

## Santa Clara County Court Rules

### CIVIL RULES

#### 1 RULE 1 DIFFERENTIAL CIVIL CASE MANAGEMENT SYSTEM

##### E. CIVIL LAWSUIT NOTICE

(1) **ALL NEW CASES.** When the complaint or other initial pleading is filed, the filing party must submit a blank Civil Lawsuit Notice (CV-5012) to the Clerk for issuance of Judicial Assignment, Initial Court Hearing Date, Time, and Department with the filing of the new complaint. The Civil Lawsuit Notice will only be completed and returned by the Clerk if one is provided by the filer. The party who filed the initial pleading must serve a copy of the Civil Lawsuit Notice completed by the Clerk on all other parties named in the pleading. A party who subsequently files a pleading that adds a new party must serve a copy of the Civil Lawsuit Notice on all new parties. Service of the Civil Lawsuit Notice must be done at the same time as service of the pleading. When the Civil Lawsuit Notice is served, it must reflect the most up-to-date information available concerning the date, time and location of the next CMC. Therefore, the party serving the Notice must complete the information on the next CMC if the first CMC was continued or has passed. (Effective 1/1/2020)

(3) **“UNINSURED MOTORIST” CASES.** **The plaintiff may designate a case as an “uninsured motorist case” by filing and serving a declaration demonstrating that the designation is appropriate. If done when the complaint is filed, the plaintiff must state in the caption of the complaint, directly below the title of the complaint: UNINSURED MOTORIST CASE.**

(4) **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CASES.** When a case is filed alleging violation of the California Environmental Quality Act, the plaintiff shall state in the caption of the complaint, directly below the title of the complaint: ACTION BASED ON CALIFORNIA ENVIRONMENTAL QUALITY ACT. (Effective 7/1/2012)

(5) **PRIVATE ATTORNEY GENERAL ACT (PAGA) CASES.** **When a case is filed under the Private Attorney General Act, the plaintiff must state in the caption of the complaint, directly below the title of the complaint: ACTION BASED ON PRIVATE ATTORNEY GENERAL ACT (PAGA).**

## **F. MANDATORY CASE MANAGEMENT CONFERENCES**

### **(3) REQUEST TO CHANGE CMC DATE**

**(a)** Pursuant to written stipulation of all parties, the Court may advance a CMC.

**(b)** Upon timely application and a showing of good cause, the Court may continue a CMC. If the Court continues a conference, the party who applied for the continuance must serve notice of the continuance on all parties who were served with a copy of the Civil Lawsuit Notice.

**(c)** For **non-CEQA** mandate cases, the directly assigned judge will set the first case management conference upon notice of the assignment, and the clerk will notify the parties. If the defendant/respondent or real party in interest, as appropriate, has not yet appeared in the mandate proceeding when this notice is given, petitioner is responsible for providing notice of the first case management conference to all parties. (Effective 7/1/2024)

## **RULE 2 ALTERNATIVE DISPUTE RESOLUTION (ADR)**

### **A. POLICY STATEMENT**

Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. It is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and voluntary settlement conferences. Therefore, the Court will refer all general civil cases to an appropriate form of ADR before they are set for trial, unless there is good cause to dispense with the ADR requirement

~~(1) DISCLAIMER The Court and the Judicial Council of California may not defend or indemnify any ADR provider or neutral who serves on a court related program, or who is listed on a court ADR provider list. ADR providers are encouraged to seek errors and omissions insurance from a qualified insurance provider. (Effective 7/1/2019)~~

### **B. CIVIL ADR STIPULATION**

(1) In most civil cases, if all parties have appeared, then all parties may stipulate to any form of ADR at any time. The Court has an ADR Stipulation and Order Form for

~~this purpose. (See attached form CV-5008.) If the parties efile a signed ADR stipulation including the name of the ADR provider and the date of the ADR hearing at least 20 calendar days before a Case Management Conference, and the Court approves the stipulation and the order is filed, the CMC will be canceled and an ADR Status Conference will be scheduled. An ADR stipulation will not cancel a Case Management Conference unless it contains the name of the ADR provider and the date on which the ADR will be conducted (Effective 7/1/2019)~~

