists, joint jury instructions, special verdict forms and exhibit binders). The PI Courts will not

deem a case ready unless all parties must announce that they are ready to proceed with trial continuously from day to day until completed, and provide a good faith estimate of the length of trial (assuming 5-6 hours of trial time per day).

**8. Are the PI Courts conducting Mandatory Settlement Conferences?** Not at this time. Please check the Court's website for updates.

**9. How does Department One assign out cases for trial?** For purposes of motions to disqualify judges under Code of Civil Procedure Section ("C.C.P. §") 170.6, Department One operates as a Master Calendar Court. Department One makes trial assignments based on three factors: (1) which trial courts are open on the trial date (not dark or engaged in another trial); (2) where the accident or injury occurred (sending the case closer to that location if possible); and (3) the even distribution of work among the Trial Courts. Time permitting, Department One announces the identity of the judge and the location of the court where it will transfer a case twenty minutes before the transfer takes effect. This procedure gives the parties and counsel 20 minutes to determine whether to file a written motion to disqualify the trial judge under C.C.P § 170.6. Written forms for § 170.6 motions are available in Department One. Under § 170.6, any motion to disqualify a judge after Department One transfers the case to a Trial Court is untimely.

**10. Which judges are currently assigned to the Trial Courts?**

**Stanley Mosk Courthouse**

Dept. \_\_\_ *Hon. Joseph Kalen* (sitting by assignment)

Dept. 21 *Hon. Robert O'Brien* (sitting by assignment)

Dept. 26 *Hon. Judge James Dunn* (also conducting MSCs in PI cases)

Dept. 31 *Hon. Alan S. Rosenfield*

Dept. 33 *Hon. Charles F. Palmer*

Dept. 35 *Hon. David L. Minning* (also conducting MSCs in PI cases)

Dept. 36 *Hon. Gregory Alarcon*

Dept. 37 *Hon. Marc Marmaro*

Dept. 46 *Hon. Frederick C. Shaller*

Dept. 73 *Hon. Elizabeth Feffer*

### **Torrance Courthouse**

Dept. A *Hon. Laura Ellison*

Dept. E *Hon. Cary Nishimoto*

Dept. 11 *Hon. William Willett*

### **Van Nuys Courthouse**

Dept. B *Hon. Frank Johnson*

Dept. H *Hon. Wendy Kohn*

Dept. I *Hon. James Kaddo*

Dept. M *Hon. Michael Harwin*

Dept. O *Hon. Leland Harris*

Dept. U *Hon. Bert Glennon*

Dept. W *Hon. Elizabeth Lippitt*

### **Long Beach Courthouse**

Dept. 9 *Hon. Patrick Madden*

Dept. H *Hon. Joseph DiLoreto*

**Santa Monica Courthouse**

Dept. G *Hon. Bobbi Tillmon*

Dept. I *Hon. H. Chester Horn*

Dept. J *Hon. Norman Tarle*

Dept. N *Hon. Craig Karlan*

Dept. R *Hon. Lawrence Cho*

**Pasadena Courthouse**

Dept. P *Hon. Jan Plum*

Dept. R *Hon. Edward Simpson*

**Pomona Courthouse**

Dept. O *Hon. Robert Dukes*

**Chatsworth Courthouse**

Dept. 46 *Hon. John Kralik*

Please note that, from time to time, retired judges sitting by assignment may preside in one or more of the trial courts.

**11. Is there any way to anticipate which trial judge might be assigned to hear my case?**

No.

**12. Are general jurisdiction personal injury trials commencing on the trial date?** To date,

Department One has promptly assigned every PI case out for trial on the trial date for commencement of trial the same day. In most cases, the Trial Court hears motions *in*

*limine* on the trial date, and calls in a jury panel to commence jury selection the following morning. However, depending on how many trials are commencing on any given day, there may be enough jurors on hand in the Mosk Courthouse to call in a panel for the trial date.

**13. What if all 31 Trial Courts are unavailable?** In the event that all 31 trial courts are engaged in other trials or otherwise unavailable, Department One will trail the commencement of trial from day to day unless the parties stipulate to continue the trial to a future date in the PI Court. Parties who prefer to trail from day to day may execute Department One's Stipulation to Be On-Call Via Email for Notice of Assignment to Trial Court (agree to appear for trial in response to an email from Department One and to send Motions to Disqualify under C.C.P. § 170.6 directly to Department One via email or facsimile) (form available on line; fee required).

