
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

(1) All unlimited civil cases must be filed in the Downtown Superior Court.

(2) All limited civil cases must be filed in the Downtown Superior Court.

(Effective 11/24/2014)

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” and “Rule 3.740 collections.” the Clerk of the Court will schedule the first CMC approximately 120 days from the date of filing of the complaint.

(Effective 7/1/2008)

(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

Pursuant to written stipulation of all parties, the Court may advance a CMC. 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 upon all parties who were served with a copy of the Civil Lawsuit Notice.

(Effective 7/1/2004)

(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.) 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 efileing 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)

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. 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) 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 shall commence within thirty days of approval of the application, and shall be completed no later than sixty 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)

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. SELECTION OF NEUTRAL

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 efile the signed stipulation and order within 10 days of signature of all parties, counsel, and the neutral.

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.

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.

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.

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," 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)

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 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.

D. 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)

E. 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).

F. ATTENDANCE AND AUTHORITY

(Effective 7/1/2012)

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

G. 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.

H. 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 [RESERVED]

(Effective 1/1/2024)

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

Documents that exceed 10 pages must be submitted 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. Tabs must not be included in any documents submitted for filing.

(Effective 1/1/2024)

RULE 7 EX PARTE APPLICATIONS

A. GENERAL

Ex parte applications in Civil Division cases must be electronically filed by counsel and any parties who have access to the court's e-filing 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 pretrial judge by the Clerk. All ex parte applications are reviewed and considered only in compliance 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. The applicant for the order must inform the Court if the opposing party intends to oppose or requests a hearing. A separate form of order must be submitted with the application attached to Form EFS-020. All ex parte applications will be determined on the papers unless the Court orders otherwise, which may be based on a showing of good cause for a hearing. If either party requests a hearing, the application (or opposition) must so state, and the court will contact the parties by email to schedule a hearing if good cause is found. The party seeking ex parte relief must provide email addresses of all counsel or self-represented litigants, if known. 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. The court will attempt to consider and rule on the application, if possible, within 24 hours.

(Effective 1/1/2024)

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 or, orders to show cause re preliminary injunctions, writs of attachment, and writs of possession but excluding requests for receiver), that fact should be clearly indicated on the face of the application, so the matter may be properly directed to a department that is assigned to hear provisional remedies.

(Effective 1/1/2024)

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

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. If the motion is unopposed, the application must be filed with the designation "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 (1) meet and confer with the non-moving party or parties to identify mutually agreeable dates then (2) 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. Any reserved date for which a motion is not filed within 5 court days of the reservation will be forfeited and returned to the pool of available hearing dates.

(Effective 1/1/2024)

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.

(Effective 1/1/2024)

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 SETTING, 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.

(Effective 1/1/2024)

B. MANDATORY SETTLEMENT CONFERENCE

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

(Effective 1/1/2024)

C. ASSIGNMENT TO TRIAL

Before the date set for trial, the Court will assign the case to a trial judge or place the case on standby for assignment. The trial judge or other court representative will contact trial counsel with instructions for appearance. Trial counsel and parties must be available for trial the entire week in which the trial is set.

(Effective 1/1/2024)

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, or for a settled statement) shall presumptively set for hearing and heard in the department of the trial judge, unless the Supervising Judge of the Civil Division or designee orders otherwise. This rule also applies to dispositive hearings or motions in petitions for writ of mandate. One exception is for proceedings for enforcement of judgment; such proceedings shall presumptively be set for hearing in the department of the pretrial judge, unless the Supervising Judge of the Civil Division or designee orders otherwise.

(Effective 1/1/2021)

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 PROPOSED ORDERS

Any proposed order submitted to the Court for signature must contain a footer with the title of the order on every page, including the signature page, unless it is a Judicial Council form. In addition, the Court signature and date lines must not be on a page by themselves; the signature page must contain some text of the order.

(Effective 1/1/2010)

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 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.

(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 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/CounterRequest 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. FAX FILING IN SMALL CLAIMS CASES

(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)

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)

CRIMINAL RULES

RULE 1 GENERAL

A. SUPERVISING JUDGE – CRIMINAL

The Criminal Division of the Superior Court shall be supervised by a judge appointed by the Presiding Judge and designated as the Supervising Judge – Criminal.

B. ASSISTANT SUPERVISING JUDGES

The Presiding Judge may designate one or more Assistant and/or facility Supervising Judges, including Assistant Supervising Judges – Criminal, Assistant Supervising Judge – Family Violence, Assistant Supervising Judge – Misdemeanor Division, Assistant Supervising Judge – Drug Court, Facility Supervising Judge – North County, and Facility Supervising Judge – South County.

(Effective 1/1/2019)

RULE 2 APPEARANCES

A. APPEARANCE OF COUNSEL

(Effective 1/1/2023)

- (1) Counsel of record must appear at all hearings, unless other counsel appear for them or prior arrangements are made with the court. Counsel of record must ensure that attorneys appearing “specially” have sufficient knowledge of the case, the schedule of the attorney of record, and/or settlement authority to ensure that all court appearances are meaningful and productive.
- (2) Counsel must advise the court of any conflicting appearance in the court of another county before requesting or agreeing to any hearing date. Furthermore, counsel must not request or agree to any hearing date in another county that conflicts with a hearing date previously set by this court.

B. REMOTE APPEARANCES

(Effective 1/1/2023)

- (1) Attorneys may appear remotely in proceedings in criminal cases if permitted by the judge presiding over the proceeding. Individual judges have the discretion to determine how attorneys seek approval to appear remotely. Individual judges have the discretion to determine the scope of any approval they grant for remote attorney appearances (i.e., approval may be granted for an attorney to appear only for a specific hearing, for all attorneys to appear remotely on particular calendars, or otherwise). When seeking approval to appear remotely, attorneys should be prepared to advise if an attorney’s client — whether an accused, a witness, an alleged victim, or other individual — will appear personally in court for the proceeding. Approval for a remote appearance is unlikely to be granted if an attorney’s client will appear personally in court for the proceeding.
- (2) Conduct of remote appearances:
 - (a) No proceeding may be photographed, recorded (audio or video), or re-broadcast by any person who is personally present or who is appearing, participating, or observing remotely without prior written order of the court. (Cal. Rules of Court, rule 1.150; Super. Ct. Santa Clara County, General Local Rules, rule 2.)
 - (b) A remote appearance is a court appearance and must be conducted consistently with the court’s Standing Order Regarding the Santa Clara County Bar Association Code of Professionalism.
 - (c) Attorneys must appear in professional business attire from a quiet, stationary location with minimal background noise or visual distractions, an adequate Wi-Fi connection, and using working microphones and headphones/speakers.
 - (d) For purposes of this rule, a “participant” includes an accused, a party, an attorney, an alleged victim, or a witness.
 - i. Unless approved by the court, participants must appear with their camera turned on. If a participant has security concerns about appearing on camera, this concern should be brought to the court’s attention before the hearing.
 - ii. If a participant is able to appear only by telephone, that participant must identify themselves when requested by the court and thereafter when speaking during the hearing. Participants appearing by telephone may not place the Court on hold or use a speakerphone. Participants may turn off “caller ID” when appearing by telephone.
 - iii. All participants must ensure there are no interruptions or distractions for the duration of their appearance at the hearing. No other individual (including a minor child) may appear with the participant or be heard during the hearing without prior court approval, other than when an attorney appears with their client from a common remote location.
 - iv. All participants must place their microphones on mute unless they are speaking. All participants must refrain from speaking unless addressed or otherwise allowed by the court.
 - v. Individual judges have the discretion to allow remote observation by persons who are not participants and the authority to manage remote observation, including by requiring the identification of an observer and/or requiring observers to have cameras turned on.

(Effective 1/1/2023)

RULE 3 COURTHOUSES & CALENDARS

Adult criminal matters are filed and heard in the courthouses indicated in these rules. However, any case may be assigned to any courthouse for any purpose at the direction of the Presiding Judge, Supervising Judge – Criminal, or their designees.

