

## PUBLICATION UPDATE

Route to: ☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_  
☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_

---

# California Trial Guide

---

Publication 114 Release 54

June 2015

---

## HIGHLIGHTS

### Legislation and case updates

- This release updates the publication with additions to the Code of Civil Procedure, as well as new case law.

**Section 128.5 sanctions return.** Code of Civil Procedure section 128.5 which lay dormant after January 1, 1995 became active again effective January 1, 2015. (Stats. 2014, ch. 425, § 1.) Code of Civil Procedure section 128.7 which took effect on January 1, 1995 remains in effect. The two sections are discussed in Section 2.01.

**Handwriting analysis is not subject to the *Kelly* test for scientific reliability.**

In *People v Lucas* [(2014) 60 Cal. 4th 153, 225, 177 Cal. Rptr. 3d 378, 333 P.3d 587], the California Supreme Court held that the method of handwriting analysis offered by the prosecution “was not sufficiently ‘scientific’ to require a hearing on its reliability under the *Kelly* test.” The case is discussed in Section 50.162.

**Court of Appeal advises trial courts how to set time limits on trials.**

In *California Crane School, Inc. v. National Com. for Certification of Crane Operators* [(2014) 226 Cal. App. 4th 12, 171 Cal. Rptr. 3d 752], the court held that a trial judge has authority under Evidence Code sections 352 and 765 to set reasonable time limits for a trial in days or hours. The court went on to provide detailed advice to judges on how to determine a reasonable time for a trial. The case is discussed in Section 20.10.

**A party who failed to make a timely disclosure of expert witness information may nevertheless move to exclude the expert witnesses of the opposing party who failed to make a timely disclosure.**

In *Cottini v. Enloe Medical Center* [(2014) 226 Cal. App. 4th 401, 428, 172 Cal. Rptr. 3d 4], held that where the trial court may, under its inherent power, nevertheless exclude the expert testimony offered by a party who has unreasonably failed to comply with these same requirements prior to the discovery cut off date. This case is discussed in Section 100.02[3][e].

**Discovery may be limited when its intrusiveness into the privacy of third**

**parties outweighs the likelihood that it will lead to the discovery of admissible evidence.**

In *In re Marriage of Williamson* [(2014) 226 Cal. App. 4th 1303, 1319, 172 Cal. Rptr. 3d 699], the wife appealed from the award of spousal and child support contending, inter alia, that the trial court erred in quashing her subpoenas for documents from the various trusts established by her husband's family. The court allowed discovery only of one trust (the "von Platen Trust") and even then only as it relates to the husband. The court held that in weighing the privacy interests of the third party, they should consider among other things "the nature of the information sought, its inherent intrusiveness, and any specific showing of a need for privacy." The case is discussed in Section 100.52[6][i].

**A notice of intention to move for a new trial filed *before* the time permitted by statute is premature, void, and of no**

**effect.** [*Ochoa v. Dorado* (2014) 228 Cal. App. 4th 120, 132, 174 Cal. Rptr. 3d 889; *italics added*]. See discussion of time periods for new trial motions in Section 92.02.

**Depo Book reorganized.** The topic of Simultaneous Exchanges of Expert Witnesses has been expanded and given its own subsection in The Depo Book (Unit 100). See § 100.02[4].

---

**Matthew Bender provides continuing customer support for all its products:**

- Editorial assistance—please consult the "Questions About This Publication" directory printed on the copyright page;
- Customer Service—missing pages, shipments, billing or other customer service matters (1-800-833-9844).
- Outside the United States and Canada, (518) 487-3000, or fax (518) 487-3584;
- Toll-free ordering (1-800-223-1940).



[www.lexis.com](http://www.lexis.com)

---

---

Copyright © 2015 Matthew Bender & Company, Inc., a member of the LexisNexis Group.  
Publication 114, Release 54, June 2015

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

<b>FILING INSTRUCTIONS</b>
----------------------------

# California Trial Guide

---

Publication 114    Release 54

June 2015

---

**Check  
As  
Done**

- ☐ 1. Check the Title page in the front of your present Volume 1. It should indicate that your set is filed through Release Number 53. If the set is current, proceed with the filing of this release. If your set is not filed through Release Number 53, DO NOT file this release. Please call Customer Services at 1-800-833-9844 for assistance in bringing your set up to date.
- ☐ 2. This Release Number 54 contains only White Revision pages.
- ☐ 3. Circulate the "Publication Update" among those individuals interested in the contents of this release.