**14. Who hears motions *in limine*?** In general, the Trial Court judge hears *in limine* motions, motions for judgment on the pleadings, motions to bifurcate, and other trial related motions.

**15. How can I continue the trial date?** The parties should file a Stipulation to Continue Trial, FSC and Related Motion/Discovery Dates (fee required; form available on the website, PI Court link). As long as all parties agree to continue or advance a trial date, they do not have to show good cause or articulate any reason or justification for continuing or advancing a trial date. The Court encourages and expects the parties to meet and confer and to stipulate, rather than litigate, reasonable requests for continuance of trial dates. If all parties do not agree to continue or advance a trial date, you must file a properly noticed motion to continue trial. The parties should avoid burdening the court



with *ex parte* applications to continue the trial date. As explained in FAQ #12, the PI Courts do not regard the continuance of a trial as an emergency justifying *ex parte* relief.

**16. What if I cannot reserve a motion hearing date more than 30 days before the scheduled trial date?** If the Court Reservation System indicates that a PI Court's earliest available motion dates are untimely (*i.e.*, within 30 days of trial or after the trial date), the moving party should reserve the earliest available hearing date and the parties should stipulate to continue the trial to a date at least 30 days after that hearing date.

- a. **Do not file an *ex parte* application for an order shortening time to hear the motion before the trial date unless there is an emergency situation involving irreparable harm or danger.** Utilizing the Court Reservation System, the PI Courts are systematically reserving hearings for the maximum number of motions they are able to address each day. With one law clerk or research attorney assigned to each PI Court, the PI Courts simply lack the resources to work up and decide additional (unreserved) motions. The PI Courts therefore do not regard the unavailability of motion hearing dates before a scheduled trial date as an emergency justifying the grant of an *ex parte* application that would add another motion to their already full motion calendars. Accordingly, if a party moves, *ex parte*, to shorten time to calendar a motion for a hearing before the trial date, the PI Courts will deny the application and reserve the issue for determination at the FSC.
- b. In determining whether a case is ready for trial, the FSC judge will consider, among other things, whether the Court's docket has caused any party to notice a motion in the PI Courts for a date after the motion cut off or the scheduled trial

date. To avoid unnecessary preparation for an FSC in a case that is likely to be continued, the PI Courts strongly encourage the parties to execute a Stipulation To Continue Trial, FSC And Related Motion/Discovery Dates (form available on the Court's website, PI Courts link) postponing the trial and related dates to a mutually convenient date after the reserved motion hearing date.

- c. The parties should also check back with the Court Reservation System to see if earlier hearing dates become available as counsel in other cases take motion hearings off-calendar.

**FSCs:**

**17. What time are FSCs in PI Courts?** 10 a.m., Monday through Friday.

**18. How far in advance of trial do the PI Courts calendar FSCs?** The PI Courts calendar FSCs eight court days before the trial date.

**19. Are there any particular requirements for a PI Court FSC?** Yes. They are outlined in the Amended General Order-Final Status Conference.

**20. How do I get a copy of the Amended General Order- Final Status Conference?**

Counsel may view the Amended General Order – Final Status Conference on the Court's website or pick up a hard copy in the PI Courts. Upon the initial filing of the complaint, plaintiff(s) must serve the Amended General Order – Personal Injury Courts and the Amended General Order Final Status Conference.

**21. Do I need to bring all of my exhibits and trial readiness documents to the FSC?** Yes.

The FSC order requires the parties to file and serve trial readiness documents five days before the FSC, and to be ready to temporarily lodge for inspection all trial documents in binders at the FSC. If the binders are numerous or voluminous, counsel may jointly

represent that all parties have prepared trial documents and binders and offer to lodge a sample binder with the court.

**22. Can we try to settle the case at the FSC?** You will have to do so informally because the PI Courts currently have no mechanism for conducting MSCs. Please check the court's website for updates on potential new settlement programs.