(Effective 1/1/2019)

RULE 4 HALL OF JUSTICE COURTHOUSE

All misdemeanor and felony matters arising within Campbell, Los Gatos, Milpitas, Monte Sereno, San José, Santa Clara, Saratoga, and adjacent unincorporated areas are filed and heard in the Hall of Justice.

A. MASTER TRIAL CALENDAR

The Master Trial Calendar is called on Monday each week or as designated by the Supervising Judge – Criminal and, unless otherwise designated by the Presiding Judge, Supervising Judge – Criminal, or their designees, will include all felony and misdemeanor matters set for trial. If Monday is a court holiday, this calendar will be called on Tuesday. No probation violation, sentencing, misdemeanor pre-trial conference, or pre-information/indictment felony matters will be set on the Master Trial Calendar without authorization of the Supervising Judge – Criminal.

(Effective 1/1/2023)

(1) Readiness Conference

Except for cases assigned to one judge for all purposes, a Readiness Conference for cases on the Master Trial Calendar will be conducted on the court day immediately preceding the Master Trial Calendar or as designated by the Supervising Judge – Criminal. Privately retained counsel and a representative of the District Attorney, Public Defender, Alternate Defender, and Independent Defender are required to be present. For each case set on the Master Trial Calendar for the following Monday, trial counsel must notify the court of trial readiness at the Readiness Conference, including matters of attorney availability, compliance with Penal Code section 1054 and sections (A)(3) and (A)(4) of this rule (below), exhaustion of settlement negotiations between trial counsel, and preparedness to argue motions in limine and conduct jury selection without delay upon assignment to a trial department.

(2) Motions to Continue

All motions to continue matters set on the Master Trial Calendar are heard by the Supervising Judge – Criminal at or before the Readiness Conference.

(3) Trial Assignments, Trial Briefs, Motions in Limine, and Settlement Discussions

(a) **Trial Assignments:** It is the court's goal that less time be spent negotiating and discussing cases in the trial departments and that more time be spent with those resources conducting trial proceedings. It is also the court's goal to utilize all trial departments for trials as available. Cases will be assigned to trial departments for trial, not for protracted settlement discussions. The trial judge will have all in limine motions and witness lists available in the court file and will have the ability to review them immediately upon assignment of a case to that department.

The court will attempt to balance the seriousness of charges, custodial status, Penal Code section 1048 considerations, the age of case, and any other relevant factors in prioritizing and making assignments to trial departments. Input from the parties is welcome and helpful at the weekly Readiness Conference. When parties have particular readiness issues (illness, witness unavailability, attorney engaged in another trial or otherwise unavailable, etc.) the court will note these issues on the record and consider them when trialing cases on standby for trial.

The parties must give trial matters extremely high, if not the highest, priority. The court will look to assign cases at the earliest possible time of day or day of the week when trial department resources are available. Attorneys should not expect the court to accommodate an attorney's schedule for lower priority court matters or non-court conflicts.

(b) **Felony Trial Settings:** When a felony case is set for trial time-not-waived, the court will set the trial date on, or on the week of, the statutory last day for trial (Penal Code section 1382). The cases and the parties must be trial ready on the trial date in recognition of the statutory last day. For all felony trial settings (time-waived and time-not-waived), the court will also set the following dates, subject to any case-specific factors, which factors will be reflected in the minutes:

- i. Absent case-specific factors dictating otherwise, all pretrial motions will be heard: (a) not later than 15 calendar days before the trial date, (b) at the direction of the Law & Motion department not later than the date of the Readiness Conference, or (c) at another time as directed by the court upon a showing of good cause. (Cal. Rule of Court, rule 4.112(b).)
- ii. The last date for filing pretrial motions will be 30 calendar days before the trial date, absent a request for an order shortening time providing case-specific factors not previously raised or considered, signed by the Supervising Judge – Criminal. (Cal. Rule of Court, rule 4.100(1)(B).) Motions will be filed with, and scheduling of hearing on the motion(s) will be done by, the Law and Motion department consistently with that department's calendaring protocol and Local Rule 7(H).
- iii. The date for filing in limine motions, witness lists, and a required Readiness brief, which date will be 5 calendar days before the trial date. (Cal. Rules of Court, rule 4.112(a); Pen. Code section 1204.5, subd. (b).) Readiness briefs must include, but need not be limited to:
 - a. Prosecution: a statement of facts expected to be shown by the evidence; perceived factors in aggravation; factors in mitigation; criminal history information, including prior performance on probation and/or parole; other pending cases and their status; the history of prosecution settlement offers; the history of defense settlement proposals; any indicated sentences previously given by the court; whether collateral consequences have been considered; three strikes review, if pertinent; and consideration of substance abuse/mental health issues and treatment, if pertinent.
 - b. Defense: any information about the accused or the case that the accused consents to a trial judge considering, and/or that the accused desires a judge who is not the trial judge to consider under Penal Code section 1204.5, or a statement that the accused chooses to defer providing such information without prejudice

(c) Misdemeanor Trial Settings

- i. When a misdemeanor case is set for trial time-not-waived, the court will set the trial date on, or in the week of, the statutory last day for trial (Pen. Code § 1382). The cases and the parties must be trial ready on the trial date in recognition of the statutory last day.
- ii. For all misdemeanor trial settings (time-waived and time-not-waived), the court will also set the date, for filing in limine motions, witness lists, and a required Readiness brief, which date will be 5 calendar days before the trial date, subject to any case-specific factors, which factors will be reflected in the minutes. (Cal. Rules of Court, rule 4.112(a); Pen. Code § 1204.5 subd. (b).) Readiness briefs must include, but need not be limited to:
 - a. Prosecution: a statement of facts expected to be shown by the evidence; perceived factors in aggravation; factors in mitigation; criminal history information, including prior performance on probation and/or parole; other pending cases and their status; the history of prosecution settlement offers; the history of defense settlement proposals; any indicated sentences previously given by the court; whether collateral consequences have been considered; considerations of substance abuse/mental health and treatment, if pertinent; and consideration of the merits of diversion.
 - b. Defense: any information about the accused that the accused consents to a trial judge considering, and/or that the accused desires a judge who is not the trial judge to consider pursuant to Penal Code section 1204.5, or a statement that the accused chooses to defer providing such information without prejudice.

(d) Settlement Discussions.

In every case set on the Master Trial Calendar, the court encourages and expects the parties to have in-depth case discussions, including the exchange of offers and counter-offers for resolutions. At the discretion of the Supervising Judge – Criminal, however, cases set on the Master Trial Calendar may be sent out for discussions. If the parties do not reach an agreement and receive an indicated sentence during those discussions, the trial departments will have no further obligation to provide an indicated sentence when the case reaches a trial department. Trial judges will not read or consider a Readiness brief without consent, as described in Penal Code section 1204.5, subdivision (a). The judicial officer handling discussions may have multiple discussion sessions with the parties on a given case if the parties need to take further steps to settle the case in between sessions. But once a judicial officer has concluded settlement efforts on a case, the court will not send the case back to that judge for further rounds of discussions absent unusual circumstances.

B. FELONY ARRAIGNMENT ON INFORMATION/INDICTMENT CALENDAR

The Felony Arraignment on Information/Indictment Calendar will be called on Monday at 9:00 a.m. or at such other time as designated by the Supervising Judge – Criminal, and will include all non-family violence felony matters. If Monday is a court holiday, this calendar will be called on Tuesday or at such other time as designated by the Supervising Judge – Criminal.

No probation violation, sentencing, misdemeanor, or pre-information/indictment felony matters may be set on the Arraignment on Information/Indictment Calendar without authorization of the Supervising Judge – Criminal.

(Effective 1/1/2023)

(1) Attorney of Record

Pursuant to Penal Code § 987.1, counsel who represented a defendant at the preliminary examination or at the time the defendant was otherwise held to answer must appear with the defendant at the time of arraignment on the information. Any request to be relieved as attorney of record must be made at this appearance. An attorney seeking to be relieved must bring with him or her all previously received discovery material, or otherwise be prepared to deliver such material forthwith to new counsel, or to the court, upon the substitution of counsel.

