
CIVIL RULES**RULE 1 DIFFERENTIAL CIVIL CASE MANAGEMENT SYSTEM****A. OVERVIEW****(1) PURPOSE**

The purpose of the Differential Civil Case Management System is to ensure that, from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery and court events is unacceptable and should be eliminated. To enable the just and efficient resolution of cases, the Court, and not the lawyers or litigants, should control the pace of litigation. The Court is strongly committed to reducing delay, and once achieved, maintaining a current docket.

(2) APPLICATION

The differential civil case management system applies to all general civil cases as defined in CRC1.6(4), including limited and unlimited civil cases.

(Effective 7/1/2007)

(3) INCORPORATION OF STATE STATUTES AND RULES

The Trial Court Delay Reduction Act (Gov. Code 68600 et seq.), California Rules of Court, Titles 1, 2 and 3, and the Standards of Judicial Administration, Standards 2.1 and 2.2, are incorporated into these rules.

(Effective 7/1/2007)

(4) PRESUMPTION

When a general civil case is filed, it is presumed to be subject to the disposition goal under case management plan 1, as defined in CRC 3.714(b).

(Effective 7/1/2007)

B. CASE MANAGEMENT JUDGES

General civil cases are managed by case management judges designated by the Presiding Judge. When a general civil case is filed, it is assigned to a case management judge. The case management judge may thereafter assign the case to another judge or judicial officer for any purpose.

(Effective 1/1/2020)

C. CASES INVOLVING EMPLOYEES

If a court employee or deputy sheriff working at a courthouse, or a member of his or her family, is a party to a case, the clerk or Supervising Judge of the Civil Division shall transfer the case to the South County Courthouse, unless the location is specified by statute, including Civil Code § 1812.10 and § 2984.4 and Code of Civil Procedure § 392 and § 395.

(Effective 1/1/2011)

D. PROPER COURTHOUSE FOR FILING A GENERAL CIVIL CASE

All limited and unlimited civil cases must be filed in the Downtown Superior Court.

(Effective 7/1/2024)

E. CIVIL LAWSUIT NOTICE

- (1) 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)

(2) CRC RULE 3.740 COLLECTIONS CASES.

The plaintiff may designate a case as a CRC “Rule 3.740 collections” case by filing a Civil Case Cover Sheet with the box “Rule 3.740 collections” checked. The filing party must submit a blank Civil Lawsuit Notice – Rule 3.740 Collections Cases (CV-5052) to the Clerk for issuance of Judicial Assignment 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 plaintiff must serve a copy of the Civil Lawsuit Notice – Rule 3.740 Collections Cases completed by the Clerk on all defendants. A party who subsequently files a pleading that adds a new party must serve a copy of the Civil Lawsuit Notice – Rule 3.740 Collection Cases on all new parties

(Effective 1/1/2020)

- (3) 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)

F. MANDATORY CASE MANAGEMENT CONFERENCES**(1) DEFINITION**

The term “Case Management Conference” (“CMC”) includes the first Case Management Conference, subsequent Case Management Conferences, ADR Status Conferences, Trial Setting Conferences, Dismissal Reviews, and any other conference scheduled by the Court.

(Effective 1/1/2004)

(2) DATE OF FIRST CASE MANAGEMENT CONFERENCE

(a) In all cases, except those designated as “uninsured motorist,” “Rule 3.740 collections,” or petitions for writ of mandate, the Clerk of the Court will schedule the first CMC approximately 120 days from the date of filing of the complaint.

(Effective 7/1/2024)

(b) “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 the declaration is filed with the complaint, the Clerk of the Court will schedule the first CMC approximately 180 days from the date of filing of the complaint. If the plaintiff files the declaration at a later time, the Case Management Conference will not be continued unless the plaintiff applies for a continuance.

(Effective 7/1/2004)

(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 1/1/2025)

(4) MANDATORY ATTENDANCE

Attendance at all CMC’s is mandatory unless otherwise excused by the Court.

(Effective 1/1/2006)

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.)

(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.)

(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.

