Superior Court of California
County of Solano

Rule 4 – Administration of Civil Litigation
(Trial Court Delay Reduction Act)

4.1 SCOPE AND POLICY

a. **SCOPE OF RULE 4**

Rule 4 is intended to implement the Trial Court Delay Reduction Act (Government Code section 68600 et seq.) and shall apply to all general civil actions. The term "general civil action" shall have the same meaning as set forth in California Rules of Court, rule 1.6, subdivision (4).

Rule 4 shall not apply to uninsured motorist cases, coordinated cases, or collections cases unless and until they become subject to the Trial Court Delay Reduction Act per California Rule of Court, rule 3.712.
(Subd (a) amended effective July 1, 2011; adopted effective January 1, 1998; previously amended effective July 1, 2005, and January 1, 2010.)

b. **POLICY AND CASE DISPOSITION STANDARDS**

It is the policy of this court that all civil cases shall be resolved as expeditiously as possible, consistent with the obligation of the courts to give full and careful consideration to the issues presented, and consistent with the right of the parties to adequately prepare and present their cases to the court. Furthermore, it is the policy of the court that all actions subject to these rules shall be actively managed, supervised and controlled by the court from the time of filing of the first document invoking the court's jurisdiction through final disposition. This court's case disposition standards are as set forth in California Rules of Court, rule 3.714, subdivision (b).
(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)

c. **APPLICABILITY OF RULE 4 TO OTHER RULES**

Notwithstanding Rule 4.1, subsection (a), any rule within Rule 4 may be made expressly applicable to other proceedings through the enactment of or amendment to a local rule governing that proceeding.
(Subd (c) amended effective January 1, 2010; adopted effective January 1, 2009.)

(Rule 4.1 amended effective July 1, 2011; adopted effective January 1, 1998; previously amended effective July 1, 2005, January 1, 2009, and January 1, 2010.)

Superior Court of California
County of Solano

Rule 4 – Administration of Civil Litigation
(Trial Court Delay Reduction Act)

4.2 CASE DESIGNATION

a. **DEFAULT DESIGNATION OF CASE; TIMING OF DESIGNATION**
All civil cases subject to these rules shall be classified as TRACK A cases unless, on good cause shown, the court designates the case as a TRACK B case or TRACK C (complex) litigation. The determination as to whether a case is designated as a TRACK B or TRACK C case under these rules shall be at the sole discretion of the court. The designation may be made by the court at any case management conference, trial management conference, mandatory settlement conference, or any hearing noticed by the court or counsel.
(Subd (a) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

b. **TRACK A CASES**
TRACK A cases are cases that are to be resolved within twelve (12) months of the date that the complaint was filed.
(Subd (b) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

c. **TRACK B AND TRACK C CASES**
TRACK B and TRACK C cases are those which generally involve multiple parties, complex issues, difficult legal questions, unusual proof problems, or other circumstances which result in a case not being adequately prepared for trial within twelve (12) months of its filing even with due diligence being exercised by all parties. It is the policy of the court to conclude all TRACK B cases within eighteen (18) months and TRACK C cases within twenty-four (24) months of the filing of the initial pleading.
(Subd (c) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

d. **REDESIGNATION OF CASE**
Following the designation by the court of the case as TRACK A, TRACK B, or TRACK C, the court, on its own motion or on the motion of any party, may order the case redesignated.
(Subd (d) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

(Rule 4.2 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)

4.3 TIME REQUIREMENTS FOR COMPLAINT

Time requirements for service of the complaint shall be as specified by California Rules of Court, rules 3.110 and 3.740, subdivision (c).

(Rule 4.3 amended effective July 1, 2011; adopted effective January 1, 1998; previously amended effective October 1, 2002, and January 1, 2009.)

4.4 TIME REQUIREMENTS FOR RESPONSIVE PLEADINGS

Time requirements for service of responsive pleadings shall be as specified by California Rules of Court, rules 3.110, 3.740, subdivision (c), and 3.1320.

(Rule 4.4 amended effective July 1, 2011; adopted effective January 1, 1998; previously amended effective October 1, 2002, January 1, 2009, and January 1, 2010.)

4.5 TIME REQUIREMENTS FOR CROSS-COMPLAINTS

Time requirements for service of cross-complaints shall be as specified by California Rules of Court, rules 3.110 and 3.1320.

(Rule 4.5 amended effective July 1, 2011; adopted effective January 1, 1998; previously amended effective October 1, 2002, and January 1, 2010.)

