

RULE 4 RULES APPLICABLE TO ALL CIVIL CASES

These Sonoma County Superior Court rules confirm that the court shall have all powers for sanctions, etc., as set forth in CCP sections 128, 128.5, 128.6, 128.7 and 575.2 and CRC 2.30. (Eff. 1/1/1997; Rev. 7/1/2008)

4.1 DIFFERENTIAL CASE MANAGEMENT

- A.** The following rules are adopted to advance the goals of the Trial Court Delay Reduction Act set forth in Government Code sections 68603, et seq., and addressed by sections 2.1 and 2.2 of the Standards of Judicial Administration and California Rules of Court sections 3.710 et seq., all incorporated herein by reference. It is the intent of this court that these rules satisfy the court's obligations under the Trial Court Delay Reduction Act, and the requirement of the California Rules of Court that the court adopt local rules on differential case management consistent with the California Rules of Court and the Standards of Judicial Administration.
1. Upon the filing of every complaint the Clerk shall provide to the plaintiff Notice of the Case Management Conference, ADR packet and Judge Pro Tem Program information, which plaintiff is required to serve with the complaint;
 2. The complaint must be served on all named defendants, and proof of service filed with the court within 90 days after filing the complaint. The time periods for service and filing of the proof of service for an amended complaint, an answer, and a cross-complaint are otherwise in accordance with the California Rules of Court. When the complaint is amended to add a new defendant, the added defendant must be served and proof of service filed within 30 days of after the filing of the amended complaint. The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint. If a cross-complaint adds new parties, the added defendant must be served and proof of service filed within 30 days after the filing of the amended cross-complaint;
 3. The first Case Management Conference shall be held not later than 180 days after the filing of the complaint. Any party who adds a party to the proceeding must inform the new party of any pending dates set by the court including a pending case management conference date, a pending settlement conference date and a pending trial date.
 4. Requests to continue a Case Management Conference must be set forth in the Case Management Conference Statement or local Form CV-4;
 5. At the first Case Management Conference or at an earlier time deemed appropriate by the court, the court shall evaluate each case and assign a case management plan;
 6. The court may modify the assigned case management plan at any time for good cause shown;

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7. At the time of filing a complaint or at anytime thereafter, plaintiff may file a declaration with the court establishing the case is a UIM case. Upon receipt of such a declaration, the court may designate the case as an UIM case;
 8. Upon filing of the complaint or at anytime thereafter as appropriate the court may designate a case as complex at a Case Management Conference or otherwise as the court may deem proper;
 9. When a party to a case dies, the attorney for that party shall promptly serve and file a notice with the court;
 10. The court may issue any order modifying routine processes that is consistent with reducing costs of litigation and ensuring timely disposition of all cases.
- B.** All general civil cases shall be deemed to be cases as described in California Rules of Court, Rule 3.714(b)(1) unless otherwise requested in a Case Management Statement (Judicial Council form #CM-110) filed by counsel or any self-represented party and thereafter ordered by the court.
- C.** All other civil cases, unless a separate management plan is defined in the California statutes or in the California Rules of Court, shall be placed in the local case management plan as follows:
1. **Plan “a”:** **6 months**
 - a. Unlawful detainer actions
 - b. Injunctive proceedings pursuant to code of Civil Procedure §§527.6, et seq.
 2. **Plan “b”:** **9 months**

All other civil actions identifiable on the Civil Case Cover Sheet (Judicial Council form #CM-010) under the headings of Judicial Review, Enforcement of Judgment, or Miscellaneous Civil Petition. (Eff. 1/1/1997; Rev. 7/1/2004, 1/1/2007, 1/1/2008)