(Effective 1/1/2023)

(2) Entry of Plea

A plea of not guilty must be entered if a defendant represented by counsel fails to plead or demur.

(3) Setting of Dates

The following dates will be set after a plea of not guilty, including a plea of not guilty by reason of insanity, unless good cause is found pursuant to Penal Code § 1049.5:

(Effective 1/1/2023)

- (a) Trial, giving priority to any case entitled to priority under law;
- (b) Filing and service of motions and responses and hearing thereon.
- (c) In cases where a good cause finding has been made under Penal Code § 1049.5, the court may consider setting the matter on the Trial Status Conference Calendar. The purpose of the trial status conference calendar is for the court to ensure that matters proceed in a manner mindful of the Pace of Litigation (Standards of Judicial Administration 2.1, 2.2(j)). This calendar will be heard every Wednesday at 1:35 p.m. or at such other time as designated by the Supervising Judge – Criminal.

(Effective 1/1/2023)

(4) Pace of Litigation (Standards of Judicial Administration 2.1, 2.2(j))

In requesting and setting court dates, the parties and the court must be mindful of the felony case processing time goals set forth in the Standards for Judicial Administration.

(Effective 1/1/2023)

C. FELONY “AFTER ARRAIGNMENT” CALENDAR AND TRIAL STATUS CONFERENCE CALENDAR

The Felony After Arraignment Calendar will be called at 1:30 p.m. on Wednesday or at such other time as designated by the Supervising Judge – Criminal and will consist of non-family violence felony matters. No probation violation, sentencing, misdemeanor, or pre-information/indictment felony matters will be set on the After Arraignment Calendar without authorization of the Supervising Judge – Criminal.

(Effective 1/1/2023)

(1) Time for Filing

The filing deadline to place matters on the Felony After Arraignment Calendar is noon on the Thursday immediately before the calendar is called, except for motions pursuant to Penal Code § 1050. If Thursday is a court holiday, the deadline for placing matters on the Felony After Arraignment Calendar is on the Wednesday immediately before the calendar is called.

(Effective 1/1/2023)

(2) Motions to Continue Master Trial Calendar Cases

(a) Unless good cause is shown, motions to continue matters on the Master Trial Calendar will be heard on the After Arraignment Calendar before the pending trial date.

(Effective 1/1/2023)

(b) Unless good cause is shown, the deadline for placing Penal Code § 1050 motions on the After Arraignment calendar is noon on the court day immediately preceding the calling of that After Arraignment Calendar.

(Effective 1/1/2023)

(3) Trial Status Conference Calendar

(a) The parties may request that a matter be placed on the Trial Status Calendar in lieu of being set for trial. The parties must be prepared to articulate good cause to not set a trial date under Penal Code § 1049.5.

(Effective 1/1/2023)

(b) Counsel must meet and confer prior to each Trial Status Conference date and discuss, at a minimum, proposed trial date(s), whether resolution discussions would be beneficial, a plan to fully exchange discovery and whether there are any outstanding motions which need to be filed and heard. Counsel must be prepared to meaningfully discuss these issues at each Trial Status Conference date and must be mindful of the Pace of Litigation (Standards of Judicial Administration 2.1, 2.2(j)).

(Effective 1/1/2023)

D. FELONY PLEA, EARLY RESOLUTION, AND PRELIMINARY HEARING DEPARTMENTS

The Felony Plea, Early Resolution, and Preliminary Hearing judges and departments are responsible for non-Family Violence felony matters from arraignment on the complaint through sentencing under Penal Code section 859a, subdivision (a), or a holding order under Penal Code section 872, subdivision (a), and any other related matters at the discretion of the court to promote global disposition and efficiency.

(1) Pleas, Preliminary Examination Setting, and Motions

(a) Pre-Hearing Communication Between Counsel (Meet & Confer)

- i. Pre-hearing meet and confer. Counsel for the parties must meet and confer before each court appearance to discuss the exchange of discovery, proposals for early resolution, collateral consequences, mitigation materials, and any other issues that might impact case disposition.
- ii. Hearing preparation. Counsel must use the periods between court hearings to communicate with their client(s), alleged victims, and witnesses about ongoing investigations and offer(s) for disposition. Counsel who appear in the Felony Plea Department must be prepared to discuss any matter relating to the case disposition, including readiness, witness availability, discovery matters, ongoing investigations, and any special issues for alleged victims or the accused. This requirement applies to counsel of record and to counsel making special appearances. No continuances will be granted on the basis that special appearance counsel is not prepared to discuss the case.

(b) Motions

- i. Motions made before the filing of an information will be scheduled by the Felony Plea judge in the Felony Plea Department, Felony Law and Motion Department, or other designated department.
- ii. Motions to set or reduce bail or for pretrial release will be set in the Pretrial Services Pilot/In-Custody Felony Arraignment Department.
- iii. Motions to Release documents pursuant to subpoena duces tecum will be set in the Felony Law and Motion Department, whether pre or post information.
- iv. All motion papers and responses must comply with Rule 7.

(2) Preliminary Examinations

(a) Calendaring

Preliminary examinations will be set as follows in the designated Preliminary Examination Departments or as otherwise designated by the Supervising Judge – Criminal:

i. Long Cause Preliminary Examinations

- a. Long Cause Preliminary Examinations are examinations with a time estimate of over one court day.
- b. Long Cause Preliminary Examinations are set on Monday each week along with the Master Trial Calendar with the Supervising Judge – Criminal, or as designated by the Supervising Judge – Criminal. If Monday is a court holiday, then the long cause preliminary hearing calendar will be called on Tuesday.
- c. Long Cause Preliminary Examinations will be heard in an available Trial Department or other available department at the discretion of the Supervising Judge – Criminal or their designee.

The date and time of the examination will be determined during the Readiness Conference as delineated in this Rule.

- ii. All other preliminary examinations will be set in the Preliminary Hearing Departments as designated by the Supervising

Judge – Criminal.

(b) Readiness Notice

i. Long Cause Preliminary Examinations:

- a. Counsel must be prepared to participate in a Readiness Conference on the court day immediately preceding the Master Trial Calendar or as designated by the Supervising Judge – Criminal. Counsel must advise whether each party will be ready to proceed, whether a continuance under Penal Code section 1050 will be sought and any objections thereto, whether there are requests for remote testimony and any objections thereto, and whether interpreters are needed. Each party must also provide an updated and accurate time estimate for the hearing.
- b. During the Readiness Conference, Long Cause Preliminary Examinations will be scheduled in an available Trial Department or other department at the discretion of the Supervising Judge – Criminal or their designee.
- c. The Readiness Conference will be held remotely, at the direction of the Supervising Judge – Criminal, or at another location designated by the Supervising Judge – Criminal.

ii. All other Preliminary Examinations

Each party must inform the preliminary examination judges via email by 5 p.m. at least one court day before the date set for the preliminary examination whether the party will be ready to proceed, whether a continuance pursuant to Penal Code section 1050 will be sought and any objections thereto, whether there are requests for remote testimony and any objections thereto, and whether interpreters are needed. Each party must also provide an updated and accurate time estimate for the hearing.

(c) Motions at Preliminary Examination

Any motions to be brought at the preliminary examination must comply with Rule 7.

(d) Scope of Examination

The court and the parties must be mindful of the mandates of Penal Code section 866 in conducting preliminary examinations. Any issues related to the scope of the hearing should be brought to the attention of the magistrate presiding over the preliminary hearing before the preliminary examination begins.

(3) Early Resolution

- (a) Early resolution settlement conferences will be set at the discretion of the Felony Plea Judge. Conferences will be virtual or in-person, as directed by the Supervising Judge – Criminal.
- (b) Matters set for an early resolution conference will have a return date set in the Felony Plea department for further setting.