**23. What if the other side fails or refuses to cooperate in preparing the FSC documents?**

Each party has an independent duty to comply with the FSC order. The court has discretion to impose sanctions for any unexcused failure to comply, ranging from monetary sanctions to exclusion of evidence, issue preclusion, denial of a claim or defense, dismissal, and/or default.

***EX PARTE APPLICATIONS:***

**24. Are there any new rules regarding *Ex Parte* Applications in PI courts?** No. Under the California Rules of Court ("C.R.C."), the PI Courts may only grant *ex parte* relief upon a showing, by admissible evidence, that the moving party will suffer "irreparable harm," "immediate danger," or where the moving party identifies "a statutory basis for granting relief *ex parte*." C.R.C. 3.1202(c). You must comply with C.R.C. 3.1200, *et seq.*, and Los Angeles County Court Rule ("Local Rule") 3.5. Please review FAQs #11 and #12 for further guidance on *ex parte* applications.

**25. When do the PI Courts hear *ex parte* applications?** You must file your *ex parte* application by 8:45 a.m., Monday through Friday, at the filing window, Room 102. The PI Courts will deny or continue late-filed *ex parte* applications.

**26. Should I come in *ex parte* to get a timely hearing date on a pretrial motion?** No. See FAQs #11 and #12 above.

## NOTICED MOTIONS:

- 27. When do the PI Courts hear noticed motions?** Except for motions to compel further discovery (which are heard at 10:00 a.m.), the PI courts hear and decide motions at 1:30 p.m., Monday through Friday. As explained in the Amended General Order, parties must engage in an Informal Discovery Conference (“IDC”) with a PI Court judge before the Court hears a motion to compel further discovery. Please read FAQs #28-31 for additional information on IDCs.
- 28. What if I reserved a hearing date for a motion that I no longer wish to pursue?** As soon as a moving party realizes that it will not require a hearing on a reserved motion date in the PI Courts, that party must **immediately** use the Court Reservation System to take the reserved motion date off-calendar. This procedure is **imperative** because other parties are actively searching the Court Reservation System for available hearing dates. **The PI Court judges may set Orders to Show Cause why counsel/parties should not be sanctioned for abandoning reserved motion hearings, without taking the reserved hearings off-calendar.**
- 29. How do I get a hearing date for my motion?** The parties should use the Court Reservation System (available online) to reserve a motion hearing date. If you are unable to utilize the online reservation system, you may reserve a motion hearing date by telephoning the PI Court courtroom between 3:00 p.m. and 4:00 p.m., Monday through Friday. To reserve an Informal Discovery Conference (“IDC”), please send an email to [PISMC@lasuperiorcourt.org](mailto:PISMC@lasuperiorcourt.org).
- 30. How does the Court Reservation System Work?** The PI Courts limit the number of daily motion hearings because they have limited resources (e.g., a single research attorney

per PI Court to assist the judges' preparation of tentative rulings). To manage their motion calendars, the PI Courts set very few summary judgment/adjudication motions per day because these motions are extremely time-consuming. On the other hand, the PI Courts will accept multiple daily motions for admission *pro hac vice* or motions to be relieved as counsel because rulings on these motions are less time-consuming to prepare.

**31. Which PI Court judge will decide my motion?** The following judges are currently assigned to hear motions at 1:30 p.m. in the Personal Injury Departments.

**Dept. 91:**

Judge Rafael Ongkeko: Monday, Tuesday and Thursday.

Judge Elia Weinbach: Wednesday and Friday.

**Dept. 92:**

Judge Amy Hogue: Monday, Tuesday, Wednesday and Friday.

Judge Teresa Beaudet: Thursday

**Dept. 93:**

Judge Samantha Jessner: Tuesday, Thursday and Friday.

Judge Teresa Beaudet: Monday and Wednesday.

**32. Do the PI Courts post tentative rulings on motions?** Time permitting, the PI judges are posting tentative rulings on the Court's website ([www.lasuperiorcourt.org](http://www.lasuperiorcourt.org), Civil - Tentative Rulings link). There are instructions on the website explaining procedures for submitting to the tentative ruling.