4.2 ASSIGNMENT TO ONE JUDGE FOR ALL PURPOSES AND CASE MANAGEMENT CONFERENCE

- A.** In every general civil cases, at the time of filing a complaint, by order of the Presiding Judge, the Clerk of the Court will issue a Notice of Assignment of Case to One Judge for All Purposes and Notice of Case Management Conference. The Notice will include the name of the Assigned Judge and the date, time and location of the Case Management Conference (approx. 120 days from filing). A copy of the Notice must be served with the summons and complaint, and with any cross-complaint.
- B.** Civil cases in Plans “a” and “b” will only be assigned to one judge for all purposes if the need for such an assignment arises.
- C.** Pre-approved Dispositions: Three (3) court days preceding each scheduled Case Management Conference calendar, the Assigned Judge or his/her designee will cause to be recorded a pre-approved disposition of any case set on the Case Management Conference calendar. The pre-approval may be obtained by telephoning (707) 521-6881 (tape-recorded message) or on the court’s web page at www.sonomasuperiorcourt.com. The pre-approved

disposition will become the ruling of the court at the conference unless any party desiring to be heard so advises the judicial assistant in the Assigned Judge's chambers no later than 48 hours before the scheduled conference and also notifies all parties or their attorneys. Appearances will be required or dispensed with by the court as indicated in the pre-approved dispositions. Where appearances are required by the court, or no pre-approved disposition is indicated on any case, then all principal trial counsel and self-represented parties shall appear at the conference at the time scheduled in any notice, order to show cause, or as otherwise directed by the court.

D. Stipulation for Alternative Dispute Resolution: The policy statement and rules pertaining to the Sonoma County Superior Court Alternative Dispute Resolution Program are set forth in Rule 16. The rules pertaining to the Sonoma County Superior Court Judicial Arbitration Program are set forth in Rule 4.4 below. Parties who submit a completed and fully signed Stipulation and Order Referring Matter to Alternative Dispute Resolution (Sonoma County form CV-7) more than five (5) court days prior to the scheduled date for the Case Management Conference need not appear at the Case Management Conference. A completed and fully signed stipulation must contain all of the following:

1. The type of ADR process that has been selected;
2. The name of the person acting as neutral;
3. The date upon which the ADR process will take place;
4. A representation that an agreement has been reached as to the payment of the fees of the neutral.

Upon receipt of a completed and fully signed Stipulation and Order Referring Matter to Alternative Dispute Resolution (Sonoma County form CV-7) the court will notify the parties of the date upon which a Review Hearing will be held. The Review Hearing will be dropped in the event that a notice of settlement (pursuant to California Rules of Court, Rule 3.1385) or a dismissal of all causes of action as to all defendants is filed not later than ten (10) calendar days prior to the date set for the review hearing. (Eff. 1/1/1997; Rev.7/1/2005, 1/1/2007)

4.3 APPLICATION TO EXTEND TIME

An application for a court order extending the time to serve a pleading under this rule shall be filed before the time for service has elapsed. In actions where monetary damages are sought, "good cause" for an extension of time to serve the defendant with the complaint is established where plaintiff's declaration form filed with the complaint affirmatively shows that (a) the defendant or the defendant's insurance carrier has been advised that an action has been filed and that settlement negotiations are in progress which are likely to resolve the case without further litigation, or (b) after diligent search the defendant has not been identified or located. Upon such showing, it is the policy of the Court to extend the time for service of the complaint to a date certain, within which time it appears reasonable that negotiations can be concluded, or the defendant can be served, but in no case more than 60 days.

"Good cause" includes existence of those conditions stated in Code of Civil Procedure §583.240. When applying to the Court to extend time for service of process based on the conditions stated in Code of Civil Procedure §583.240, plaintiff shall suggest to the Court the earliest time within which the impediment to service may reasonably be eliminated so that the Court is able to continue its supervision of the case on a date certain. The application shall be supported by a form declaration. (Eff. 1/1/1997; Rev. 1/1/2003, 7/1/2004)

4.4 JUDICIAL ARBITRATION

Pursuant to Code of Civil Procedure §§1141.11(b)-(d) and 1141.12(b) and California Rules of Court, Rule 3.810, all of the following actions shall be subject to arbitration.

- A. All limited civil cases unless exempted by California Rules of Court, Rule 3.811.
- B. All unlimited civil cases where the amount in controversy does not exceed \$50,000 as to any plaintiff unless exempted by California Rules of Court, Rule 3.811.
- C. Upon stipulation (parties may use the Stipulation and Order Referring Matter to Alternative Dispute Resolution (Sonoma County form #CV-7) of any action regardless of the amount in controversy.
- D. Upon filing of an election by a plaintiff, any action in which the plaintiff agrees that the arbitration award shall not exceed \$50,000.00 as to any plaintiff.

