

Created by Seadragon:

Here is a pre trial checklist:

60 days before trial:

1. Start the [trial brief](#) research and creation.
2. Make an outline of issues for trial (you should by this point know this)
3. If you haven't done some discovery things you better do this on this day or the next at the latest.

35 days from trial:

1. All discovery completed on your part
2. Send other parties [CCP 96 statement](#)
3. Check discovery sent to you for the declaration in lieu of live testimony. Check to see if it has these words or something like it:

"I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct":

(Date) (Signature)

If not prepare to excluded it before trial in [limine](#) and include a [declaration in support of](#).

4. Get all discovery and or evidence(except evidence for impeachment) to the plaintiff no later than day 35 before trial (if you are not using a calendar to keep track of the court dates you could lose, Judges are not like bosses and let things slide)
5. Send your trial brief and declaration in lieu of live testimony to the plaintiff's by this date. This should be a red circled date on your calendar.

6. Check your courts local rules for motions in limine if they have to be sent by the discovery deadline do so. If not mark 5 days sooner on the calendar to make sure you get it out.

20 days before trial:

1. [Subpoena the witness](#) identified in the CCP96, CCP98 declarant at the address stated in the declaration (recommend using the Sherriff's office they are cheaper and thorough and debt collectors don't lie to them)
2. Make your trial issues outline and prepare for oral argument. Ignore calls from the lawyer but listen to the voicemail to see if it is a meet and confer.
3. Make sure you understand (not just read) all the cases you cite and the reason you are citing them.
4. Make up your trial binder

10 Days out:

1. If you haven't done so file the motion in limine and send it to plaintiffs with proof of service. The courts all have different rules for MIL so you have to check 60 days out.
2. Stop researching everyday make it every other day so your brain can analyze your research.
3. Start practicing your Oral arguments. Best if you have someone listen to you (like the built in conversational hostage known as a spouse) to help Identify the tone and presentation errors that make the court not want to listen. Eliminate the whiney or, loudly stated or, righteously indignant tone. Think Mr. Spock style where you argue the points in a calm manner using non pointing hand gestures (in the military the people use the whole hand to point). Make your points quickly and practice with your oral arguments partner for various objections (attorneys use these to preserve for appeal an issue and to disrupt your informational flow. Learn all the objections available and use them at appropriate times to disrupt the plaintiff and to preserve issues on appeal) Objection, hearsay will do in a pinch.

5 days out:

1. Try to relax (I know it is tough with so much on the line). On this day no case, no CIC, watch a movie, read a book, you are taking the day off (all day make a vacation day at work and take this day for

yourself). By order of Seadragon I will not respond to posts and PM's if you are 5 days from trial (unless you just found out about CIC and are playing SERIOUS catch-up) I invite everyone to ignore posts and requests from the 5 days before trial posters so they can relax (and yes I mean calendar days, see you are starting to sound like a lawyer dang.)

2. I mean it no other things case related posts. Wine discussion is the exception in the wine forum and off topic.

4 days out:

Go over your evidentiary objections again and try to figure out what objections they are going to raise.

2 days out:

Have everything organized for trial. Read the court opinions for any financial institution case on this link:

California Courts - Opinions

Pay attention to the slip opinions for the appellate divisions and the Supreme Court.

Night before trial:

Sleep, sleep, sleep. If you don't know it now you'll just have to wing it. Be sure you look nice for court. But get a lot of sleep. You're taking the whole day off so you can relax and feel good before court.

If you have a spouse, hug them and thank them for being patient while working on this.

Trial Day:

Think battle and everything you wear as your armor and every piece of paper as your weapon. Listen to public enemy on the way to court. When you are waiting in the hall do the crossword from the paper.

Take someone to take notes for you and so they can be a witness to what happens. Take a recorder and ask the court if you can record for note taking purposes and for historical reasons.

Do not get to the court earlier than necessary to get through security and 5 minutes before the doors open. Do not sit on the bench. Stand next to an attorney; don't fumble through your stuff. Check the court calendar and see what number you are on the calendar. Check in with the clerk walk through the doors like the attorneys do and stand in line for the clerk.

When or if the plaintiff's attorney approaches you give them the serious war face, ok just look serious not scared. Listen to what they have to say and DO NOT ACCEPT PIECES OF PAPER FROM THEM. If they try to give you anything, say the discovery cutoff was 30 days ago I cannot accept it. That is all, and with assurance say to them Good luck. Do not settle with them but if they do talk settlement offer a counter proposal of 40.00 dollars.

When waiting for your case to be called observe the courts demeanor and try to gauge the response your case will elicit from the court.

Standard trial procedure is this:

Motion in limine (this is going to be contentious and the plaintiff's are going to bluster)

Plaintiff's opening statement (don't object during this)

Your opening statement (request to defer your opening statement until the plaintiff rests their case, this is so they don't tailor their case to trash your opening statement)

Plaintiff introduces the witness or the declaration in lieu of live testimony (objection on hearsay, lack of personal knowledge, improper foundation) and argue strongly for the objection and bring that standing issue right out there in the open.

Direct examination of the witness

Cross examination use [the trial questions on here](#)

Redirect

Recross

and so on till the court says stop.

When the plaintiff rests move for a directed verdict

Note the court's ruling on this.

If they deny the directed verdict object politely and state for the record you are objecting for reasons in defendant's case in chief.

Make your opening statement if the plaintiff interrupts object to that right away stating I was professional and didn't interrupt go over the points you are making any evidence you will be introducing.

Call the witness to the stand (your witness or their witness for some questioning abuse)

Make your closing argument if allowed and then request a Statement of Decision.

Then quietly wait for the court to speak write down anything they rule on. When the court allows leave with them and in the hallway say "Have a nice day"(military speak for Go f\$%# yourself)

Go to your car and have your freak out (its ok happens all the time) and then go home and hug your spouse and your kids and all of you go out to dinner.

Check list for trial in California

1. All affidavits supplied in discovery from out of state comply with CCP 2015.5 if not then cite *Kulshrestha v. First Union Commercial Corp.*, 33 Cal. 4th 601 (Cal. 2004)(precedent for CCP2015.5 out of state affidavit without the California statute statement of perjury)

2. All affiants are employees or have Personal knowledge if not cite *Herrera v. Deutsche Bank National Trust Co.*,

196 Cal. App. 4th 1366 (Cal. App. 3d Dist. 2011 n.5)(this is about hearsay declarations it is a partially published opinion) and

Cooley v. Superior Court,

140 Cal.App.4th 1039 [45 Cal. Rptr. 3D 183](2006)

3. All evidence complies with the evidence code for foundation and exceptions rules if not then cite: CCP 436 and strike it

4. No showing of standing then cite these;

A litigant's standing to sue is a threshold issue to be resolved before the matter can be reached on the merits. (*Hernandez v. Atlantic Finance Co.* (1980) 105 Cal. App. 3d 65, 71 [164 Cal. Rptr. 279].)

Standing' goes to the existence of a cause of action.' [Citation.]" (5 Witkin, Cal. Procedure (4th ed. 1997) Pleading, § 862, p. 320.)