E. FELONY LAW AND MOTION CALENDAR

(1) General

Pre-and Post-Indictment/Information motions in felony cases (except family violence, South County, and North County cases) will be heard by the judge assigned to the Criminal Law and Motion department, except as follows

- (a) Motions to quash or traverse a search warrant will be heard before the judge who signed the warrant, if available (Pen. Code, 1538.5, subd. (b)). If that judge is not available, the motion will be set in accordance with these rules.
- (b) If an All Purpose Judge has been assigned by the Supervising Judge – Criminal for a particular matter, then all motions associated with that case will be litigated in front of the All Purpose Judge assigned.
- (c) If the time estimate for hearing a motion exceeds what can be heard on a regular Law and Motion calendar, the motion may be reassigned to a different department as designated by the Supervising Judge – Criminal.

(2) Pre-Information Motions

- (a) Pre-Information motions may be set only by the Felony Plea judge, except motions to release documents pursuant to subpoena duces tecum which may be directly calendared with the Law and Motion department.
- (b) Regardless of the stage of proceedings, motions regarding custodial status or pretrial release terms will be set in the Pretrial Services/Arraignment department.

(3) Post-Information/Indictment Motions

- (a) For trial cases set time-not-waived (TNW), the last date to file pretrial motions is 30 calendar days before the initial TNW trial date set, absent an order shortening time signed by the Supervising Judge – Criminal.
- (b) The following Post-Information/Indictment matters may be filed directly with the clerk's office: motions to consolidate, motions to amend, motions to sever, Pitchess/police personnel records discovery, motions to unseal documents, bond surety motions, motions to return seized property, and Vehicle Code section 14602.7 storage hearings. All other Law and Motion matters must be scheduled via calendar request with the Law and Motion department.
- (c) Motions originally calendared on the After Arraignment calendar may be assigned to the Felony Law and Motion Department at the discretion of the Supervising Judge – Criminal.
- (d) Regardless of the stage of proceedings, motions to release documents pursuant to a subpoena duces tecum must be set in the Felony Law and Motion department, via direct calendaring with the clerk's office.
- (e) Regardless of the stage of proceedings, motions regarding custodial status or pretrial release terms will be set in the Pretrial Services/Arraignment department.
- (f) Any motion to be filed with a requested hearing date on or after the Master Trial Calendar date must have the approval initials of the Supervising Judge – Criminal or their designee.

(4) Motion Papers

- (a) All papers filed in support of or in opposition to a motion must comply with Rule 7.

- (b) Except for motions brought under Penal Code section 995, if the motion is to be submitted in whole or in part on the transcript of the preliminary examination, or the transcript of any prior proceeding, the notice of motion and/or the response must so state.
 - (c) In any motion brought under Penal Code section 1538.5, subdivision (i) that is presented de novo, notice of this fact must also be set out on the first page of the moving and responding papers.
 - (d) In any motion brought under Penal Code section 1538.5, subdivision (i) where additional live testimony is anticipated, notice of this fact must be set out on the first page of the moving or responding papers.
 - (e) Failure to comply with any portion of this rule is sufficient cause for the court to refuse to consider any transcript of a prior proceeding, to allow the calling of additional witnesses, or to allow a de novo hearing.
- (5) Motions to Continue
- (a) Except in unusual or exigent circumstances, any party intending to request a continuance or who cannot proceed in any matter set for hearing must promptly inform all other counsel and THEN inform the court assigned to hear the motion. This notification to the court must be at least two court days before the hearing. It is counsel's responsibility in felony cases to submit a calendar request to reset the trial date if continuing the motion will require a continuance of the trial date. The provisions of Penal Code section 1050 must be followed.
 - (b) The court retains complete discretion concerning continuances, including the authority to deny any continuance and to rule in the absence of counsel, or to order the matter off calendar, notwithstanding any stipulation of counsel.

F. FAMILY VIOLENCE COURT

The Family Violence Court will hear felony and misdemeanor matters in which the alleged victim is a person defined in Penal Code section 13700 subdivision (b) and/or Family Code section 6211 ("Family Violence") before trial, including for arraignment, plea, preliminary hearings, disposition, and sentencing, and will hold hearings as necessary to monitor treatment progress and probation compliance.

(1) Arraignment

- (a) Prosecuting Attorney's Duty. When the original complaint is filed, when determining an accused's custody status, and upon consideration of any plea agreement, the prosecuting attorney must present the court with information about an accused's prior convictions for weapons charges, for domestic violence, or for other forms of violence; any current protective or restraining order issued by any civil or criminal court; and any firearms registered to or otherwise allegedly within the custody or control of the accused.
- (b) Protective Order Consideration.
 - i. On its own motion, the court must consider issuance of a protective order at each Family Violence arraignment.
 - ii. Before requesting a criminal protective order in any Family Violence matter, the prosecuting attorney must make reasonable efforts to determine whether the alleged victim and the accused have any shared children; whether there are any Family, Juvenile, Dependency, or Probate court orders for custody or visitation for such children; the case numbers for any such orders; and whether there are any existing protective or restraining orders involving the accused, the alleged victim and/or the shared children. The prosecuting attorney must advise the Family Violence court of the existence of any such orders when the proposed criminal protective order is submitted for approval and signature. If a criminal protective order is issued, the prosecuting attorney must make reasonable efforts to submit a copy of the issued criminal protective order to the Family, Juvenile, Dependency, or Probate Court where one or more cases involving shared children is/are pending.

(2) Preliminary Examination

- (a) Readiness Notice. Each party must inform the preliminary examination judges via email by 5 p.m. at least one court day before the date set for the preliminary examination whether the party will be ready to proceed, whether a continuance under Penal Code section 1050 will be sought and any objections thereto, whether there are requests for remote testimony and any objections thereto, and whether interpreters are needed. Each party must also provide an updated and accurate time estimate for the hearing.
- (b) Motions. Motions to release documents in response to a subpoena duces tecum, Penal Code section 1538.5 motions, and other motions necessary to be heard before or with the preliminary hearing must comply with Rule 7 and be set on the same day as the preliminary hearing.

(3) Felony Pleas and Misdemeanor Pre-Trial Conferences

- (a) Plea. All accused are expected to enter a plea upon the earliest opportunity after retention or appointment of counsel. Any request to delay entry of plea must be approved by the court. Unless good cause is shown to delay the entry of plea on or after arraignment, the court will enter a plea of not guilty under Penal Code section 1024.
- (b) Pre-hearing meet and confer. For felony plea and misdemeanor pre-trial conferences, counsel for the parties must meet and confer before each court appearance to discuss the exchange of discovery, proposals for early resolution, collateral consequences, mitigation materials, and any other issues that might impact case disposition.
- (c) Hearing preparation. Counsel must use the periods between hearings to communicate with their client(s), alleged victims, and witnesses about ongoing investigations and offer(s) for disposition. Counsel who appear at felony plea and misdemeanor pre-trial conferences must be prepared to discuss any matter relating to the case disposition, including readiness, witness availability, discovery matters, ongoing investigations, and any special issues for alleged victims or the accused. This

requirement applies to counsel of record and to counsel making special appearances. No continuances will be granted on the basis that special appearance counsel is not prepared to discuss the case.

