

How to Shorten Trials, a Reading List

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American Bar Association, *Principles for Juries & Jury Trials* ("Principle 12" re "Conducting a Jury Trial") (rev. 2016), Chicago, IL.

http://www.americanbar.org/content/dam/aba/administrative/american_jury/2016_jury_principles.authcheckdam.pdf. See also, commentary on "Principle 12" (from 2005 version) at http://www.americanbar.org/content/dam/aba/administrative/american_jury/final_commentary_july_1205.authcheckdam.pdf, pp. 89/142 through 91/142.

Brown, Hon. R.S., *Juxtaposed Expert Testimony ["JET"]*: *A New Way to Hear from the Experts* (2012), in *Forum*, Vol. 42, No. 6, Nov./Dec. 2012, pp. 12-15, Sacramento, CA: CAOC. (JET testimony described.) See, <http://jet-trials.org/>, (description, forms, video examples of JET).

California Codes, <http://leginfo.legislature.ca.gov/faces/codes.xhtml>

- *Code of Civil Procedure* ("CCP"):

§§ 128 subd. (a) and 187 (judicial powers to control litigation processes).

§ 437c(t) (summary adjudication of non-dispositive but trial-shortening issue or claim).

§§ 630.01-630.11 (voluntary expedited jury trials ("EJTs")).

§§ 630.20-630.30 (mandatory EJTs in limited civil cases, eff. July 1, 2016).

- *Evidence Code*,

§ 320 (duties of judges to regulate the order of proof).

§ 352 (discretion to exclude evidence based upon weighing listed factors).

§ 765 (duties of judges to control examination of witnesses).

§§ 1520—1523 (secondary evidence rule; see also, Imwinkelried, et al., *infra* in this list)

- *Penal Code*, § 1044 (duties of judges in criminal trials, including expeditiousness).

- *Probate Code*:

§ 800 (in probate cases, court has full powers of superior court, including CCP § 128).

§ 1000 (civil rules of practice and CCP apply when Probate Code is silent).

§ 4520(b) (in power of attorney probate cases, court has full powers of superior court).

§ 17001 (in trust cases in probate, court has full powers of superior court).

§ 17206 (broad powers to handle petitions re internal affairs of a trust).

California Crane School, Inc. v. National Commission for Certification of Crane Operators (2014) 226 Cal.App.4th 12, 17-22 (affirms pretrial order limiting length of a civil jury trial, and an in-trial order denying rebuttal opportunity as "late", consistent with pretrial order).

<http://www.courts.ca.gov/opinions/archive/F063727.PDF>

Civil Jury Project at NYU School of Law, *Fact Sheet: Back-to-Back Experts* (2016), at Project's web site <http://civiljuryproject.law.nyu.edu/>, select "Research", then "Trial Innovations."

<http://civiljuryproject.law.nyu.edu/wp-content/uploads/2016/10/Exh-2-Back-to-Back-Experts-Fact-Sheet-4.10.16.pdf>

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Civil Jury Project at NYU School of Law, *Fact Sheet: Limiting Length of Trials* (2016), at Project's web site <http://civiljuryproject.law.nyu.edu/>, select "Research", then "Trial Innovations." <http://civiljuryproject.law.nyu.edu/wp-content/uploads/2016/10/Exh.-2-Juror-Fact-Sheet-Time-Limits.pdf>

Clement v. Alegre (2009) 177 Cal.App.4th 1277, 1281-1291 (courts' expectations re effective meeting and conferring, in discovery; can easily apply as well to pretrial and trial conduct).

Diamond, S.S., *How Jurors Deal With Expert Testimony and How Judges Can Help* (2008), in *Journal of Law and Policy*, Vol. 16, Issue 1, Article 4, pp. 47-67, Brooklyn, NY: Brooklyn Law School. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1164&context=jlpx>

Edmond, G., *Merton and the Hot Tub: Scientific Conventions and Expert Evidence in Australian Civil Procedure* (2009) 72 *Law and Contemporary Problems* 159-190 (Winter 2009), Durham, NC: Duke University School of Law. (Critical evaluation of concurrent expert testimony.) <http://scholarship.law.duke.edu/lcp/vol72/iss1/9>

Fisher, Daniel, *Litigator Pushes Mutual-Disarmament Pacts to Cut Costs* (2012) *Forbes*, Jersey City, NJ. <http://www.forbes.com/sites/danielfisher/2012/03/07/litigator-pushes-mutual-disarmament-pacts-to-cut-costs/#655423dd6df4>