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

(Effective 1/1/2025)

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.
- (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 1/1/2025)

D. COURT-APPROVED ADR PROVIDERS

- (1) Court-approved ADR providers must be available to accept at least one pro bono or modest means case per year.
- (2) When an ADR provider is added to the list of court-approved ADR providers, the ADR Administrator will send the following documents to the provider:
 - (a) An ADR Attendance Form;
 - (b) An ADR Provider's Statement – whether an agreement was reached;
 - (c) An ADR Evaluation, to be filled out separately by the parties and their counsel.
- (3) At the conclusion of the ADR process, the provider must give copies of the ADR Evaluation to the parties and their counsel. Within the next 10 calendar days, the provider must complete the ADR Provider's Statement and send it to the ADR Administrator. A mediator must maintain the Attendance Sheet in Compliance with CRC 3.860(a).

(Effective 7/1/2011)

E. ADR COMPLIANCE

Once a case has been set for an ADR review hearing, it is the Court's expectation that ADR will be completed by the date of the ADR review hearing. Failure to complete ADR by the date of the ADR review hearing may lead to sanctions up to and including vacation of the ADR order and setting the case for trial or trial setting.

(Effective 1/1/2011)

F. ADR GRIEVANCE PROCEDURE

It is the goal of the Superior Court of California, County of Santa Clara ADR Program to encourage excellence and the highest ethical standards in ADR practice. The Santa Clara Superior Court has established the following procedure for handling grievances regarding the conduct of any neutral serving on any of the Civil Division's ADR programs.

- (1) All complaints regarding the conduct of ADR program neutrals must be submitted in writing to the designated Complaint Coordinator under CRC 3.867(a).
- (2) When a complaint regarding a neutral is received by the Court, it will be directed to the Complaint Coordinator for processing. The Complaint Coordinator will send a written acknowledgment of the receipt of the complaint to the complainant.
- (3) The Complaint Coordinator will assemble available information regarding the complaint, and preliminarily review the complaint to determine the appropriate response. The Complaint Coordinator may respond directly to the complainant, or may refer the complaint to the Civil Supervising Judge for review.
- (4) Upon referral from the Complaint Coordinator, the Civil Supervising Judge will promptly review the complaint and determine whether further investigation is appropriate. If the Civil Supervising Judge finds a complaint does not warrant further investigation, no further action will be taken.
- (5) The Civil Supervising Judge will refer all other complaints to an investigative subcommittee of the Court ADR Committee.
- (6) The investigative subcommittee of the ADR Committee will review the complaint, conduct an investigation, and make a recommendation for action to be taken by an appointed subcommittee of the Civil Committee of the Bench. A copy of the complaint will be provided to the neutral, who will be allowed an opportunity to respond. The appointed subcommittee may recommend that no further action be taken on the complaint, that the neutral be counseled, admonished, or reprimanded, that further training be required, or that the neutral be suspended or removed from the Court's ADR program panel. The final decision on the appropriate action to be taken, based on this recommendation, will be made by the Presiding Judge or his or her designee. The retention of neutrals on the Court's ADR program panel is at the sole discretion of the Court. The neutral will be notified promptly in writing of the final decision.
- (7) Each complainant will be notified promptly in writing of the disposition of the complaint.
- (8) All papers filed and proceedings conducted on a complaint against a neutral will be confidential to the same extent the particular ADR procedure is confidential.
- (9) Each member of the investigative subcommittee and the appointed subcommittee, as well as the Civil Supervising Judge and the final decision maker on the complaint, will be covered by the disqualification under CRC 3.872.

(Effective 7/1/2009)

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

- (1) The case, if tried with or without a jury, would consume significant court resources.

- (2) The parties and their attorneys represent in good faith that they desire to resolve the case, and that they agree to participate in an ADR session with an agreed-upon judge.
- (3) The parties are prepared to complete an ADR session as soon as the case is accepted in to the program.
- (4) The Court has obtained jurisdiction over all necessary parties so that a resolution resulting from an ADR session will be final. The Supervising Civil Judge accepts the case for the program despite the failure to satisfy one or more of the above-stated criteria.

B. PROCEDURE

- (1) Application must be made on the Judges ADR Program Stipulation and Order form (see attached form CV-5017). The application must be signed by all counsel and self-represented parties.
- (2) The application must be efiled and approved by the Civil Supervising Judge.
- (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.
- (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 1/1/2025)

- (5) 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

The ADR session must begin within 30 days of approval of the application and must be completed no later than 60 days after approval of the application, except as otherwise ordered by the Court.