(4) Protective Orders

- (a) Issuance. The issuance of protective orders in Family Violence matters will be in accordance with Rule 4(F)(1)(b) and (F)(4)(b) and (c).
- (b) Modification: Who may request. The following parties may request that a case be calendared to modify a criminal protective order:
 - i. The prosecuting attorney at the request of a protected person or the Family, Juvenile Justice, Dependency, or Probate Court;
 - ii. The Probation Department at the request of the accused, protected person, or the Family, Juvenile Justice, Dependency, or Probate Court;
 - iii. The accused or accused's counsel on behalf of the accused defendant;
 - iv. The court on its own motion.
- (c) Modification: Procedure.
 - i. Where applicable, the party requesting modification must include the following information with the Request for Hearing on Criminal Protective Order Modification ("Request"): (1) any applicable CLETS Civil Restraining Orders and Custody and Visitation Orders; (2) the case numbers of both the criminal court case and any Family, Juvenile, Dependency, or Probate cases involving the accused defendant and the alleged victim; and (3) a copy of attendance or other record reflecting any safety planning, therapy sessions, or other counseling course attended by the accused and/or the alleged victim after the alleged incident date for the most recent Family Violence matter.
 - ii. The requesting party is responsible for service of the Request on all appropriate parties and agencies, including the District Attorney's office, Adult Probation (if the accused is on formal probation), the accused, and the accused's attorney of record at least five days before the hearing. Except when the protected person is the requesting party, the prosecuting attorney must send a copy of the Request to the protected person at their last known address.
 - iii. At any criminal protective order modification hearing, the parties must be prepared to provide the court with detailed information about the protected person's desired level of protection, preferably through the protected person's physical presence in court or virtual attendance at the hearing in a manner that permits the court to see the protected person and the protected person's surroundings.
- (d) Modification: Custody or Visitation Orders.
 - i. Any court responsible for issuing custody or visitation orders involving minor children of an accused subject to a criminal protective order (Judicial Council Form CR-160) may modify the criminal protective order if all of the following circumstances are present:
 - a. Both the accused and the alleged victim/protected person are subject to the jurisdiction of the Family, Juvenile, or Probate Court, and both parties are present before the court;
 - b. The accused is on probation (formal or court), has been convicted of, or is currently charged with a Family Violence offense in Santa Clara County and a criminal protective order has issued;
 - c. The Family, Juvenile, or Probate Court identifies a criminal protective order issued against the accused, that is inconsistent with a proposed Family, Juvenile, or Probate Court Order, such that the Family, Juvenile, or Probate Order is/will be more restrictive than the criminal protective order or there is a proposed custody or visitation order which requires recognition in the criminal protective order (item 16 on the criminal protective order form);
 - d. The accused signs an appropriate waiver of rights form or enters a waiver of rights on the record; and
 - e. Both the alleged victim/protected person and the accused/restrained person agree either that the criminal protective order may be modified to a more restrictive order or that item 16 on the criminal protective order may be checked.
 - ii. The Family, Juvenile, or Probate Court may not modify an existing criminal protective order to be less restrictive. The Family, Juvenile, or Probate Court may modify a criminal protective order by checking item 16 only when the minor child or children are not listed as protected persons.
 - iii. The Family, Juvenile, or Probate Court may on its own motion or at the request of an accused, protected person, or other interested party, calendar a hearing before the Criminal Court on the issue of whether a criminal protective order should be modified. The Family, Juvenile, or Probate Court must provide the Criminal Court with copies of existing or proposed orders relating to the matter. Notice of the hearing must be provided to all counsel and parties.
- (e) Termination: Except as otherwise set forth in Penal Code section 1203.4b an issued criminal protective order will be terminated (i) upon dismissal of the action or (ii) when probation is revoked and terminated and the criminal protective order was issued solely pursuant to Penal Code section 1203.097. If the criminal protective order is not addressed at the hearing dismissing the action or terminating probation under Penal Code section 1203.097, the clerk of court will, within thirty days of case resolution, prepare and submit to a judicial officer for signature a Notice of Termination of Protective Order in Criminal Proceeding (CR-165).
- (f) Property Removal Orders. In cases where the court allows the restrained person to remove "necessary personal property" from the protected person's residence as a one-time exception to the criminal protective order, Attachment CR-6072 (Property Removal Order) must be completed by and filed by the court, and the restrained person and protected person must be provided with one certified copy of the same.

(Effective 1/1/2023)

G. MISDEMEANOR DIVISION

The Misdemeanor Division will hear non-family violence misdemeanor matters from arraignment through disposition and sentencing.

(1) Pretrial Calendars

All cases shall have a mandatory and meaningful pretrial conference before being set for jury trial.

All discovery and all pretrial motions must be completed before the matter is set for trial.

(2) Trials

Readiness Conference

When a case is set for trial, the court will also set a readiness conference the Thursday before the trial date. The readiness conference will be set at 1:35 p.m. in the pretrial department. All counsel must be present at the readiness conference. In order to facilitate resolution, unless waived by the court, the defendant must be present at the readiness conference unless defense counsel has the proper and necessary authorization from his or her client to settle the case.

(3) Motions

(a) Location of Filing

i. All pretrial motions shall be heard in the pretrial department to which the case is assigned

ii. Post-trial motions, motions for new trial and other matters related to contested cases shall be set and heard in the department of the trial judge. The time and date of the hearing shall be set only by the judge of such department. In the event that the original trial judge is unavailable, such matters will be assigned for hearing by the Supervising Judge-Criminal.

iii. Sentence Modification

For all requests for modification of sentence, notice must be sent to the District Attorney's Office as well as the Adult Probation Department (in cases in which formal probation was granted) before such request will be considered or calendared for hearing. Proof of such notice must be attached to the original request filed with the court. Failure to do so will result in the request being treated as an improper ex parte communication and the request will not be considered by the court until proper notice is given.

(b) Last Day to File Motions

Unless the court selects another date at arraignment, the last day to file motions is 90 calendar days after the date of arraignment.

(c) All Motions and Responses shall comply with Rule 7.

(d) Motions to Continue

i. Any party seeking a continuance or intending not to proceed in any matter set for hearing shall promptly inform all other counsel and thereafter inform the court.

ii. The court shall have complete discretion pursuant to Penal Code § 1050 to grant or deny any continuance, to rule in the absence of counsel, or to order the matter off calendar, regardless of any stipulation of counsel.

RULE 5 SOUTH COUNTY FACILITY

(Effective 1/1/2023)

All misdemeanor and felony matters arising in Gilroy, Morgan Hill, San Martin and adjacent unincorporated areas are filed in this courthouse.

RULE 6 NORTH COUNTY FACILITY

(Effective 1/1/2023)

All misdemeanor and felony matters arising within Cupertino, Los Altos, Los Altos Hills, Mountain View, Sunnyvale and Palo Alto and adjacent unincorporated areas are filed in this courthouse.

RULE 7 PLEADINGS AND FILING OF DOCUMENTS

(Effective 1/1/2023)

A. METHOD OF FILING PLEADINGS AND DOCUMENTS

(1) Documents may be filed electronically or in paper form at the Clerk's Office consistent with Rule 6(C) and (D)(1) and (2) of the General Court and Administration Rules except as described below.

(2) Any motion to set aside a bail forfeiture, any appeal of a denial of a motion to set aside a bail forfeiture, and any documents filed conditionally under seal may not be filed or submitted electronically.

(a) Except as provided in California rules of Court, Rules 2.500 through 2.507, an electronically filed document is a public document when it is filed unless it is sealed under California Rules of Court, rule 2.551(b) or filed as a confidential document as provided by law. Unless the document is confidential and/or will be filed under seal, to protect personal privacy, parties must not include, or must redact where inclusion is necessary, the personal data identifiers from all documents, including any exhibits, filed with the court under this rule, such as social security numbers, and financial account numbers. A motion to file documents under seal may be filed and served electronically. But, documents lodged with the court conditionally under seal, as provided in California Rule of Court, rule 2.551(d), must be served and submitted to the clerk of the court in paper form, pending hearing on the motion to seal.

(3) Consistent with rule 6(C) of the General Court and Administration Rules, documents must be electronically filed with the court using one of the court's approved electronic filing service providers. Information concerning the approved electronic filing service

providers, including the procedures for electronically filing documents with the court and for electronically serving documents, is available on the court's website at www.sccscourt.org.

B. FORMAT OF DOCUMENTS SUBMITTED FOR FILING

- (1) Documents submitted in paper form must be held by binder clips.
- (2) Exhibit attachments to pleadings must be separated by a standard size sheet of paper with a title identifying the sequence of the exhibit.
- (3) Tabs may not be included in any documents submitted for filing.
- (4) Memoranda of points and authorities must not exceed 25 pages, unless an order extending the page limit accompanies the motion when filed.