Pursuant to Code of Civil Procedure §1010.6(a)(6), the Sonoma County Superior Court will allow service of the Notice of Appointment of Arbitrator upon the arbitrator if the arbitrator has given written consent to the Arbitration Administrator for service in such a manner.

All arbitrations shall be governed by and shall proceed in accordance with the Code of Civil Procedure §§1141.10 - 1141.31 and California Rules of Court, Rules 3.810 - 3.830. (Eff. 1/1/1997; Rev. 7/1/2005, 1/1/2007)

4.5 ORDERS TO SHOW CAUSE

- A. Each case included by this Rule will be reviewed for compliance with these rules, and orders to show cause may be issued for failure to comply.
- B. Orders to show cause will be scheduled on calendars at such times and places as designated by the Assigned Judge.
- C. At any time the court issues an order to show cause for failure to comply with any of the rules, the party(s) or attorney(s) to whom the order is directed shall file a response to the order to show cause and an updated Case Management Statement (Judicial Council form #CM-110) not later than fifteen (15) calendar days before the date set for the hearing on the order to show cause; and they shall appear at the scheduled hearing thereon.
- D. In the afternoon two (2) court days preceding the Order to Show Cause hearing, commencing at 2:00 p.m., the Assigned Judge or his/her designee will cause to be recorded a tentative ruling of any case set on the Order to Show Cause calendar. The tentative ruling may be obtained by telephoning (707) 521-6881 (tape recorded message) or at the Web page of the Superior Court: www.sonomasuperiorcourt.com. (Eff. 1/1/1997; Rev. 7/1/2004)

4.6 SANCTIONS

Failure to comply with these rules or with the California Rules of Court may result in the imposition of sanctions.

In the event that any attorney, any party represented by counsel, or any party appearing in pro per fails to comply with any of the requirements of, or orders made, pursuant to Rules 2, 4, 5, 7 or 9, or the California Rules of Court, the Court may impose sanctions upon motion of a party or on its own motion. Sanctions may be imposed pursuant to Government Code Section 68609(d); Code of Civil Procedure Sections 128.5, 128.7, 177.5; and 575.2; and California Rules of Court, Rule 2.30.

Unless otherwise ordered, any monetary sanctions imposed by the Court shall be paid forthwith and payable to the Sonoma County Superior Court. (Eff. 1/1/1997; Rev. 7/1/2004, 1/1/2007, 7/1/2008)

4.7 MANDATORY SETTLEMENT CONFERENCE

At the discretion of the Assigned Judge a mandatory settlement conference shall be held in all cases set for trial. These settlement conferences shall be at such times and places as designated by the Assigned Judge.

All parties are required to comply with the standing “Amended Order Re Mandatory Settlement Conference Pursuant to California Rule of Court 3.1380”. The standing order will be sent to the parties by the court in all cases in which a Settlement Conference is scheduled along with the Notice of Settlement Conference/Trial Call.

Not later than five (5) court days before the date set for the settlement conference, each party shall do the following: Deliver their Settlement Conference Statement directly to the pro tem panelist(s); lodge the original with the appropriate Court Settlement Conference Coordinator; and serve a copy on opposing counsel. Settlement conference statements shall be available to the court. At the conclusion of the settlement conference, the pro tem panelist(s) shall make a report to the court as to whether the case settled, and, if not, the last settlement offer(s) and demand(s), the likelihood of settlement, any identifiable obstacles to settlement, and other matters as requested by the court.

The date, time, and location of the Settlement Conference must be typed on the first page of the statement. The parties shall notify the Panelist(s) and appropriate Settlement Conference Coordinator of a pre-conference settlement. Failure to comply will result in monetary sanctions being imposed.

For a current list of scheduled Settlement Conferences, along with the name and telephone number of the pro tem panelist(s), go the Court’s website at www.sonomasuperiorcourt.com, “Calendars (all)”, “Civil Settlement Conference Main Pate.” Parties are encouraged to check the website frequently as changes may occur. (Eff. 1/1/1997; Rev. 7/1/2006, 1/1/2007, 7/1/2008)

4.8 DEPOSIT OF JURY FEES

- A.** If a jury trial is desired, it must be demanded in the Case Management Statement. For purposes of these rules, the date of the Trial Call as described herein in Rule 4.9.A will be construed as the date of trial.
- B.** Jury fees in civil cases must be deposited with the Superior Court Clerk at least twenty-five (25) calendar days prior to the date of trial, except for unlawful detainer cases in which the deposit must be made at least five (5) days prior. The amount of the deposit shall be \$150.00. Failure to deposit jury fees on time will be deemed a waiver of jury pursuant to Code of Civil Procedure §631.