(Effective 1/1/2025)

D. PERSONS ATTENDING/STATEMENTS

- (1) Lead counsel, parties, and persons with full authority to settle the case must personally attend the ADR session, unless excused by the ADR judge for good cause. If any consent to settle is required for any reason, the person or persons with that consensual authority must be personally present at the ADR session, unless excused by the ADR judge for good cause.
- (2) Counsel and self-represented parties must submit to the ADR judge and serve on all parties, but not file, full written statements of their position regarding settlement no later than five calendar days before the ADR session. Failure to comply with this rule may result in sanctions.

(Effective 1/1/2024)

E. MEDIATION

- (1) Mediation conducted under the Judges ADR Program is conducted under Evidence Code Sections 1115-1129, which provide for confidentiality of communication.

(Effective 7/1/2019)

- (2) If mediation before the ADR judge results in settlement, the parties may place their agreement on the record, or they may report the case settled and privately execute a written settlement agreement. In either case, the parties may stipulate that the Court shall retain jurisdiction over them to enforce the settlement pursuant to Code of Civil Procedure Section 664.6. If the terms of settlement are placed on the record, or if a party moves to enforce the settlement, the terms of settlement shall not be confidential, unless a party seeking confidentiality complies with CRC 2.550, et seq.

F. SETTLEMENT CONFERENCE

- (1) A settlement conference conducted under the Judges ADR Program is conducted under CRC 3.1380. There is no provision for confidentiality of communication, except as provided in Evidence Code § 1152(a).
- (2) If a settlement conference before the ADR judge results in settlement, the parties may place their agreement on the record, or they may report the case settled and privately execute a written settlement agreement. In either case, the parties may stipulate that the Court shall retain jurisdiction over them to enforce the settlement, pursuant to Code of Civil Procedure § 664.6.

G. FURTHER COURT PROCEEDINGS

- (1) Except as provided in paragraphs E(2) and F(2) above, the ADR judge will recuse himself or herself from acting in any further court proceedings in the case, unless the parties stipulate in writing that the judge may so act.
- (2) The ADR judge shall be subject to the provisions of Evidence Code § 703.5.
- (3) ADR judges are bound by the disqualification and recusal requirements of Code of Civil Procedure § 170.1, et seq., and by the disclosure requirements of the Canons of Judicial Ethics.

(Effective 1/1/2008)

RULE 4 CIVIL EARLY SETTLEMENT CONFERENCE PROGRAM

The Civil Early Settlement Conference is available for cases with very simple facts that have 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. This program is not available for cases with more complex facts, multiple parties, higher value disputes, cross actions, or requiring extensive discovery or document review before an ADR session.

The Civil Early Settlement Conference Program is available to parties who 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. The program is governed by the following rules:

(Effective 7/1/2019)

A. ELIGIBLE CASES

- (1) The Civil Early Settlement Conference is available for cases with simple facts and low dollar amounts in controversy 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, cross actions, or that require extensive discovery or document review before an ADR session.
- (3) To participate in the Civil Early Settlement Conference Program, the parties 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) Civil Early Settlement Conference Program is governed by the following rules:

(Effective 1/1/2025)

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. 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 1/1/2025)

C. STIPULATION AND CMC

All parties must complete the ADR Stipulation and Order Form, (attached local form CV-5008), check the box "Early Settlement Conference, pursuant to Local Civil Rule 4," include the signature of the chosen neutral on either the original or amended stipulation, and e-file the ADR Stipulation and Order form. Unless the parties otherwise agree, the plaintiff is responsible for e-filing the ADR Stipulation and Order.

(Effective 1/1/2025)

D. LOCATION OF HEARING

(Effective 7/1/2012)

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.

E. NEUTRAL FEES AND CHARGES

(Effective 7/1/2012)

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)

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.

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)

F. CONFERENCES NOT CONFIDENTIAL

(Effective 7/1/2012)

A settlement conference conducted under the Civil Early Settlement Conference Program is conducted under CRC 3.1380. It is not a mediation, as defined in Evidence Code § 1115. There is no provision for confidentiality of communication, except as provided in Evidence Code § 1152(a).