C. LOCATION OF FILING

- (1) The party filing any motion, pleading, or petition, must file the original electronically or in the Criminal Court Clerk's office when the case is to be heard.
- (2) If filing a motion in paper form, a courtesy copy for the Law and Motion Department must be provided. If filing a motion electronically, the filing party should provide an electronic courtesy copy to the Law and Motion department or other assigned judge.
- (3) A drop box is available outside of the clerk's office to receive filings in all matters. The drop box will be checked one time per court day at 4:00 p.m. All pleadings placed in the drop box will be filed and deemed received at 4:00 p.m. the day they are retrieved from the drop box.

D. SERVICE OF COPIES

A copy of all moving and responding papers must be served upon opposing counsel, co-counsel, and counsel for all co-defendants on the same day that the originals are filed, unless previously served.

E. LAST DAY TO FILE

Any request to file a motion beyond a previously declared last day to file must be accompanied by an affidavit stating good cause for the motion to be filed past the deadline.

F. REQUESTS FOR ORDERS SHORTENING TIME

- (1) Orders Shortening Time must be signed only by the judge hearing the motion or a designee. The declaration in support of the request for an Order Shortening Time must set forth good cause and must state the facts concerning notice to, and the position of, opposing counsel, co-counsel, and counsel for co-defendants.
- (2) Notice of intent to request an ex parte Order Shortening Time must be given to all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice.

G. TIME ESTIMATE

All moving, responding, and joining papers must set out an accurate time estimate on the first page.

H. REQUEST FOR ORAL TESTIMONY

Oral testimony will not be permitted in a motion hearing unless the court orders otherwise, except for properly noticed hearings brought under Penal Code section 1538.5. The court retains complete discretion as to the necessity for, and nature and extent of oral argument. Notice of intent to call witnesses must be specifically set out on the first page of the moving and/or responding papers.

I. UNLESS OTHERWISE ORDERED BY THE COURT

- (1) All motions and applications, together with supporting papers, documents and points and authorities, must be filed electronically or with the Criminal Court clerk in the appropriate courthouse no later than 15 calendar days before the date set for hearing. This requirement applies except where inconsistent with a state rule of court or statute. (See e.g. Code Civ. Pro., § 1005 requiring 16 court days for a Pitchess/Evid. Code section 1043 motion.)
- (2) Unless waived by the court, or unless the party who would respond to the motion concedes it, a written opposition, together with supporting papers, documents, and points and authorities must be filed.
- (3) All written responses, together with supporting papers, documents and points and authorities, must be filed with the Criminal Court clerk no later than five court days before the date set for hearing. The reply must be filed two court days prior to the date set for the hearing.
- (4) Failure of the moving or responding party to comply with these filing deadlines is sufficient grounds for the court to refuse to consider the matters contained in late-filed papers.

J. MOTIONS TO SUPPRESS EVIDENCE

The notice of a motion brought under Penal Code section 1538.5 must describe with particularity the evidence sought to be suppressed and must be served with a memorandum of points and authorities.

K. MOTIONS TO DISMISS INFORMATION/INDICTMENT

The moving party must lodge all exhibits relevant to any claim. The parties must meet and confer about the exhibits before their submission. If voice recordings are submitted for review by the court, the transcript required by California Rules of Court, rule 2.1040 must be included unless the magistrate waived the requirement under California Rules of Court, rule 2.1010(b)(3).

L. EX PARTE MATTERS

- (1) Except as otherwise provided by law, for any application involving ex parte relief, including a request for an Order Shortening Time, advance notice must be given to opposing counsel, co-counsel and counsel for co-defendants.
- (2) Notice of intent to request an ex parte Order Shortening Time must be given to all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice.

M. SUBPOENAS DUCES TECUM

All subpoenas duces tecum in criminal cases must comply with Penal Code section 1326 and Evidence Code section 1560, and when applicable Code of Civil Procedure section 1985.3, and must be returnable to the court. In the event materials that are the subject of a subpoena are received by a party, an attorney, or an attorney's agent or investigator directly from the subpoenaed party, the person receiving such materials must immediately lodge such materials with the clerk of the court. The materials must not be opened, reviewed, or copied by the recipient without a prior court order.

N. COMPLIANCE WITH STATUTES AND RULES OF COURT

- (1) All papers filed in law and motion matters, and all motion proceedings must comply with the applicable statutes, California Rules of Court, and these Criminal Court Rules.
- (2) A mere citing of code sections authorizing the filing of a motion is not compliance with the California Rules of Court or these Rules. Except as otherwise authorized by statute or Rule of Court, application for any relief, or any opposition to relief sought, must be supported by a memorandum of points and authorities.
 - (a) All case citations must include the official report volume, page number, and year of decision. Parties must not cite to unpublished decisions of the California Court of Appeal except as provided in California Rules of Court, rule 8.1115.
 - (b) A memorandum of points and authorities must contain a concise statement of facts, a concise statement of the law, a discussion of the evidence and arguments relied upon, and a discussion of the statutes, cases, and other authorities cited in support of the position advanced. When a party intends to rely on a transcript, the page number of the transcript must be cited.

O. MOTIONS TO JOIN

Any party seeking to join in any motion must set out the relevant facts and law as it relates to the joining party. All motions to join must be made in writing.

P. SEARCH WARRANTS

When an accused is seeking to quash or traverse a search warrant, a copy of the search warrant affidavit must be provided and attached to the moving papers.

Q. MOTIONS FOR REINSTATEMENT

When moving to reinstate a complaint, the prosecuting attorney must provide a copy of the preliminary examination transcript.

R. POST-TRIAL MOTIONS

- (1) Post-trial motions, motions for new trial, and other matters related to contested cases must be set and heard in the department where the judge who heard the matter is currently sitting. The time and date of the hearing must be set only by that judge.
- (2) If the original trial judge is retired or no longer available, the case will be assigned out for hearing by the Supervising Judge – Criminal.

RULE 8 USE OF JUVENILE RECORDS

(Effective 1/1/2023)

Attorneys or defendants who are involved in a criminal proceeding in the Superior Court of California, County of Santa Clara, and who seek juvenile records for use in the pending criminal action shall, in addition to filing a W&I Code § 827 Petition in the Juvenile Court, concurrently file a Declaration of Filing of Juvenile Court 827 Petition in the criminal case (Attachment CR-6082).

RULE 9 REQUESTS FOR INTERPRETERS

(Effective 1/1/2023)

Prosecution and defense requests for interpreters for trial, preliminary examinations, motions, or any other appearances, must be made in open court at the time these matters are set. A defendant who requires the assistance of an interpreter for his or her first appearance in a criminal proceeding may submit a written request for interpreter in advance of the first appearance on Judicial Council Form INT-300 by e-mail sent via the court's Language Access webpage or to interpreterrequest@scscourt.org.

RULE 10 REQUESTS FOR CALENDAR SETTING

(Effective 1/1/2023)

A party who wishes to add a case to a calendar must file a Request for Calendar Setting (form CR-6008) signed by the judicial officer presiding over that calendar, or in their absence another judicial officer, with the Clerk's Office at least 48 hours before the requested court date.

RULE 11 PROPOSED ORDERS

(Effective 1/1/2023)

Any proposed order submitted to the court for signature must contain a footer with the title of the order on every page, including the signature page, unless it is a Judicial Council form. In addition, the court signature and date lines must not be on a page by themselves; the signature page must contain some text of the order.

RULE 12 WRITS

(Effective 1/1/2023)

A. CRIMINAL COURT CLERK'S OFFICE FILING

Petitions for writs such as Writs of Habeas Corpus, Writs of Mandate or Writs of Coram Nobis in criminal cases shall be filed in the Criminal Division at the Hall of Justice.

B. CIVIL COURT CLERK'S OFFICE FILING

- (1) Petitions for Writs of Mandate and/or Prohibition shall be filed in the Civil Division of the Downtown Superior Courthouse located at 191 North First Street, San José, California.
- (2) Petitions for Writs of Habeas Corpus Re: Quarantine Detention shall be filed in the Probate Division of the Downtown Superior Courthouse located at 191 North First Street, San José, California.