- C. Written application for refund of jury fees for any reason must be made within twenty (20) calendar days from the filing date of the Notice of Settlement, Dismissal or Order Granting Continuance, pursuant to Code of Civil Procedure §631.3.
- D. Jury fees on deposit will be forfeited and will not be applied to a future trial date if: the matter is settled without notice to the Court, the jury is waived without two (2) court days notice to the Court, or the trial date is continued without two (2) court days notice to the Court, pursuant to Code of Civil Procedure §631.3.
- E. Notice to the court under this rule must be in writing. The file date is used to determine compliance with time lines contained herein.
- F. After completion of the trial, any remaining jury fees on deposit will be returned only upon written request to the Clerk of the Court. The request for refund must be submitted within thirty (30) calendar days of the completion of the trial, otherwise any funds remaining on deposit shall be forfeited. (Eff. 1/1/1997; Rev. 7/1/2004)

4.9. TRIAL CALL AND TRIAL-RELATED MOTIONS

A. Trial Call Calendar

Trials, both long cause and short cause, will be called on such dates and at such times as shall be set by the Assigned Judge. Attendance by counsel at the Trial Call is mandatory unless excused by the Assigned Judge. If no trial counsel appear at the Trial Call, the matter will be dropped and scheduled for an order to show cause hearing.

B. Continuances

Continuances of trials may be granted, upon good cause show, by stipulation of the parties or upon written notice of motion. **FAILURE TO COMPLETE DISCOVERY IS NOT GOOD CAUSE.** Any motion for continuance must be calendared for hearing before the Assigned Judge on the Trial Call calendar at least seven (7) calendar days in advance of the trial date, unless good cause is shown for a shortening of such time. Stipulation of trial counsel by itself does not constitute good cause for granting a continuance.

- C. Requests for continuance of trials or trials de novo in small claims cases must follow the procedure set out in Code of Civil Procedure §116.570 and make use of Judicial Council forms SC-110 and SC-111. (Eff. 1/1/1997; Rev. 7/1/2004)

4.10 COMMENCEMENT OF TRIAL

All counsel must be present in the trial department assigned at least one-half hour prior to the time set for the commencement of trial and counsel must then deliver to the Court (or to the clerk for filing if appropriate) the following:

- A. Trial briefs;
- B. Proposed voir dire questions and subjects;
- C. A joint list, in alphabetical order, of all witnesses intended to be called;

- D.** An agreed upon statement of the case to be read to the jury;
- E.** All written motions in limine;
- F.** A list of all significant evidentiary questions expected to arise during the trial and mini-briefs on each such issue;
- G.** Disclosure of all anticipated problems with witnesses, such as scheduling problems, health problems, security problems, and the like.
- H.** **Jury Instructions**

In every civil case which is being tried before the Court with a jury, counsel for the respective parties must, before the first witness is sworn, deliver to the judge presiding at the trial and serve upon opposing counsel, all proposed instructions to the jury covering the law as disclosed by the pleadings. Thereafter, and before the commencement of argument, all counsel must deliver to the judge, and serve upon opposing counsel, forms of verdict and any additional proposed instructions to the jury upon questions of law developed by the evidence and not disclosed by the pleadings. All proposed instructions must be typewritten in black ink, each on a separate piece of paper.

Proposed instructions must not identify the requesting party or any named litigant. The packet of instructions must have an accompanying face sheet with the list of all requested instructions and the requesting parties.