(2) If the parties stipulate to ADR, but have not already selected an ADR provider and date, then, within 20 calendar days, plaintiff's counsel must efile an amended ADR Stipulation and order form including the name of the ADR provider and the date on which the ADR will be conducted. Parties may use the Court's ADR Stipulation and Order Form for this purpose. (See attached form CV-5008.) (Effective 7/1/2019)

(3) Parties who have previously stipulated to any form of ADR may later stipulate to another form of ADR by efilng a signed ADR stipulation and order. (Effective 7/1/2019)

(4) If the parties stipulate to Civil Early Settlement Conference, the procedure will be governed by Local Civil Rule 4. (Effective 7/1/2019)

### **C. MEDIATORS AND NEUTRAL EVALUATORS**

(1) The ADR Administrator has a list of Court-approved ADR providers and information about their qualifications, the services they provide, and the fees they charge.

(2) The parties may choose any ADR provider they wish, including a provider who is not on the list of Court-approved ADR providers.

(3) The ADR provider need not be an attorney.

(4) All participants in the ADR process must participate in good faith.

(5) In conducting a session, the ADR provider must require the attendance of persons with full authority to resolve the dispute. The provider may not permit a telephone appearance unless good cause was shown in a timely manner before the session.

(6) Unless the ADR provider's fees and expenses have been fixed by the Court, the parties and the provider must agree on the fees and expenses. The fees and expenses of the ADR provider must be borne by the parties equally, unless they agree otherwise. (Effective 1/1/2011)

**(7) DISCLAIMER The Court and the Judicial Council of California may not defend or indemnify any ADR provider or neutral who serves on a court related program, or who is listed on a court ADR provider list. ADR providers are encouraged to seek errors and omissions insurance from a qualified insurance provider.**  
(Effective 7/1/2019)

### **RULE 3 JUDGES ADR PROGRAM**

Parties may apply at the earliest opportunity to participate in an ADR session with a sitting civil judge. These ADR options include mediation and settlement conferences. The program is governed by the following rules:

#### **A. ELIGIBILITY/CRITERIA FOR PARTICIPATION**

(3) The parties are prepared to complete an ADR session as soon as the case is accepted ~~in to~~ into the program.

#### **B. PROCEDURE**

(3) When the application is approved, counsel and/or self-represented parties must promptly contact the department of the judge selected to conduct the ADR session, to schedule the session. ~~ADR sessions will be conducted on Fridays, unless otherwise ordered by the ADR judge.~~

~~(4) When the application is approved, all law and motion and discovery proceedings shall be stayed until completion of the ADR session, and all case management conferences shall be vacated except as otherwise ordered by the Court.~~

~~(5)~~ **(4)** Good faith participation in the ADR session by all parties will satisfy the requirement of Rule 2 that parties participate in alternative dispute resolution before a case is set for trial. (Effective 7/1/2019)

#### **C. TIMELINE**

~~(1)~~ The ADR session must begin shall commence within **30** ~~thirty~~ days of approval of the application, and must shall must be completed no later than ~~sixty~~ 60 days

after approval of the application, except as otherwise ordered by the Court. ~~The case will be set for Mediation Status Review by the Court.~~ (Effective 7/1/2019)

## **RULE 4 CIVIL EARLY SETTLEMENT CONFERENCE PROGRAM**

### **A. ELIGIBLE CASES**

**(1)** The Civil Early Settlement Conference is available for cases with ~~very~~ simple facts ~~that have~~ **and** low dollar amounts in controversy, ~~providing an early resolution option for cases~~ that can be settled in three hours or less with no extensive document review by the neutral.

**(2)** This program is not available for cases with more complex facts, multiple parties, higher **dollar values at issue** ~~value disputes~~, cross actions, or ~~requiring that~~ **require** extensive discovery or document review before an ADR session.

**(3)** ~~The~~ **To participate in the** Civil Early Settlement Conference Program, ~~is~~ available to **the** parties ~~who~~ **must** stipulate, using the ADR Stipulation and Order Form (see attached form CV-5008), to have a neutral attorney conduct a settlement conference in their case at the neutral's office or other agreed place.