Hannaford-Agor, P. and N.L. Waters, *Estimating the Cost of Civil Litigation* (2013), in *Caseload Highlights*, Vol. 20, No. 1, Jan. 2013, pp. 1-8. Williamsburg, VA: NCSC. http://www.courtstatistics.org/~media/Microsites/Files/CSP/DATA%20PDF/CSPH_online2.ashx. See related charts "Hours Expended by Attorneys, Paralegals and Expert Witnesses..." http://www.ncsc.org/~media/Microsites/Files/CSP/DATA%20PDF/csph_2013_tablesv1.ashx

Hannaford-Agor, P., *Measuring the Cost of Civil Litigation: Findings from a Survey of Trial Lawyers* (2013), in *ABOTA's Voir Dire*, Spring, 2013, pp. 22-28: Williamsburg, VA: NCSC. <http://www.ncsc.org/~media/Microsites/Files/Civil%20Justice/Measuring%20the%20cost%20of%20civil%20litigation.ashx>

Imwinkelried, E.J., M.A. Mendez and B.S. Gaal, *Document Summaries in Court* (2012), in *California Lawyer* (May 15, 2012), vol. 67, pp. 37-39, San Francisco, CA: State Bar of Calif.; or <https://www.dailyjournal.com/mcle.cfm?ref=article&eid=922107&evid=1&qVersionID=376&qTypeID=7&qSPCtypeID=17&qcatid=20>; (MCLE credit); or <http://law.stanford.edu/wp-content/uploads/sites/default/files/publication/270513/doc/slspublic/Document%20Summaries%20in%20Court.pdf>; or <https://law.stanford.edu/>, find "Publications" under "Research".

In re Welding Fume Prods. Liab. Litig., No. 03-17000, slip op. at pp. 44-45 and fn.39 (N.D. Ohio Aug. 8, 2005) (Dkt. No. 1353). (Concurrent expert testimony applied by trial court in threshold hearing with opposing experts, per *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993) 509 U.S. 579. https://www.gpo.gov/fdsys/pkg/USCOURTS-ohnd-1_03-cv-17000/pdf/USCOURTS-ohnd-1_03-cv-17000-0.pdf

Jones Day (Emmerig, J., J.D. Hanify and M.Legg), *Room in American Courts for an Australian Hot Tub?* (April 2013), Boston, MA: Jones Day. (Concurrent expert testimony described.) www.mondaq.com/unitedstates/x/237192/court+procedure/Room+In+American+Courts+For+An+Australian+Hot+Tub; or www.jonesday.com/room_in_american_courts/#

Kabateck, B. and D. Scott, *Just Try It!* (2013), in Forum, Vol. 43, No. 6, Nov./Dec. 2013, pp. 12-15, Sacramento, CA: CAOC. <https://www.caoc.org/index.cfm?pg=ArtIndex13>, find by month and volume number.

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Martin, L.K., *Seven Stipulations to Streamline Your Hearing—Without Compromising Your Client* (2013), in ACFLS Family Law Specialist, Summer 2013, No. 2, pp. 44-45, Sacramento, CA, California Association of Certified Family Law Specialists. https://www.acfls.org/?page=archived_newsletters

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Mattice, Hon. M., *Just Try It – Efficiently!* (2014), in Forum, Vol. 44, No. 5, Sep./Oct. 2014, pp. 28-29, Sacramento, CA: CAOC. <https://www.caoc.org/index.cfm?pg=ArtIndex14>, find by month and volume number.

Robinson, M.P., Jr., and B. Broillet, *Saving the Civil Jury Trial* (2016), in Daily Journal, Oct. 28, 2016 (Editorial ID: 951826), p. 1. <http://www.dailyjournal.com/subscriber/SubMain.cfm> ("Search" tab, insert the ID number only).

Robinson, M.P., Jr., *The Death of the Civil Jury Trial* (2014), in Daily Journal, May 8, 2014 (Editorial ID: 935067), p. 1. <http://www.dailyjournal.com/subscriber/SubMain.cfm> ("Search" tab, insert the ID number only).

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State Bar of Calif., *California Attorney Guidelines of Civility and Professionalism* (2007). <http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism>, select [Attorney Guidelines of Civility and Professionalism \(Civility Toolbox\)](#).

Superior Court, Los Angeles, *Tools for Litigators* web site. Resources and forms for judicial officers and attorneys, see Voluntary Efficient Litigation Stipulations link to [Stipulation and Orders - Motion in Limine](#); or <http://www.lacourt.org/division/civil/CI0037.aspx>

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Susman, S.D., *Trial by Agreement: Agreements for Opposing Counsel* (web site with multiple document models, re trial and pretrial agreements, based on federal and/or Texas law, but easily adaptable to California and other states). <http://trialbyagreement.com/>

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