**33. Do the PI Court judges conduct Informal Discovery Conferences (“IDCs”)?** Yes.

The PI Court judges are available on a daily basis to meet with counsel for approximately 30 minutes, usually in chambers, to help resolve discovery disputes informally to reduce

the number of discovery motions in the PI Courts. With 6,000 cases in each PI Court and only one research attorney available to assist with law and motion matters, the court does not have the staff or resources to file, scan, assemble, calendar, research and decide numerous or voluminous discovery motions. The PI Court judges find that in nearly every case, their investment of half an hour in an IDC resolves the dispute and spares the court (and counsel) the significant time and expense involved in litigating discovery motions.

**34. How do I reserve a date for an IDC?** Please send an email to the PI Courts' email address: [PISMC@lasuperiorcourt.org](mailto:PISMC@lasuperiorcourt.org).

**35. What is an IDC?** The IDC is an informal, in-person, 30-minute meeting among the parties and the judge. On a daily basis, the PI Court judges are available to conduct IDCs by meeting in person with lead trial counsel on each side (or another attorney who has full authority to make binding agreements in discovery disputes). The purpose of the IDC is to help the parties resolve discovery disputes by agreement rather than motion practice. To that end, an IDC judge may cite the parties to applicable code sections or other legal authorities. The judge may also promote compromise by suggesting agreements to narrow the scope of the requests, provide amended responses that better explain the responding party's compliance, or use an alternative, more efficient means of discovery. The PI Court judges will not make rulings in an IDC. The PI Court judges find that, in nearly every case, the parties amicably resolve their discovery disputes at, or as a result of, the IDC. The PI Court judges also find that subsequent discovery disputes among the participants are rare. The PI Courts may consider a party's failure or refusal to participate in an IDC in deciding whether to award sanctions on a motion to compel further responses to discovery.

**36. What if I have to file a motion to compel further discovery?** The PI Courts will not hear motions to compel further discovery unless and until (a) the parties participate in an IDC; or (b) the moving party submits evidence, by way of declaration, that the opposing party has failed or refused to participate in an IDC. To allow time for an IDC at least 16 court days before the motion hearing, parties must reserve a hearing on any motion to compel further discovery at 10:00 a.m., on a date at least 60 days after the date when the reservation is made. Parties must reserve an IDC with the same judge who is scheduled to hear any noticed motion. Likewise, a party who participates in an IDC regarding certain discovery requests, and then files a motion to compel further responses to the same discovery requests, must calendar the motion for a hearing before the same judge who conducted the IDC. After participating in an IDC, a moving party may advance the hearing on a motion to compel further discovery to 10:00 a.m., on any available hearing date that complies with the notice requirements of the C.C.P.

#### **SETTLEMENTS:**

**37. What should I do if a case settles?** Please immediately file a Notice of Settlement in the PI Courts as required in C.R.C. 3.1385. Please use the Court Reservation System to take any pending motions off-calendar as soon as possible. See FAQ #24 above.

**38. How can I obtain prompt approval of a minor's compromise?**

- a. If the settlement amount does not exceed \$50,000, file a Petition for Expedited Approval using Judicial Council Form MC350EX (Expedited Petition to Approve Compromise etc.). The Petition must be supported by a declaration from counsel that meets the requirements of California Rules of Court Rule 7.955. The

Petitions for Expedited Approval do not require a hearing. The PI Courts will endeavor to promptly approve or reject Expedited Petitions.

- b. The PI Courts will also accept a stipulation for Approval of Minor's Compromise. Provided that all parties agree and the Petition is fully supported by an Attorney Declaration and includes an order prescribing the blocked account etc., the Court will sign an order approving it on stipulation.
- c. Parties who elect to proceed by way of a noticed motion should use the online Court Reservation System to reserve a hearing date.
- d. Do not file an *ex parte* application to obtain approval of a minor's compromise unless there is possibility of danger to the minor or impending *irreparable* harm. See FAQ #20 above. The PI Courts do not regard the possibility of incurring additional attorneys' fees as "irreparable harm." Instead of filing an *ex parte* application, please reserve a date for a regularly noticed motion for approval of minor's compromise using the Court Reservation System.

**39. Are the PI Courts Conducting MSCs?** As a result of budgetary constraints, the Court eliminated its ADR Services and presently has no capacity to conduct MSCs in PI cases. The Court strongly encourages the parties to engage in private mediation or work informally to settle their cases before the FSC date. Please check the court's website for new information on the availability of MSCs.

7/15/13