**(4)** ~~The program~~ **Civil Early Settlement Conference Program** is governed by the following rules: (Effective 7/1/2019)

### **A. B. APPLICABLE RULES**

#### **(1) SELECTION OF NEUTRAL**

**(a)** All parties and counsel must agree upon the neutral, and must obtain the neutral's signature on the stipulation, indicating the neutral's agreement to take the case. ~~Plaintiff's counsel must file~~ **The signed stipulation and order must be filed within 10 days of signature of all parties, counsel, and the neutral. Unless the parties otherwise agree, the plaintiff is responsible for e-filing the stipulation and order.**

**(b)** The parties may, but are not required to, select the neutral from the Court's list of program neutrals available from the Court's ADR web page. The list of neutrals consists of active or inactive members of the State Bar and retired judicial officers.

**(c)** If the parties agree to use the program but do not choose a neutral at the time of the original stipulation, plaintiff's counsel must submit an amended ADR

stipulation and Order form including the neutral's name and signature within 20 court days of the original stipulation. The Court will not assign a neutral without the neutral's signature on the stipulation.

**(d)** When a neutral is selected by all parties and signs the stipulation, the neutral will hold the agreed-upon ADR hearing date on their calendar for 30 days. If the neutral does not receive confirmation from the court of the filing of the stipulation within 30 days of reserving the ADR hearing date, the neutral may vacate the ADR hearing date.

**(e)** The Court has not screened neutrals for training or experience and makes no warranty regarding their ability. (Effective 7/1/2019)

**B. STIPULATION AND CMC** (Effective 7/1/2012) All parties must complete the ADR Stipulation and Order Form, (attached local form CV-5008), checking the box "Early Settlement Conference, pursuant to Local Civil Rule 4," **include** ~~must get~~ the signature of the chosen neutral on either the original or amended stipulation, and ~~plaintiff's counsel must~~ efile the ADR Stipulation and Order form ~~in the Clerk's Office~~. (Effective 7/1/2019) **Unless the parties otherwise agree, the plaintiff is responsible for efiled the ADR Stipulation and Order.** ~~If the form is efiled at least 20 calendar days before the initial Case Management Conference (CMC), the CMC may be vacated. The case will be set for ADR review on a date the Court selects. (Effective 7/1/2019) If the ADR Stipulation and Order form is filed after the initial CMC, upon approval of the Court, any pending CMC will be vacated and the case will be set for ADR review on a date the Court selects. (Effective 7/1/2019)~~

**C. LOCATION OF CONFERENCE HEARING** (Effective 7/1/2012) **Most settlement conferences are conducted remotely. Unless the parties otherwise agree, the plaintiff is responsible for contacting** ~~Plaintiff's counsel must contact~~ the office of the selected neutral to arrange a settlement conference location, date, and time agreeable to all parties. Court facilities are not available for the conferences.

**D. NEUTRAL FEES AND CHARGES** (Effective 7/1/2012)

**(1) By requesting a Rule 4 Civil Early Settlement Conference, parties and counsel acknowledge that their early settlement conference hearing time will not exceed three hours.**

**(2)** The Court will pay the neutral a flat fee of \$150.00 for up to three hours of the neutral's time to be used only for direct services to the parties. Neutrals will be paid from the same fund and in the same manner as judicial arbitrators. No additional charges, such as document review, scheduling time, travel, parking, or space rental, are to be added to the neutral's flat fee. (Effective 7/1/2019)

**(3)** If a case cannot settle within the three hours allotted, the neutral will end the Rule 4 hearing, and counsel and parties will select a different form of ADR and file a new stipulation. (Effective 7/1/2019)

~~By requesting a Rule 4 Civil Early Settlement Conference, parties and counsel acknowledge that their early settlement conference hearing time will not exceed three hours.~~

**(4)** If a settlement conference is cancelled within five calendar days of the scheduled date of the conference, the neutral may apply ex parte or make a motion to the Court to be permitted to charge the canceling party at the neutral's normal hourly rate for the cost of the neutral's time that was set aside for the cancelled settlement conference. (Effective 7/1/2019)