Should counsel anticipate that preliminary matters will require longer than one-half hour to resolve before trial, the Assigned Judge must be so advised at the Trial Call so that appropriate arrangements and settings can be made. (Eff. 1/1/1997; Rev. 7/1/2004)

4.11 VOIR DIRE

The trial judge shall conduct general voir dire. Counsel will be permitted to conduct supplemental questioning. (Eff. 1/1/1997; Rev. 7/1/2004)

4.12 DISPOSITION OF FICTITIOUS DEFENDANTS (CROSS-DEFENDANTS)

All unnamed parties (unknown defendants as described in Code of Civil Procedure §474) must be disposed of, i.e., dismissed with or without prejudice, prior to entry of judgment. Failure to comply may result in any judgment being returned unsigned or in the issuance of an order to show cause entailing possible sanctions. (Eff. 1/1/1997; Rev. 7/1/2004)

4.13 TEMPORARY JUDGE (PRO TEM) TRIALS

- A. **Stipulation:**** A civil case may be tried by a temporary judge, with or without jury, pursuant to the stipulation of the parties, and subject to approval by the Court. Each temporary judge must be an active member of the State Bar with at least five (5) years experience or a retired judge, and approved by the Presiding Judge or the Supervising Judge of the Civil Division of the Sonoma County Superior Court.
- B. **Court Facilities and Personnel:**** Court facilities (including the courtroom at any location in Sonoma County), Court personnel and juror services may be used for the trial; subject to

a finding by the presiding judge that such use would further the interests of justice. The Court personnel in attendance at the trial will include a pro tem court clerk and court reporter, unless otherwise stipulated by the parties and approved by the Presiding Judge or Supervising Judge of the Civil Division.

- C. Compensation:** The stipulation must include the rate of compensation to be paid by the parties for the services of the pro tem court clerk and court reporter; and the rate of compensation to be paid for the temporary judge, if any. The rate of compensation must be allocated between the parties as set forth in the stipulation for each trial, and paid upon demand of the pro tem court clerk.
- D. Notice of Pro Tem Calendar:** The Assigned Judge may, from time to time, notify parties in pending civil cases in advance of the availability of temporary judges and the location of court facilities for the trial of civil cases and available trial dates.
- E. Other Rules:** The stipulation and civil trial by any temporary judge shall be in accordance with Rule 2.831, California Rules of Court, which latter rule shall govern in the event of any conflict with these local rules. (Eff. 1/1/1997; Rev. 7/1/2004, 1/1/2007)

4.14 DISCOVERY FACILITATOR PROGRAM

- A. Policy of the Sonoma County Superior Court:** It shall be the policy of the Sonoma County Superior Court to encourage use of the Discovery Facilitator Program in connection with any discovery dispute that arises in a civil case. Participation in the Discovery Facilitator Program shall be deemed to satisfy a party's obligation to meet and confer under applicable law. All Discovery Facilitator Program related documents, with the exception of the moving papers and any opposition and reply thereto, shall be submitted to the Assigned Judge's Judicial Assistant in chambers for review and processing. Should counsel require an endorsed filed copy of such document, a self-addressed stamped envelope should be left with the Judicial Assistant. It is intended that participation in the Discovery Facilitator Program shall not delay the scheduling or hearing of any discovery motion.
- B. Discovery Facilitator Panel:** A list of qualified Discovery Facilitators shall be maintained at the Sonoma County Superior Court, with the assistance of the Sonoma County Bar Association.

Each panelist must be an active member of the State Bar with at least ten (10) years experience, or a retired judge, and approved by the Presiding Judge or the Supervising Judge of the Civil Division of the Sonoma County Superior Court.

- C. Participation by Stipulation:** A discovery dispute or potential dispute may be referred to the Discovery Facilitator Program pursuant to stipulation by the parties or their counsel of record.
- D. Mandatory Participation:** The Court may require participation in the Discovery Facilitator Program in the following instances:
 - 1.** At any time after the filing of a discovery motion, the Court may, in its discretion, issue an Order referring the motion to the Discovery Facilitator Program. In the event any party desires not to submit the motion to the Discovery Facilitator Program, such party may file with the Assigned Judge's Judicial Assistant a

“Notice of Intent to Opt Out of Discovery Facilitator Program”, and the order issued pursuant to this subparagraph shall be vacated.

2. In the event any party desires a dispute or potential dispute to be included in the Discovery Facilitator Program, such party may request referral to the program in paragraph 19 (entitled, “Other Issues”) of the Case Management Statement. The Court shall hear from all parties on the issue at the Case Management Conference, and shall determine, in its discretion, whether such dispute or potential dispute shall be included in the Discovery Facilitator Program.
3. In the event a party desires that a dispute or potential dispute be included in the Discovery Facilitator Program prior to the time of the next scheduled Case Management Conference, or at a time when no further Case Management Conferences are scheduled, such party may bring a motion in accordance with Sonoma County Local Rule 5, and applicable provisions of the Code of Civil Procedure and California Rules of Court, for referral of the matter to the Discovery Facilitator Program. Such motion must be accompanied by a declaration setting forth a basis for good cause for inclusion in the program.