RULE 13 REQUEST FOR COPY/TRANSCRIPT OF ELECTRONIC SOUND RECORDING FOR RECORD ON APPEAL, WRITS, OR OTHER HEARINGS FOR MISDEMEANORS OR INFRACTIONS

(Effective 1/1/2023)

A. The courthouse supervisor or his/her designee shall retain custody of the original sound recording, unless ordered to deliver it to the reviewing court. Tapes shall be under the control of the Court Services Manager.

B. The Court Services Manager or his/her designee shall make the original sound recording available to the parties and counsel for listening in courthouses during normal business hours within 72 hours of submission of a request to the Court Services Manager.

C. At the time of filing of a Notice of Appeal, Notice of Petition for Writ or Notice of Motion, or within 10 calendar days of the filing of such notice, counsel for the appellant, petitioner or moving party (or by the party if unrepresented by counsel), shall advise the court if there is a request for a copy of the recording or its transcript. Such request shall be made in writing to the clerk at the courthouse in which the appeal/petition/notice is filed.

D. Courthouse staff shall inform the requesting party of the current cost per recording and collect the fees at the time the request is submitted.

E. Within 48 hours of receipt of the request, the clerk of the courthouse shall forward the request to the Court Services Manager or his/her designee.

F. When a request is made for a copy of the recording of the proceedings, the following shall apply:

- (1) Within 10 calendar days of receipt of the request, the Court Services Manager or his/her designee shall prepare and label one copy of the original sound recording for each requesting party. The copies shall be playable at 1 7/8" per second.
- (2) The Court Services Manager or his/her designee shall promptly contact the appropriate parties to arrange for them to pick up their copy of the recording.
- (3) In all cases involving appeals, the applicable California Rules of Court shall then apply regarding the settlement of a statement of proceedings.
- (4) In cases involving appeals, counsel for the moving party shall serve opposing counsel or party, if unrepresented, with either a transcript or a copy of the recording requested within 10 calendar days of receipt of the copy of the recording.

G. When a request is made for a transcript of the proceedings upon filing of Notice of Appeal (CR-142) the following shall apply:

- (1) Upon filing Notice of Appeal (Judicial Council form CR-142) the Traffic Appeals Clerk shall notify Court Services that appellant has selected paragraph 4(b) entitled "Transcript from Official Electronic Recording" in form CR-142.
- (2) Court Services shall determine length and cost of transcript from official recording.
- (3) Court Services shall notify appellant of the estimated costs for the transcript and all necessary copies (in the same manner as a court reporter would and with the same time constraints as in the appeal process).
- (4) Court Services shall notify appellant of the estimated costs for the transcript and all necessary copies (in the same manner as a court reporter would and with the same time constraints as in the appeal process).
- (5) After receipt of appellant's payment at the facility of their appeal, the Traffic Appeals Clerk will notify Court Services to prepare transcript.
- (6) The Court Services Manager or his/her designee shall promptly send a copy of the original recording to the transcriptionist.
- (7) In appeal proceedings, the California Rules of Court shall apply.

(Effective 1/1/2019)

RULE 14 TRAFFIC DIVISION – TRIAL BY DECLARATION

(Effective 1/1/2023)

The Court adopts the trial by declaration process defined in Vehicle Code § 40902.

Additionally, pursuant to Vehicle Code § 40903, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the code. In eligible cases the Court will conduct the trial in absentia and it will be adjudicated on the basis of the notice to appear issued pursuant to Vehicle Code § 40500 and any business record or receipt, sworn declaration of the arresting officer, or written statement or letter signed by the defendant that is in the file at the time the trial by declaration is conducted.

If there is a guilty finding, the conviction shall be reported to the DMV and the defendant notified of the disposition of the case, the amount of imposed fines, and fees, and the defendant's right to request a trial de novo within a specified period of time. If there is no timely request for a trial de novo and the fines and fees are not paid by the due date, the case will proceed to civil assessment pursuant to Penal Code § 1214.1. Additionally, the DMV will be notified of the failure to pay pursuant to Vehicle Code § 40509.5(b), which can result in a suspension of the defendant's driver's license pursuant to Vehicle Code § 13365(a)(2) until all obligations to the Court are satisfied.

RULE 15 ANCILLARY DEFENSE EXPENSES*(Effective 1/1/2023)***A. SCOPE**

This rule states the requirements for the payment of reasonably necessary expenses that appointed counsel, retained counsel, and self-represented litigants incur in defending persons who are indigent. This rule will refer to these reasonably necessary expenses as “ancillary defense expenses.” All funds expended for ancillary defense expenses must have prior approval by Court order. Funds approved for a specific purpose, moreover, may not be expended for another use without prior Court approval.

B. REQUIRED SUBMISSION

All initial applications for the authorization of ancillary defense expenses shall be submitted by ex parte motion to the clerk of the Criminal Division Supervising Judge. The application shall be accompanied by: (1) a completed and signed Defendant’s Financial Statement in Support of Ancillary Fees Request (Attachment CR-6089) OR a Declaration signed under penalty of perjury, which includes all of the information requested in Attachment CR-6089 and (2) a declaration with the information described in subdivision C below. The application and supporting declarations shall be marked “Confidential,” and shall be kept in a confidential section of the Court file.

C. REQUIRED DECLARATION

All applications for ancillary defense expenses shall be supported by a declaration setting forth:

- (1) A summary of the circumstances of the charged offense or facts that demonstrates why the funding of ancillary defense expenses is necessary in the interests of justice;
- (2) The status of the case;
- (3) The specific purpose for the funds, including the nature of the services to be rendered and an explanation why those services are reasonably necessary for the defense of the case; and
- (4) The name and title of each appointed service provider (investigator, expert, or other) for whom funds are being sought, the hourly rate and maximum amount expected to be charged for the service, travel-related expenses other than mileage, and any other special expenses. If a self-represented defendant has not suggested a particular investigator, the Court will select one from the rotational investigator list. The maximum hourly billing rates, as well as the maximum initial authorizations, for all investigators and legal runners shall be set by the Presiding Judge of the Superior Court. Legal runner services, when approved by the Court, are limited to photocopying, and transporting materials, orders, and motions. Visits and phone calls to the County’s detention centers must be associated with an allowable billable activity, and will be subject to the Court’s discretion..

D. TRAVEL EXPENSES

- (1) No funds may be expended for overnight travel by investigators, experts, or others without prior court approval. Pre-approved hourly investigation expenses may not be applied to overnight or airline travel costs unless expressly designated by the court for travel after an appropriate request.
- (2) Applications that include a request for travel expenses to interview witnesses must contain, in addition to the requirements above, a declaration setting forth:
 - a. The relevance and materiality of the witness’s proposed testimony;
 - a. The relevance and materiality of the witness’s proposed testimony;
 - b. An explanation why a telephone interview or an interview conducted through the Internet or other forms of electronic communication would not suffice instead of a face to face interview.
An explanation why it would not be practical to utilize the services of an investigator in the area where the witness lives to conduct the interview;
 - d. Whether it would be feasible to fly the witness to the San Jose airport for an interview, with a return flight the same day, to avoid the expense of overnight travel for the investigator; and
 - e. A representation that the applicant has endeavored to secure the lowest possible airfare.

E. EXPENSES FOR MEDICAL AND MENTAL HEALTH PROFESSIONALS

On initial applications for authorizing expenses for doctors, psychologists, psychiatrists, and similar experts, the maximum amount allowed by the court will be an amount sufficient to procure an initial written report from the expert. This report should describe the need, if any, for further services at an approved rate. The defense must endeavor to negotiate the lowest hourly rate. If the defense retains an expert from outside the Bay Area, the declaration shall explain in detail why local experts could not be employed to provide similar services. Expenses for supplemental reports by experts or investigators may not be paid by the Court without prior Court approval.