**RULE 5 ~~[RESERVED]~~ (Effective 1/1/2024) REMOTE PROCEEDINGS**

**A. TELEPHONIC APPEARANCES PROHIBITED. Unless otherwise specifically permitted by the court before a scheduled proceeding, no person appearing in a proceeding in the Civil Division may appear solely by telephone.**

**B. VIDEO REQUIRED. All remote appearances in the Civil Division must be conducted using video unless otherwise specifically permitted by the court. For each video appearance, include your name and, if applicable, the party you are representing in your video screen.**

**C. MINIMIZE DISRUPTIONS. Turn your video off and mute your microphone before you enter a remote proceeding. Do not turn your video on or unmute your microphone until your case is called. Always remember that you are in a courtroom. Remote proceedings are court proceedings and should be conducted with the same respect and decorum as in-person proceedings.**

**C. OTHER REQUIREMENTS. Please carefully review General Local Rule 9(B)(1)(a)-(h) for the minimum requirements and standards applicable to remote**

**proceedings in Santa Clara County. If you cannot comply with each requirement, you may not appear remotely.**

## **RULE 7 EX PARTE APPLICATIONS**

### **A. GENERAL**

**(1)** Ex parte applications in Civil Division cases must be electronically filed by counsel and any parties who have access to the court's efilings system. Ex parte applications may be submitted to the court in paper form by self-represented litigants by placing them in the dropbox at DTS every court day between 8:15 and 9:00 a.m. ~~The applications will be submitted to the case management or provisional remedies judge by the Clerk.~~

**(2)** All ex parte applications must comply with CRC 3.1203(a), which requires notice to all parties no later than 10:00 a.m. the court day before the ex parte submission, absent a showing of exceptional circumstances that justify a shorter time for notice or no notice.

**(3)** The applicant for the order must inform the Court in the ex parte application if the opposing party intends to oppose or requests a hearing.

**(4)** A separate form of order must be submitted with the application attached to Form EFS-020.

**(5)** All ex parte applications will be determined on the papers unless the Court orders otherwise. If either party requests a hearing on the application or opposition, the application (or opposition) must so state, and the court will contact the parties to schedule a hearing if the reviewing judge orders one.

**(6)** The party seeking ex parte relief must provide in the application email addresses of all counsel or self-represented litigants, if known.

**(7)** Any written opposition to the application or request for hearing must be submitted no later than the end of the day that the application was submitted to the Clerk.

**(8)** The court will attempt to consider and rule on the application, if possible, within 24-~~48~~ hours. (Effective 7/1/2024)

## C. PROVISIONAL REMEDIES

For ex parte applications seeking a provisional remedy or interim relief (temporary restraining orders, orders to show cause re preliminary injunctions, writs of attachment, and writs of possession ~~but excluding requests for receiver~~), that fact should be clearly stated on the first page of the application, ~~so the request is directed to the correct department.~~ **Ex parte applications for certain provisional remedies must also comply with CRC 3.1150 et seq. (TROs/preliminary injunctions) and CRC 3.3.1175 et seq. (receiverships).** (Effective 7/1/2024)

## RULE 8 PRETRIAL MOTIONS

### A. PRO HAC VICE APPLICATIONS

~~Before filing any pro hac vice application, the filing party must meet and confer with the opposing party or parties to determine whether the motion will be opposed.~~

**Pro hac vice applications may be filed by following the procedures for ex parte applications set forth in Rule 7A.** If the motion is unopposed, the ~~application must be filed with the designation~~ **caption of the application must state: "EX PARTE UNOPPOSED MOTION FOR PRO HAC VICE"**. If the motion is opposed, the filing party must follow the rules for a regularly noticed motion. (Effective 1/1/2024)

### B. SCHEDULING HEARINGS

(1) ~~Except for motions in non-CEQA mandate cases, and motions or applications concerning TROs/preliminary injunctions, writs of attachment, and writs of possession, all limited and unlimited civil pre-trial motions, including discovery motions, are heard in the department of the case management judge. The law and motion calendar is called on Tuesdays and Thursdays at 9:00 a.m. or such other calendars as may be set by the Court.~~