E. Selection of a Discovery Facilitator: The moving party shall contact opposing party(ies) and make a reasonable and good faith attempt to informally select a Discovery Facilitator from the list of potential Discovery Facilitators maintained by the Sonoma County Superior Court. The parties shall promptly notify the Court by filing a stipulation with the Assigned Judge’s Judicial Assistant if they choose a facilitator on their own. If the parties cannot agree, the moving party shall contact the Assigned Judge’s Judicial Assistant and the Discovery Facilitator shall be selected as follows:

1. The Judicial Assistant shall select, at random, a number of names from the list of potential Discovery Facilitators equal to the number of sides, plus one, and mail and fax to the parties or their counsel of record, the “Notice and Order Re: Inclusion in Discovery Facilitator Program”.
2. Each side has five (5) calendar days from the date of service by mail and fax of the “Notice and Order Re: Inclusion in Discovery Facilitator Program to file a written rejection entitled “Notice of Rejection of Discovery Facilitator” (to be submitted to the Assigned Judge’s Judicial Assistant in chambers), of no more than one name on the list. If there are two or more parties on a side, they must join in the rejection of a single name.
3. Promptly on the expiration of the five (5) day period, the Judicial Assistant shall appoint, at random, one of the persons on the list whose name was not rejected, if more than one name remains.
4. The Judicial Assistant shall assign the case to a Discovery Facilitator and shall serve by mail and fax the “Notice and Order of Appointment of Discovery Facilitator” on all parties or their counsel of record. Upon receipt of the “Notice and Order of Appointment of Discovery Facilitator”, the parties shall forthwith deliver to the Facilitator copies of all pleadings concerning the discovery dispute.

The Discovery Facilitator shall establish the procedures in each case to be utilized by the parties, through telephone conferences, exchange(s) of letters or emails,

and/or in-person conferences for discussion and possible resolution of the discovery dispute.

F. Compensation: The Discovery Facilitator shall devote up to two hours, without charge to any of the parties, in an attempt to facilitate resolution of the discovery dispute. In the event a resolution cannot be achieved within that period of time, the parties may agree to continue with the Discovery Facilitator provided that agreement is reached between and among the parties and the Discovery Facilitator as to compensation of the Discovery Facilitator.

G. Resolution:

In the event a resolution of the discovery dispute is achieved, a pleading entitled “Stipulation and Order Re: Discovery Facilitator Program Issues” shall be executed by the parties, through legal counsel, memorializing the terms of such resolution, and shall be presented to the Assigned Judge’s Judicial Assistant in chambers for execution and filing no later than ten (10) calendar days before the scheduled Law and Motion Hearing date, if any.

In the event the parties are unable to resolve the discovery dispute with the Discovery Facilitator, the Discovery Facilitator shall prepare and serve on all parties or their counsel of record a report which contains the following information:

1. A brief summary of the dispute and contentions of the parties;
2. Any legal or factual analysis made by the Discovery Facilitator in connection with his/her role in attempting to resolve this dispute;
3. A statement indicating whether moving and/or opposing parties met and conferred in good faith.

The moving party shall file such report with the court at the time the discovery motion is filed, or, in the event the discovery motion is already pending, no later than ten (10) calendar days before the scheduled Law and Motion Hearing date, if any, for this discovery issue.

(Eff. 1/1/2008; Rev. 1/1/2009, 7/1/2009)

4.15 READINESS CONFERENCE

At the discretion of the Assigned Judge a readiness conference shall be held in all cases set for trial. These readiness conferences shall be at such times and places as designated by the Assigned Judge.

All counsel and self-represented litigants are required to attend the readiness conference. Telephonic appearance at the readiness conference is permitted.

The purpose of the readiness conference shall be to discuss courtroom availability, the nature of any pretrial motions, and any issues that may affect the conduct of the trial. (Eff. 7/1/2010)