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# The road back to normalcy at LA Superior Court

## PLANS FOR THE NEW CIVIL JURY TRIAL AND VIRTUAL MSC TAKE SHAPE

CAALA members have been frustrated with the lack of jury trials and forward progress on cases during the pandemic. Vocal as we have been about our concerns, CAALA members are obviously not the only stakeholders for Court leadership. The Court must also consider the interests of its justice partners in criminal cases and of its own staff and bench officers. Underlying the Court’s decisions are the constraints imposed by the Los Angeles County Health Department, which is the ultimate decision-making authority on health concerns regarding the County’s courthouses.

The Health Department has mandated social distancing and observation of other pandemic-related safety measures, like masking and sanitizing. It may come as a surprise that, with rare exception, LASC courtrooms are not large enough to accommodate social distancing for a “normal” sized jury trial. In fact, few courtrooms throughout the entire county can accommodate an average trial with safety measures in place. Basically, the Court has been forced by County health regulations to rethink its business model. Now that Court staff, bench officers, and the Court’s justice partners have been vaccinated, the sigh of relief has given way to next steps.

Those next steps are reflected in Los Angeles Superior Court Presiding Judge Eric C. Taylor’s April 1, 2021, statement announcing the Court’s “New Civil Jury Trial Ramp-Up Plan to Preserve Jurors, Promote Social Distancing.” Judge Taylor announced that “[t]hese new coordinated procedures seek to ensure that courthouses, as well as hallways within our courthouses, do not become overcrowded.

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A Civil courtroom may be next door to a courtroom holding a Criminal trial – and therefore we need to carefully regulate the scheduling of jury trials consistent with social distancing. The Court has a limited number of courtrooms large enough to accommodate jury trials and we need to assess the availability of jurors. Given these complexities, I have designated Department 1 as the central place to

make these assessments, allowing the Court to gradually provide Civil attorneys and litigants the access to justice they need to resolve their cases safely and efficiently.”

Civil Supervising Judge David J. Cowan has also been hard at work chairing a Special Civil Jury Trial Committee. The Committee recommended and the Court adopted factors for each judge to assess before a Civil case is ready for trial:

- A Mandatory Settlement Conference (MSC) or mediation must have been held within the last 90 days. If there has not been one within that period, Department 1 will arrange for an MSC with an available judge, or the parties may elect private mediation.
- Whether the parties agree to a jury of fewer than 12 persons, which would allow the trial to proceed in the assigned department.
- Whether the parties agree to a bench trial of some or all issues, which may avoid a jury trial altogether.
- Whether any witness can testify remotely, which would help reduce the number of people in the courtroom.

If a case is ready for trial, the judge to whom the case is assigned will submit a request to proceed with the Court’s new Civil Jury Trial form. The form will include the number of people who will be in the courtroom, the requested date to begin the trial, and whether the case is entitled to preference, nearing the five-year statute of limitations or has other factors that warrant priority consideration. Judge Cowan has promised that if cases are in fact ready for trial based on all these factors, he will assign the case out for trial as quickly as possible.

These new procedures dovetail nicely with CAALA’s establishment of a remote MSC program for personal injury cases. You may recall that before the pandemic, CAALA and ASCDC coordinated a successful in-person, Court-ordered PI MSC program that was staffed by a plaintiff’s lawyer and a defense lawyer acting as volunteer settlement officers. These MSCs occurred at the Spring Street Federal Building and were incredibly

successful – 50% of the cases in the program settled. Of course, the program ceased when the pandemic hit.

I’m thrilled to share that along with ASCDC’s President-Elect Marta Alcumbrac, the Beverly Hills Bar Foundation, Assistant Presiding Judge Samantha Jessner, and Civil Supervising Judge Cowan, I have been hard at work building a virtual MSC program that will mirror the former in-person program. The virtual platform will be called “Resolve Law LA” and was inspired by the Resolve Law San Diego program created by Consumer Attorneys of San Diego. The virtual program will involve cases being ordered to MSC and a judicial officer will be available at that MSC if necessary.

The Resolve Law LA platform will be website based and will feature a secure login, an attorney dashboard, MSC scheduling, MSC brief uploads, and an integrated video-conferencing system. Of course, we will include training videos and FAQs, and will have tech support available. The Resolve Law LA website will be our community’s platform for conducting virtual MSCs for years to come and will help significantly to reduce LASC’s backlog of cases.

Importantly, leaders from Los Angeles’s plaintiff and defense bars worked with the Beverly Hills Bar Foundation to fund this access to justice virtual program, in keeping with the Foundation’s mission to promote equal access to justice. In addition to the involved associations, I want to thank the firms that have made donations to establish Resolve Law LA – Arias Sanguinetti; Bowman & Brooke; Daniels, Fine, Israel, Schonbuch & Lebovits; Genie Harrison Law Firm; Greene Broillet & Wheeler; Kabatek LLP; Kiesel Law; Mayer Brown; Nelson & Fraenkel; Pat Kelly; Robie & Matthai; and The Rudman Law Firm.

The call will soon go out for volunteers to staff these virtual MSCs. I hope you will volunteer early and often. It is only through our collective effort that we will push our system back toward normal.