(2) To obtain a law and motion hearing date in a case management department, the moving party must ~~(1a)~~ meet and confer with the non-moving party or parties

to identify mutually agreeable dates, and then ~~(2b)~~ follow the procedure set forth on the civil law and motion section of the court's website at <https://www.scscourt.org/>. Only one date may be reserved for any motion. ~~Other than for motions brought pursuant to Code of Civil Procedure 128.7~~ **Unless a rule or statute otherwise requires**, any reserved date for which a motion is not filed within **five** ~~5~~ five court days of the reservation will be forfeited and returned to the pool of available hearing dates. (Effective 7/1/2024)

## **RULE 9 ~~TRIAL SETTING,~~ TRIAL CALENDAR AND ASSIGNMENT, MANDATORY SETTLEMENT CONFERENCES AND TRIAL IN GENERAL CIVIL CASES (EXCLUDING MANDATE CASES)**

### **~~A. TRIAL SETTING~~**

~~The trial date will be set by the case management judge at a Trial Setting Conference or other conference. Trial counsel and parties must be available for trial the entire week in which the trial is set. If the time estimated for trial is more than one day, a Mandatory Settlement Conference will be scheduled to take place during the week before the trial date. When the trial date is set, the case management judge will set a hearing on the civil supervising judge's trial assignment calendar. (Effective 7/1/2024)~~

### **A. TRIAL CALENDAR AND ASSIGNMENT.**

**(1) The civil trial calendar, which includes general civil cases and long-cause (one day or more) probate, unlawful detainer, and civil harassment/elder abuse cases, is maintained by the civil supervising judge.**

**(2) For general civil cases, the trial date will be set by the case management judge at a Trial Setting Conference or other conference. Trial counsel and parties must be available for trial the entire week in which the trial is set. If the time estimated for trial is more than one day, a Mandatory Settlement Conference will be scheduled to take place during the week before the trial date.**

**(3) Probate and general civil cases will be given a trial assignment date on the Thursday before the first day trial is set to commence. At the trial assignment hearing, the civil supervising judge or designee will assign the case to an available trial judge, or, if necessary, place the matter on standby.**

**(4) For all cases, trial counsel and parties must be available for trial for the entire week following the trial assignment hearing. If a trial department becomes available at any time during the week following the trial assignment hearing, trial counsel and the parties must be prepared to be sent to that available department for trial at any time during that week.**

**(4) Cases on standby that are not assigned to a trial department by the Thursday of the week following the trial assignment hearing will be set for a trial setting conference on the civil supervising judge's calendar on Thursday at 2 p.m. two weeks after the previously set trial week.**

## **B. MANDATORY SETTLEMENT CONFERENCE**

**(1) If the time estimated for trial is more than one day, a Mandatory Settlement Conference will be scheduled to take place before the trial assignment hearing.**

**(2)** If a Mandatory Settlement Conference has been scheduled, the court will send written notice of the time, date, and department. No later than five court days before the date set for the settlement conference, each party must file with the court and serve on each party a Settlement Conference Statement not to exceed five pages, excluding exhibits. (Effective 1/1/2024)

~~(2)~~ **(3)** The conference will be supervised by a judge or settlement attorney. Lead counsel, parties and persons with full authority to settle the case must personally attend unless excused by the Court. Failure to comply with this requirement may result in sanctions. (Effective 1/1/2024)

~~(3)~~ **(4)** If insurance coverage is available to satisfy plaintiff's settlement demand and a representative of defendant's insurer with full settlement authority attends the mandatory settlement conference with defendant's lead counsel, named defendants need not attend unless their personal consent is necessary to settle the case. Named defendants must also personally attend the mandatory settlement conference when (1) there is an insurance coverage dispute; (2) plaintiff seeks to recover damages not covered by insurance; or (3) plaintiff's demand exceeds insurance policy limits. Failure to comply with this requirement may result in sanctions. (Effective 1/1/2024)

~~(4)~~ **(5)** Unless the parties stipulate in a writing signed by the parties or state orally on the record before a sitting judge, ~~Civil Code~~ **Code of Civil Procedure** section 664.6 does not apply to a mandatory settlement conference. (Effective 1/1/2024)