4.6 CASE MANAGEMENT CONFERENCES

a. **SCHEDULING OF CASE MANAGEMENT CONFERENCE ONE**
In all cases subject to the case management rules in California Rules of Court, rule 3.720 et seq., the Clerk of the Court will schedule the first Case Management Conference approximately 120 days from the date of filing of the complaint. At the time of filing of the complaint, the Clerk of the Court shall provide the plaintiff with a Notice of Case Management Conference One, which shall indicate the date, time, and place that counsel, and any party not represented by counsel, shall appear for Case Management Conference One, and shall state the obligations of counsel, or any parties not represented by counsel, in regard to Case Management Conference One and Case Management Conference Two. Plaintiff is responsible

for notifying all defendants of the initial or any continued Case Management Conference dates.
(Subd (a) amended effective July 1, 2011; adopted as unlettered portion of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009; amended and relettered effective January 1, 2010.)

b. **CASE MANAGEMENT CONFERENCES IN "UNINSURED MOTORIST" CASES**
An action for personal injury or property damage against an uninsured defendant may be designated as an "uninsured motorist case" upon application of the plaintiff filed concurrently with the petition or within thirty (30) days of the commencement of the action. Upon the filing of such an application, the court will set the first Case Management Conference approximately 180 days from the date of the designation.
(Subd (b) amended effective July 1, 2011; adopted as Subd (a) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009; relettered effective January 1, 2010.)

c. **CASE MANAGEMENT CONFERENCES IN LIMITED JURISDICTION "COLLECTION" CASES**
The plaintiff may designate a limited jurisdiction case as a "collection" case by filing a Civil Case Cover Sheet describing the case as a "collections" matter. No case management conference will be scheduled unless and until a responsive pleading has been filed.
(Subd (c) relettered effective January 1, 2010; adopted as Subd (b) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

d. **SERVICE OF NOTICE OF CASE MANAGEMENT CONFERENCE**

(1) **Service of Notice with Complaint**
The plaintiff shall serve the Notice of Case Management Conference on all defendants with the complaint.
(Subd (1) renumbered effective January 1, 2010; previously adopted as portion of Subd (f) effective January 1, 1998.)

(2) **Service of Notice with Cross-Complaint**
Any plaintiff and any defendant serving a cross-complaint shall serve a copy of the Notice of Case Management Conference One provided by the Clerk, which sets the date and place for Case Management One, on each cross-defendant with the cross-complaint. In the event that any cross-complaint is served after Case Management Conference One has been held, the cross-

complainant, at the time of service of the cross-complaint, shall serve each cross-defendant with Notice of Case Management Conference Two, which shall contain the date, time and place of Case Management Conference Two and explain the obligations of the parties in regard to case management conferences under these rules.
(Subd (2) renumbered effective January 1, 2010; previously adopted as portion of Subd (f) effective January 1, 1998.)

(Subd (d) amended and relettered effective January 1, 2010; adopted as Subd (f) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009; former Subd (d) repealed effective January 1, 2010.)

e. **TELEPHONIC APPEARANCE AT CASE MANAGEMENT CONFERENCES**
Litigants wishing to appear at a case management conference by telephone per California Rules of Court, rule 3.670, shall do so through CourtCall LLC, a private telephonic appearance provider with whom the court has contracted, or any other telephonic appearance provider as designated by the court. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888. Counsel wishing to avail themselves of this service shall note and follow the rules and schedule of the individual department concerning the use of CourtCall, and shall be solely responsible for all fees and costs charged by CourtCall for this service.
(Subd (e) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

f. **CASE MANAGEMENT CONFERENCE SETTING**

(1) For all cases subject to Rule 4.6, subdivision (a), Case Management Conference One shall be set during the calendar week that is 120 calendar days after the filing of the complaint, on the day of week and at the time designated by the judge to whom the case is assigned for all purposes. Case management conferences for other cases shall be set in a similar manner per the timelines applicable to those cases.
(Subd (1) amended effective July 1, 2011; adopted effective January 1, 1998.)

(2) At Case Management Conference One, the court shall refer the matter to arbitration or mediation, if deemed appropriate by the court, continue the matter for further Case Management Conference One or set the matter for a Case Management Conference Two.

(Subd (2) adopted effective January 1, 1998.)

(3) The court may, in its discretion, require additional case management conferences and additional Case Management Statements.
(Subd (3) adopted effective January 1, 2010; previously adopted as portion of Subd (h).)

(Subd (f) amended effective July 1, 2011; adopted as Subd (g) effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009; amended and relettered effective January 1, 2010.)

g. **UPDATED CASE MANAGEMENT STATEMENTS FOR CONTINUED CASE MANAGEMENT CONFERENCES**
Unless otherwise ordered by the court, an updated Case Management Statement shall be filed by each counsel no later than the fifteenth (15th) calendar day before each continued Case Management Conference or any review set by the court.
(Subd (g) amended effective July 1, 2011; adopted as Subd (h) effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009; amended and relettered effective January 1, 2010.)

h. **SANCTIONS**
Pursuant to Code of Civil Procedure section 575.2, the court may impose sanctions in the event that any of the following occur:
(1) A Case Management Statement is not timely filed and/or served;
(2) A Case Management Statement is not fully completed;
(3) The attorney who appears at a case management conference is not completely aware of all procedural, factual, and legal aspects of the case and does not have full authority to discuss and resolve any issues that arise at the conference, including the settlement of the case. This rule applies equally to counsel of record and special appearance counsel;
(4) Counsel and self-represented parties fail to meet and confer as required per California Rules of Court, rule 3.724 prior to the Case Management Conference concerning all issues before the court.
(Subd (h) amended and relettered effective January 1, 2010; adopted as Subd (i) effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

(Rule 4.6 amended effective July 1, 2011; adopted effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009; amended effective January 1, 2010.)