G. ATTENDANCE AND AUTHORITY

(Effective 7/1/2012)

Parties and counsel must comply with CRC 3.1380, unless the neutral excuses compliance.

H. NOTIFICATION OF SETTLEMENT

(Effective 7/1/2012)

Following settlement of the case, plaintiff's counsel must promptly notify the Court, as required by CRC 3.1385.

I. GRIEVANCES

(Effective 7/1/2012)

Any grievance regarding a neutral will be handled pursuant to Local Civil Rule 2G.

(Effective 1/1/2008)

RULE 5 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.

D. 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.

(Effective 1/1/2025)

RULE 6 FORMAT OF DOCUMENTS SUBMITTED FOR FILING**A. REPRESENTED PARTIES**

Refer to Rule 6 of the General Court and Administrative Rules.

B. SELF-REPRESENTED LITIGANTS

Self-represented parties are not required to file and serve documents electronically. Self-represented parties may continue to file, serve, and receive paper documents by non-electronic means according to all statutory requirements and the California Rules of Court that apply to paper documents, unless the self-represented party affirmatively agrees to electronic filing and service. Self-represented parties are encouraged to agree to electronic filing and service, and may agree by filing with the Clerk of the Court and serving on all parties, either electronically or by non-electronic means, a Consent to Electronic Filing and Service and Notice of Electronic Service Address [Form CW-9024]. Documents that exceed 10 pages and are submitted in paper form must be held by binder clips. Exhibit attachments to pleadings must be separated by a standard size sheet of paper with a title identifying the sequence of the exhibit. Do not include tabs with any documents submitted for filing.

(Effective 7/1/2024)

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 efiling 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.
- (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 1/1/2025)

B. UNLAWFUL DETAINER

For ex parte applications in unlawful detainer cases, see Rule 13(D)(2) below.

(Effective 1/1/2024)

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, that fact should be clearly stated on the first page of the application. 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 1/1/2025)

D. CIVIL HARASSMENT AND OTHER PHYSICAL RESTRAINING ORDERS

Applications for civil harassment, elder abuse, private postsecondary school violence, transitional housing misconduct, or workplace violence restraining order may be presented in the Clerk's Office at any time during Clerk's Office hours. The moving party or self-represented party applying for a civil harassment, elder abuse, private postsecondary school violence, transitional housing misconduct, or workplace violence restraining order must submit a Declaration in Support of Ex Parte Application for Civil Restraining Orders (attached form CV-5014).

(Effective 1/1/2024)

RULE 8 PRETRIAL MOTIONS**A. PRO HAC VICE APPLICATIONS**

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 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 1/1/2025)

B. SCHEDULING HEARINGS

- (1) Except for motions in non-CEQA mandate cases, all limited and unlimited civil pre-trial motions, including discovery motions, are heard in the department of the case management judge.
- (2) To obtain a law and motion hearing date in a case management department, the moving party must (a) meet and confer with the non-moving party or parties to identify mutually agreeable dates, and then (b) follow the procedure set forth on the civil law and motion section of the court's website at <https://www.sccourt.org/>. Only one date may be reserved for any motion. Unless a rule or statute otherwise requires, any reserved date for which a motion is not filed within five court days of the reservation will be forfeited and returned to the pool of available hearing dates.

(Effective 1/1/2025)

C. PROPOSED ORDERS AFTER HEARING

Proposed orders may not be submitted with moving papers before a hearing on a regularly noticed motion unless ordered by the Court or required by applicable statute or Rule of Court (such as motions to be relieved as counsel, petitions for compromise of minors' claims, orders on objections to evidence in summary judgment motions, *pro hac vice* applications, applications for writs of attachment, etc.). If instructed to prepare an order after a hearing, the proposed order must be lodged with the court electronically in PDF format attached to Judicial Council Form EFS-020, and the judge's signature and date lines must not be on a page by themselves; the signature page must contain some text of the order.

(Effective 7/1/2024)

D. CONTINUANCES AND REQUESTS TO TAKE MOTIONS OFF CALENDAR

A scheduled motion may be continued only upon application to the judge who is to hear the motion, upon a showing of good cause. In case management departments, the moving party may take a scheduled motion off calendar by following the procedure set forth on the civil law and motion section of the court's website at <https://www.sccourt.org/>. Any request for relief by the party responding to the motion will remain set for hearing unless continued or withdrawn by that party.