F. ADDITIONAL FUNDING

After the initial funding approved by the declaration described in subsection C above has been exhausted, no additional work may be performed or compensated without first obtaining Court approval by submitting a supplemental funding request under this subsection. Each application for additional funding for a previously authorized service provider (investigator, expert, or other) shall state, in the heading of the pleading, that it is a supplemental request, and shall include a declaration setting forth:

- (1) The date and amount of previous funding authorizations for the service provider
- (2) The amount of any billings for services completed by the service provider and a general summary of those completed services;
- (3) The remaining balance from funds previously authorized for the service provider; and
- (4) A detailed description of the services remaining to be performed. Any additional request for the services of an expert must be accompanied by a report or declaration of the expert explaining the need for the additional services.

G. CLAIMS FOR THE PAYMENT OF ANCILLARY DEFENSE EXPENSES

Claims for the payment of ancillary defense expenses must have prior Court authorization as described above; without prior authorization, claims will not be paid. Claims for payment of ancillary defense expenses shall be submitted to the Director, Independent Defense Counsel Office, 373 West Julian Street, Suite 300, San José, CA 95110, and shall comply with the requirements of that Office, including any requirements for supporting documents.

(Effective 1/1/2023)

RULE 16 PROTOCOL FOR SEALING OF RECORDS-CRIMINAL DIVISION

(Effective 1/1/2023)

In proceedings for requests for the sealing of Court records in the Criminal Division, California Rules of Court, Rules 2.550 and 2.551 et seq. shall apply. All judicial officers have the responsibility and authority to decide sealing requests. The Supervising Judge of the Criminal Division may designate the judges in each Criminal Courthouse to hear sealing requests in accordance with this protocol.

A. COURT RECORDS PRESUMED TO BE OPEN

Unless confidentiality is required by law, Court records are presumed to be open. (California Rules of Court, Rule 2.550(c).)

B. DEFINITIONS

- (1) "Record" means all or a portion of any document, paper, exhibit, transcript, or other thing filed or lodged with the court. (California Rules of Court, Rule 2.550(b)(1).)
- (2) A "sealed" record is a record that, by Court order, is not open to inspection by the public. (California Rule of Court 2.550(b)(2))

C. SCOPE OF PROTOCOL

- (1) These rules do not apply to records that are required to be kept confidential by law, e.g., search warrant records which are sealed pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948, 963. (California Rules of Court, Rule 2.550(a)(2).)
- (2) No action taken under this protocol, including the sealing of any records, shall affect the criminal discovery process, including any protective orders or actions pursuant to Penal Code § 1054.7.

D. EXPRESS FACTUAL FINDINGS REQUIRED TO SEAL RECORDS

Pursuant to California Rules of Court, Rule 2.550(d), the Court may order that a record be filed under seal only if it expressly finds facts that establish:

- (1) There exists an overriding interest that overcomes the right of public access to the records;
- (2) The overriding interest supports sealing the record;
- (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
- (4) The proposed sealing is narrowly tailored; and
- (5) No less restrictive means exist to achieve the overriding interest.

E. APPLICATION, FILING AND SERVICE REQUIREMENTS

- (1) A party seeking an order to seal a record shall comply with the requirements of California Rules of Court, Rule 2.551.
- (2) Except as provided in E(3), any motion or application to seal a record shall be filed with the Court at least four Court days prior to the time set for the hearing of the motion or application. Records that are the subject of a motion or application to seal shall be provisionally sealed pending the determination of the motion to seal. Such records may be considered by the Court for any purpose, including a finding of probable cause, pending the determination of the motion or application to seal. The Clerk's Office shall post the motion or application and any attachments (except for attachments containing information sought to be sealed), case name and docket number on the Court website no later than 5 p.m. of the second Court day after filing.
- (3) If a sealing order is issued pursuant to an ex parte application, the Clerk's Office shall post the motion or application and any attachments (except for attachments containing information sought to be sealed), case name and docket number on the Court website no later than 5 p.m. of the second Court day after filing. If the Court issues a sealing order following an ex parte application, that order shall be deemed to be a provisional order and subject to a de novo court review upon the request of any interested person.

F. NOTICE OF SEALING ORDER

In every matter in which a record has been ordered sealed, the requesting party shall file in the Clerk's Office a written notice of the sealing order prior to the date of arraignment, or if arraignment has already taken place, no later than 5 p.m. of the second Court day after the sealing order.

G. UNSEALING OF RECORDS

- (1) In misdemeanor matters, if any record has been ordered sealed, the Court shall order that the record be unsealed at the time of arraignment unless a party to the proceedings requests that the record remain sealed and the Court makes express findings pursuant to Section D above to permit the continued sealing of the record. Notice of any request that the record remain sealed shall be provided in accordance with Section E. If notice is provided in accordance with Section E, a motion or application to seal may be heard at the Court's next motion calendar.
- (2) In felony matters, if any record has been ordered sealed, the Court shall order that the record be unsealed no later than the completion of the preliminary examination unless a party to the proceedings requests that the record remain sealed and the Court makes express findings pursuant to Section D above. Notice of any request that record remain sealed shall be provided in accordance with section E and shall be filed and served on all parties who have appeared in the proceedings at least three Court days prior to the first date scheduled for the preliminary examination. The hearing on the request for the record to remain sealed will be heard at the conclusion of the preliminary examination.

- (3) In all matters, any person may bring a motion or application pursuant to California Rules of Court, Rule 2.551(h) for the unsealing of any Court record previously sealed, and the Court may order the unsealing of any record previously sealed in accordance with that rule.

RULE 17 REQUESTS UNDER PROPOSITION 47 (PENAL CODE § 1170.18)

(Effective 1/1/2023)

A. PETITIONS FOR RESENTENCING (PENAL CODE § 1170.18(a))

A person currently serving a sentence for a conviction of a felony who requests a recall of the sentence and resentencing as a misdemeanor under Penal Code § 1170.18(a) shall file a Petition for Resentencing with the Criminal Clerk's office at the Hall of Justice in San José, and shall serve a copy on the Santa Clara County District Attorney's Office, 70 West Hedding St., West Wing, San José, CA 95110. An attorney representing a person shall file the Petition for Resentencing on Attachment CR-6086, with a proof of service. On the Petition, the attorney shall set a date for the resentencing at 9:00 a.m. in Department 29(b) at the Hall of Justice or in such other department as designated by the Supervising Judge – Criminal on a date at least 35 days after the Petition is filed. A self-represented person shall file the Petition for Resentencing on Attachment CR-6087. The self-represented person shall then be notified whether the person is eligible for resentencing and, if eligible, shall receive information concerning the resentencing hearing. The back of the self-represented Petition, Attachment CR-6087, contains additional information about the procedures following the filing of the Petition.

B. PETITIONS FOR REDESIGNATION (PENAL CODE § 1170.18(f))

A person who has completed a sentence for a conviction of a felony who requests a redesignation as a misdemeanor under Penal Code § 1170.18(f) shall file a Petition to Redesignate Felony Conviction as Misdemeanor with the Criminal Clerk's office at the Hall of Justice in San José, and shall serve a copy on the Santa Clara County District Attorney's Office, 70 West Hedding St., West Wing, San José, CA 95110. An attorney representing a person shall file the Petition to Redesignate Felony Conviction as Misdemeanor on Attachment CR-6086, with a proof of service. A self-represented person shall file the Petition to Redesignate Felony Conviction as Misdemeanor on Attachment CR-6087. A hearing is not required to decide the Petition. If the attorney or self-represented person does, however, request a hearing, or requests a hearing only if the Petition is opposed, the appropriate box must be checked on Attachment CR-6086 or Attachment CR-6087. If the Petition is granted, the attorney or self-represented person will receive a copy of the order. If the person is not eligible for redesignation, the attorney or self-represented person will receive further notice. The back of the self-represented Petition, Attachment CR-6087, contains additional information about the procedures following the filing of the Petition.

(Effective 1/1/2019)

RULE 18 POSTING OF PROPERTY BOND

(Effective 1/1/2023)

Any person(s) pledging real property as security for a property bond shall complete Attachment CR-6014 (Affidavit/Undertaking for Justification of Bail and Acknowledgement).

(Effective 1/1/2019)