~~**C. ASSIGNMENT TO TRIAL** The civil supervising judge will conduct a trial assignment hearing before the assigned trial date. At this hearing, the civil supervising judge will assign an available trial judge, or, if necessary, place the matter on standby. Trial counsel and parties must be available for trial the entire week in which the trial is set. If a trial department becomes available at any time during the week in which trial is set, trial counsel and the parties must be prepared to be sent to that available department for trial. (Effective 7/1/2024)~~

**E. POST-TRIAL PROCEEDINGS** Motions made after a jury or court trial, and related to that trial (e.g., and without limitation, motions for new trial, for attorney fees, to tax costs, for reconsideration, to set aside or modify a judgment, **and proceedings related to a proposed or for a settled statement on appeal**) ~~must shall~~ **presumptively be** set for hearing and heard in the department of the trial judge, unless the **civil supervising judge** ~~Supervising Judge of the Civil Division~~ or designee orders otherwise. This rule also applies to **motions after** dispositive **ruling hearings** or motions in petition for writ of mandate **cases**. **An** One exception is for proceedings for enforcement of judgment **in civil cases**; such proceedings ~~will~~ **shall** presumptively be set for hearing in the department of the **case management** ~~pretrial~~ judge, unless the **civil supervising judge** ~~Supervising Judge of the Civil Division~~ or designee orders otherwise. (Effective 1/1/2021)

## **RULE 13 UNLAWFUL DETAINER CASES**

### **D. UNLAWFUL DETAINER CASES IN DOWNTOWN SUPERIOR COURT**

(1) All unlawful detainer cases are assigned to the Unlawful Detainer Department designated by the Presiding Judge.

~~(2) Ex parte applications are heard every court day between 8:15 a.m. and 9:00 am. Such applications must first be presented in person to the clerk's office, which will then direct the applicant to the appropriate department. An ex parte application for a stay of eviction may be presented at any time during the clerk's office's hours.~~

**Ex parte applications for judgment pursuant to stipulation and ex parte applications for stay of eviction must be presented in person to the clerk's**

**office. Ex parte applications for judgment pursuant to stipulation must be presented between 8:15 a.m. and 9:00 a.m. Applications for stay of eviction may be presented any time during clerk's office regular hours. Once presented, the applicant will be directed to the appropriate department. All other ex parte applications are to be submitted electronically** (Effective 1/1/2024)

(3) Noticed motions are heard at 9:15 a.m. on Wednesday, Thursday, and Friday. (Effective 7/1/2008)

(4) Court trials are heard at ~~9:00~~ **8:45** a.m. on Wednesday, Thursday, and Friday. (Effective 7/1/2008)

(5) Jury trials are heard in any available department in the Downtown Superior Court.

(6) Post-judgment claims of right to possession are heard at 9:15 a.m. on Wednesday, Thursday, and Friday. (Effective 7/1/2008)

## **RULE 19 SMALL CLAIMS ACTIONS**

### **~~B. FAX FILING IN SMALL CLAIMS CASES [RESERVED]~~**

~~**(1) DIRECT FILING** a. Pursuant to CRC 2.304, the Court accepts for filing all small claims documents submitted by facsimile transmission directly with the Court through the Court's automated facsimile filing system. (Effective 11/24/2014) b. The Court's facsimile machine is available 24 hours a day. Filings received after public business hours or on court holidays shall be deemed filed the next court business day. c. The Court's automated facsimile filing telephone number is (408) 882-2692.~~

~~**(2) PROCEDURE** a. Each document transmitted for fax filing with the court shall contain the phrase "By fax" immediately below the title of the document. b. A party filing a document directly by fax must use the Judicial Council form, Facsimile Transmission Cover Sheet (Fax Filing) (form MC-005). The Court accepts MasterCard, Discover, and American Express credit cards for fax filings. The fax filing cover sheet, MC-005, also must include the cardholder's zip code and the three-digit verification on the back of the credit card. c. A facsimile usage fee of \$0.50 cents per page, including the cover sheet, along with all applicable filing fees and credit card convenience fees, must be paid by credit card as requested on MC-~~

~~005. d. Faxed documents must comply with all filing requirements otherwise listed in the State and Local Rules of Court. Compliance with filing requirements and proper transmission of the documents are the responsibility of the sending party. (Effective 7/1/2011)~~