(Effective 1/1/2024)

E. TENTATIVE RULINGS

The Court follows CRC 3.1308(a)(1) in case management departments. Tentative rulings are generally available by 2:00 p.m., and no later than 3:00 p.m., on the court day preceding the scheduled hearing. If the Court has not directed oral argument, a party contesting a tentative ruling must give notice of its intention to appear to the other side and the Court no later than 4:00 P.M. on the court day preceding the scheduled hearing. The tentative ruling will automatically become the order of the Court on the scheduled hearing date if the Court has not directed oral argument and if the contesting party fails to timely notice an objection to the other side and the Court. Tentative rulings will be posted on the Court's website, www.sccourt.org, where further information may be found. If a party does not have access to the internet, the tentative ruling may be accessed by calling Court Services at (408) 882-2515. Questions about these procedures may be addressed to the specific department where the matter is to be heard.

(Effective 1/1/2024)

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

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.
- (5) 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.

(Effective 1/1/2025)

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

(Effective 1/1/2025)

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)

D. SERVICE AND LODGING OF DOCUMENTS

Unless the case was settled at the Mandatory Settlement Conference or dismissed in full prior thereto, or unless otherwise ordered by the Court, the following items must be filed, with courtesy paper copies delivered to the department of the trial judge or with Court Services if no trial judge has yet been assigned, and served on all other parties by noon on the last court day before the date set for trial:

(Effective 1/1/2020)

- (1) all in limine motions;
- (2) exhibit lists, except impeachment exhibits;
- (3) witness lists, except impeachment witnesses, and unusual scheduling problems;
- (4) jury instruction requests, except for instructions that cannot reasonably be anticipated prior to trial;
- (5) proposed special verdicts;
- (6) any stipulations on factual or legal issues;
- (7) a concise, non-argumentative statement of the case to be read to the jury in jury trials;
- (8) trial briefs;
- (9) trial exhibits may not be filed, but must be lodged with the trial department when known;

(Effective 1/1/2020)

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 settled statement on appeal) must

presumptively be set for hearing and heard in the department of the trial judge, unless the civil supervising judge or designee orders otherwise. This rule also applies to motions after dispositive ruling in mandate cases. An exception is for proceedings for enforcement of judgment in civil cases; such proceedings will-presumptively be set for hearing in the department of the case management judge, unless the civil supervising judge or designee orders otherwise.

(Effective 1/1/2025)

F. EXPEDITED JURY TRIALS

(Effective 1/1/2021)

- (1) The provisions of Rule 9A through E do not apply to expedited jury trials conducted pursuant to Code of Civil Procedure (CCP) § 630.01 (voluntary expedited jury trials) or pursuant to Code of Civil Procedure section 630.20. (mandatory expedited jury trials), except as specified in the CRC or the consent order or as ordered by the trial judicial officer.
- (2) In cases that are subject to mandatory expedited jury trials, the parties must comply with CRC 3.1546. Parties desiring to participate in a voluntary expedited jury trial may submit to the case management **judge** at any pretrial Case Management Conference, but no later than the Trial Setting Conference, or as provided in CRC 3.1547, a proposed consent order fully compliant with CCP § 630.03(e). (See attached form CV-5056). If no Case Management Conference is scheduled, the parties may submit a stipulated proposed consent order ex parte or by motion. The case management judge, if adopting the proposed consent order, will set a pretrial conference pursuant to CRC 3.1548(f) in the department of the trial judicial officer.
- (3) The pretrial exchange required by CRC 3.1548(b) must be served no later than 10 days before the pretrial conference. The service of the supplemental exchange required by CRC 3.1548(c), the filing required by CRC 3.1548(d), and the exchange of items required by CRC 3.1551(b), must take place no later than five days before the pretrial conference.

(Effective 1/1/2020)

RULE 10 [RESERVED]

(Effective 7/1/2024)

RULE 11 SANCTIONS

If any counsel, a party represented by counsel, or a party unrepresented by counsel, fails to comply with any of the requirements of these rules, the Court, on motion of a party or on its own motion, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, or impose penalties of a lesser nature as otherwise provided by law, and may order that party or his or her counsel to pay to the moving party the reasonable expenses in making the motion, including reasonable attorney fees. Alternatively, the Court may impose a monetary sanction.