Check  
As  
Done

Remove Old  
Pages Numbered

Insert New  
Pages Numbered

*For faster and easier filing, all references are to right-hand pages only.*

## VOLUME 1

### Revision

<input type="checkbox"/>	Title page. . . . .	Title page
<input type="checkbox"/>	2-3 thru 2-8.1 . . . . .	2-3 thru 2-8.1
<input type="checkbox"/>	3-3 thru 3-30.1 . . . . .	3-3 thru 3-30.3
<input type="checkbox"/>	3-59 . . . . .	3-59 thru 3-60.1
<input type="checkbox"/>	4-1 thru 4-5. . . . .	4-1 thru 4-6.1
<input type="checkbox"/>	4-70.7 thru 4-89. . . . .	4-71 thru 4-90.13
<input type="checkbox"/>	4-102.1 thru 4-102.5. . . . .	4-102.1 thru 4-102.5
<input type="checkbox"/>	4-125. . . . .	4-125 thru 4-126.1
<input type="checkbox"/>	10-127 thru 10-133 . . . . .	10-127 thru 10-134.1

## VOLUME 1A

### Revision

<input type="checkbox"/>	Title page. . . . .	Title page
<input type="checkbox"/>	20-9 thru 20-12.5 . . . . .	20-9 thru 20-12.6(1)
<input type="checkbox"/>	20-26.1 thru 20-26.5. . . . .	20-26.1 thru 20-26.5
<input type="checkbox"/>	20-34.1 thru 20-35 . . . . .	20-35 thru 20-36.7
<input type="checkbox"/>	22-36.1 thru 22-37 . . . . .	22-37 thru 22-38.1
<input type="checkbox"/>	22-47 thru 22-50.1 . . . . .	22-47 thru 22-50.1
<input type="checkbox"/>	22-93 thru 22-99 . . . . .	22-93 thru 22-99
<input type="checkbox"/>	30-16.1 thru 30-16.3. . . . .	30-16.1 thru 30-16.5
<input type="checkbox"/>	30-33. . . . .	30-33 thru 30-34.1
<input type="checkbox"/>	30-56.1 thru 30-63 . . . . .	30-57 thru 30-64.3

## VOLUME 2

### Revision

<input type="checkbox"/>	Title page. . . . .	Title page
<input type="checkbox"/>	40-11 thru 40-12.1 . . . . .	40-11 thru 40-12.1
<input type="checkbox"/>	40-214.7 thru 40-214.9 . . . . .	40-214.7 thru 40-214.9
<input type="checkbox"/>	40-277 thru 40-285 . . . . .	40-277 thru 40-285

## VOLUME 3

### Revision

<input type="checkbox"/>	Title page. . . . .	Title page
<input type="checkbox"/>	50-53 thru 50-54.1 . . . . .	50-53 thru 50-54.1
<input type="checkbox"/>	50-94.1 thru 50-94.2(1) . . . . .	50-94.1 thru 50-94.2(2)(a)

<b>Check As Done</b>	<b><u>Remove Old Pages Numbered</u></b>	<b><u>Insert New Pages Numbered</u></b>
<input type="checkbox"/>	50-94.2(19) thru 50-94.3. . . . .	50-94.3 thru 50-94.9
<input type="checkbox"/>	50-116.1 thru 50-118.1. . . . .	50-117 thru 50-118.2(1)
<input type="checkbox"/>	50-162.1 thru 50-162.2(1) . . . . .	50-162.1 thru 50-162.2(1)
<input type="checkbox"/>	51-12.1. . . . .	51-12.1
<input type="checkbox"/>	51-29. . . . .	51-29 thru 51-30.1
<input type="checkbox"/>	51-122.1 thru 51-124.1 . . . . .	51-123 thru 51-124.1
<input type="checkbox"/>	51-151 . . . . .	51-151 thru 51-152.1
<input type="checkbox"/>	51-190.1 thru 51-191 . . . . .	51-191 thru 51-192.1
<input type="checkbox"/>	51-214.33. . . . .	51-214.33 thru 51-214.34(1)