(Effective 7/1/2002)

RULE 12 [RESERVED]

(Effective 1/1/2024)

RULE 13 UNLAWFUL DETAINER CASES

A. PURPOSE

This rule is promulgated to deal with the special problems created by the summary nature of unlawful detainer proceedings. The term “unlawful detainer cases” refers to all cases filed pursuant to Chapter 4 of Title 3 of Part 3 of the Code of Civil Procedure and, thus, includes forcible entry and forcible detainer cases.

(Effective 7/1/2002)

B. DESIGNATION OF UNLAWFUL DETAINER CASES

The Court will designate a case as an “unlawful detainer case” when the complaint is filed if 1) the caption alleges unlawful detainer, forcible entry or forcible detainer, and 2) the prayer seeks restitution of possession of real property.

(Effective 7/1/2002)

C. PROPER COURTHOUSE FOR FILING AN UNLAWFUL DETAINER CASE

All unlawful detainer cases must be filed in the Downtown Superior Court.

(Effective 11/24/2014)

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 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 1/1/2025)

- (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 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)

E. NOTICED MOTIONS

Any party who wishes to bring a noticed motion must contact the appropriate calendar clerk to obtain an approved date and time for the hearing.

F. TRIAL

Once the case is at issue, any party who has appeared, and has not been dismissed and is not in default, may file a Request/Counter Request to Set Case for Trial – Unlawful Detainer (Judicial Council form UD-150). The Court will set the date for trial and mail notice to all parties except those who have been dismissed. If a Request/Counter-Request to Set Case for Trial is not filed within 60 days of the filing of the Complaint, the Court may dismiss the action on its own motion without further notice.

(Effective 7/1/2009)

G. CONVERSION TO ORDINARY CIVIL ACTION

If possession of the premises is surrendered to the plaintiff before trial, the case will proceed as an unlawful detainer case unless one of the parties files a motion for leave to file a pleading that will convert the case to an ordinary civil action. If trial has already been set, the trial judge will hear the motion for leave to amend before the trial. If the motion is granted, the Court will vacate the trial, redesignate the case as an ordinary civil action, and schedule a CMC. The case will thereafter proceed as an ordinary civil action.

H. POST JUDGMENT CLAIM OF RIGHT TO POSSESSION

Upon receipt of a post-judgment claim of right to possession, the Court will schedule a hearing and mail notice to the plaintiff and the claimant.

(Effective 7/1/2002)

I. SERVICE OF LANDLORD/TENANT ASSISTANCE PROGRAMS NOTICE

The plaintiff or cross-complainant in any unlawful detainer action must serve the “Landlord/Tenant Assistance Programs Notice” (Form CV-5102) simultaneously with the service of the summons and complaint on all defendants or cross-defendants. This provision will automatically sunset on March 31, 2022, or upon termination of the programs set forth in the notice, whichever is later.

(Effective 9/17/2021)

RULE 14 SCHEDULE OF REASONABLE ATTORNEY’S FEES

The Court has adopted a schedule of reasonable attorney’s fees. (See attached form CV-5021.) The schedule applies to all cases in which a default judgment is entered in favor of a party who pleaded and proved entitlement to reasonable attorney’s fees.

(Effective 7/1/2006)

RULE 15 [RESERVED]

(Effective 1/1/2024)

RULE 16 [RESERVED]

(Effective 1/1/2024)

RULE 17 APPLICATION FOR ORDERS FOR PAYMENT OF MONEY

A. PAYMENT OF MONEY

An application for an order for payment of money must be supported by an affidavit clearly setting forth the claimant's right to the specific amount shown, and a statement that the amount in question is presently on deposit in the Treasurer's Office.

(Effective 7/1/2002)

B. PAYMENT FOR PREPARATION OF TRANSCRIPT

An application for an order authorizing payment for preparation of a transcript out of funds deposited by an attorney or a party in propria persona, must be supported by an affidavit demonstrating 1) that the work has been done; 2) a statement of the charges therefore has been supplied to the person who deposited the funds; 3) ten days have elapsed; and 4) there is no dispute concerning the charges.