## VOLUME 3A

### **Revision**

<input type="checkbox"/>	Title page. . . . .	Title page
<input type="checkbox"/>	60-17. . . . .	60-17 thru 60-18.1
<input type="checkbox"/>	60-79 thru 60-80.5 . . . . .	60-79 thru 60-80.5
<input type="checkbox"/>	60-88.1 thru 60-88.4(5) . . . . .	60-88.1 thru 60-88.4(5)
<input type="checkbox"/>	80-29. . . . .	80-29 thru 80-30.1

## VOLUME 4

### **Revision**

<input type="checkbox"/>	Title page. . . . .	Title page
<input type="checkbox"/>	91-7 . . . . .	91-7 thru 91-8.1
<input type="checkbox"/>	91-31 thru 91-32.1 . . . . .	91-31 thru 91-32.2(1)
<input type="checkbox"/>	91-52.1 thru 91-57 . . . . .	91-53 thru 91-59
<input type="checkbox"/>	92-9 thru 92-19 . . . . .	92-9 thru 92-20.1
<input type="checkbox"/>	92-59 thru 92-65 . . . . .	92-59 thru 92-65
<input type="checkbox"/>	95-27 thru 95-29 . . . . .	95-27 thru 95-30.1
<input type="checkbox"/>	95-44.1 thru 95-45 . . . . .	95-45

## VOLUME 5

### **Revision**

<input type="checkbox"/>	Title page. . . . .	Title page
<input type="checkbox"/>	100-29 thru 100-30.3 . . . . .	100-29 thru 100-30.5
<input type="checkbox"/>	100-47 . . . . .	100-47 thru 100-48.1
<input type="checkbox"/>	100-59 . . . . .	100-59 thru 100-60.5
<input type="checkbox"/>	100-74.15 thru 100-74.20(3) . . . . .	100-74.15 thru 100-74.20(3)
<input type="checkbox"/>	100-79 thru 100-80.1 . . . . .	100-79 thru 100-80.1
<input type="checkbox"/>	100-123 thru 100-129 . . . . .	100-123 thru 100-130.1
<input type="checkbox"/>	100-169 thru 100-171 . . . . .	100-169 thru 100-171
<input type="checkbox"/>	100-187 . . . . .	100-187
<input type="checkbox"/>	100-213 . . . . .	100-213 thru 100-214.1

<b>Check As Done</b>	<i><u>Remove Old Pages Numbered</u></i>	<i><u>Insert New Pages Numbered</u></i>
<input type="checkbox"/>	100-251 . . . . .	100-251
<input type="checkbox"/>	100-280.1 thru 100-282.1 . . . . .	100-281 thru 100-282.1
<input type="checkbox"/>	100-291 thru 100-293 . . . . .	100-291 thru 100-294.1
<input type="checkbox"/>	100-319 thru 100-320.1 . . . . .	100-319 thru 100-320.1
<input type="checkbox"/>	100-360.1 thru 100-364.1 . . . . .	100-360.1 thru 100-360.5
<input type="checkbox"/>	100-421 thru 100-423 . . . . .	100-421 thru 100-424.1
<input type="checkbox"/>	I-1 thru I-103 . . . . .	I-1 thru I-105

FILE IN THE FRONT OF THE FIRST VOLUME  
OF YOUR SET

To order missing pages log on to our self service center, [www.lexisnexis.com/printedsc](http://www.lexisnexis.com/printedsc) or call Customer Services at 1 (800) 833-9844 and have the following information ready:

- (1) the publication title;
- (2) specific volume, chapter and page numbers; and
- (3) your name, phone number, and Matthew Bender account number.

Please recycle removed pages.

MISSING FILING INSTRUCTIONS?  
FIND THEM AT [www.lexisnexis.com/printedsc](http://www.lexisnexis.com/printedsc)

Use the search tool provided to find and download missing filing instructions,  
or sign on to the Print & CD Service Center to order missing pages or  
replacement materials. Visit us soon to see what else  
the Print & CD Service Center can do for you!



[www.lexis.com](http://www.lexis.com)

---

---

Copyright © 2015 Matthew Bender & Company, Inc., a member of the LexisNexis Group.  
Publication 114, Release 54, June 2015

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