(Effective 7/1/2002)

RULE 18 INTERPRETERS

The Court is committed to providing interpreters at no cost to any party present in court who does not proficiently speak or understand English, subject to availability in civil proceedings and the priorities established in Evidence Code section 756, subdivision (b). A party who desires an interpreter must timely give notice to the court and all other parties of record and may submit a written request on Judicial Council Form INT-300 by e-mail sent via the Court’s Language Access webpage or to interpreterrequest@scscourt.org. If a party retains an interpreter who is not a court certified or registered interpreter, the interpreter’s name and qualifications must be provided to the court and opposing counsel at least 5 court days prior to the date of the interpreter's appearance.

(Effective 7/1/2018)

RULE 19 SMALL CLAIMS ACTIONS

A. PROPER COURTHOUSE FOR FILING A SMALL CLAIMS ACTION

All small claims actions must be filed and will be heard in the Downtown Superior Courthouse, if the defendant resides in Santa Clara County or the action concerns a contract entered into or to be performed in Santa Clara County or the action concerns an injury or damage that occurred in Santa Clara County.

(Effective 11/24/2014)

B. [RESERVED]

(Effective 1/1/2025)

C. DATE, TIME, AND PLACE FOR HEARING

When the small claims actions is filed, the court clerk will schedule the hearing according to the following rules:

(Effective 7/1/2007)

(1) [RESERVED]

(Effective 1/1/2024)

(2) SAME COURTHOUSE

The clerk will schedule all hearings in the Downtown Superior Courthouse.

(Effective 1/1/2024)

(3) NIGHT COURT SESSION

Night court sessions will be scheduled as shown on the Court's website.

(Effective 1/1/2024)

D. SERVICE OF CLAIMS

(1) PLAINTIFF'S CLAIM

The plaintiff must serve the Notice to Small Claims Litigants [see attached form SC-8006] with the Plaintiff's Claim and Order to Go to Small Claims Court.

(Effective 1/1/2024)

(2) SERVICE BY CERTIFIED MAIL

Either party may pay the court a fee to have the court clerk serve their claim on the other party by certified mail, return receipt requested. Before the date set for hearing, the party requesting service may look in the court file to see whether the receipt for certified mail was signed by the other party and returned. Only the judicial officer or temporary judge makes the legal decision whether service was proper.

(Effective 7/1/2007)

(3) INABILITY TO SERVE DEFENDANT IN TIME

If the plaintiff is unable to serve the defendant in time, the plaintiff may request a later hearing date by going to the clerk's office at least one court day before the date set for the hearing.

(Effective 7/1/2007)

E. SETTLEMENT BEFORE HEARING

A party who settles his or her claim before the date set for the hearing must notify the Court in writing at least one court day before the hearing. A party may do this by filing a Request for Dismissal. (See attached form SC-8007.)

(Effective 7/1/2007)

F. DISMISSAL FOR FAILURE TO APPEAR AT HEARING

If a party does not appear at the hearing, his or her claim will be dismissed, but if there is a claim against him or her, it will be heard.

(Effective 7/1/2007)

G. APPEAL

An appeal of a judgment rendered in a small claims action must be filed in the Downtown Superior courthouse. The appeal will be heard by a judicial officer other than the one who issued the judgment. The Court will notify the parties of the date, time, and place for the hearing on the appeal.

(Effective 11/24/2014)

H. LOCAL FORM SC-8016

Local form Small Claims Order Form SC-8016 is adopted for optional use by the Court.

(Effective 1/1/2016)

RULE 20 COURT COMMUNICATION REGARDING RESTRAINING ORDERS

A. PROCEDURE IN CIVIL COURT

- (1) Subject to available resources, the Family, Juvenile, Civil and Probate Courts must examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS Civil Restraining Orders. If that information is not available to the judicial officer, inquiry must be made of the parties before issuing permanent CLETS Civil Restraining Orders.

Safety of all parties must be the Court's paramount concern.

- (2) In cases where the Court allows for property removal as an exception to the restraining order in a Civil Harassment, Family Attachment FM-1102 (Other Order-Property Removal) may be used as an attachment to the Temporary Restraining Order (Judicial Council form CH-110 or WV-110) and Restraining Order After Hearing (Judicial Council form CH-130 or WV-130).

(Effective 1/1/2024)