4.7 DIVERSION TO ARBITRATION

a. ORDER TO NONBINDING ARBITRATION

(1) The following matters shall be subject to judicial nonbinding arbitration:

(a) All nonexempt unlimited civil actions in which the amount in controversy does not exceed $50,000.

(b) All nonexempt limited civil cases, except for small claims actions or any action maintained pursuant to Civil Code section 1781 or Code of Civil Procedure section 1161.

(c) Any matter in which the parties stipulate to arbitration, provided the stipulation is filed no later than the time the initial case management statement is filed, unless the court permits a later time.

(2) Notwithstanding subsection (1) above, matters that have been referred to mandatory mediation per local rule 4.8 shall not be referred to arbitration.

(3) As to those cases ordered to arbitration, judicial arbitration will proceed in accordance with the Judicial Arbitration rules for civil cases (California Rules of Court, rule 3.810 et seq.), except as otherwise stated in these rules.

(Subd (a) amended effective January 1, 2012; adopted effective January 1, 1998; previously amended effective October 1, 200, and January 1, 20102.)

b. SELECTION OF ARBITRATOR

(1) If the parties have a preference for an arbitrator, counsel shall provide the name, address, and telephone number of the preferred arbitrator to the court's ADR Administrator within twenty (20) days of the referral to arbitration. The statement of preference is not binding on the court, but may be considered in selecting the arbitrator.

(2) The court shall select the arbitrator from the court's list of arbitrators. The court shall notify the parties of the name, address, and telephone number of the arbitrator selected by the court within thirty (30) days of the referral to arbitration.

(Subd (b) amended effective January 1, 2012; adopted effective January 1, 1998; previously amended effective October 1, 2002, and January 1, 2010.)

(Rule 4.7 amended effective January 1, 2012; adopted effective January 1, 1998; previously amended effective October 1, 2002, and January 1, 2010.)

4.8 MEDIATION

a. **ADOPTION OF CIVIL ACTION MEDIATION PROGRAM (CCP § 1775 ET SEQ.)**
Effective January 1, 2012, and per the authority in Code of Civil Procedure section 1775.2, subdivision (b), the court adopts the Civil Action Mediation Program set forth in Title 11.6 of the Code of Civil Procedure. Mediations conducted per the Civil Action Mediation Program ("the Mediation Program") in Solano County shall be subject to all applicable statutes and California Rules of Court concerning the Civil Action Mediation Program (e.g. Cal. Rules of Court, rule 3.870 et seq.).
(Subd (a) adopted effective January 1, 2012; prior subd. (a) relettered as subd. (d) effective January 1, 2012.)

b. **MATTERS TO WHICH MEDIATION PROGRAM APPLIES**
The following matters shall be subject to mandatory mediation:
(1) All nonexempt unlimited civil actions filed on or after January 1, 2012, in which the amount in controversy does not exceed $50,000.
(2) All nonexempt limited civil cases filed on or after January 1, 2012, except for small claims actions.
(3) Any matter, regardless of filing date or the amount in controversy, in which the parties stipulate to mediation, provided the stipulation is filed at least ninety (90) days prior to trial, unless the court permits a later time.
(Subd (b) adopted effective January 1, 2012; prior subd. (b) repealed effective January 1, 2012.)

c. **ORDER TO MEDIATION**
Cases shall be referred to mediation whenever the court determines from the facts as set forth in a Case Management Statement or as stated by counsel at any Case Management Conference, Trial Management Conference, or Mandatory Settlement Conference that the matter is subject to mandatory mediation per these rules and has not already been referred to mediation or any form of arbitration, unless good cause is found to not refer the matter.
(Subd (c) adopted effective January 1, 2012; prior subd. (c) repealed effective January 1, 2012.)

d. **SELECTION OF MEDIATOR**

(1) If the parties have a preference for a mediator, counsel shall provide the name, address, and telephone number of the preferred mediator to the court's ADR Administrator within twenty (20) days of the referral to mediation. The statement of preference is not binding on the court, but may be considered in selecting the mediator.
(Subd. (1) amended and renumbered effective January 1, 2012.)

(2) The court shall select the mediator from the court's list of mediators. The court shall notify the parties of the name, address, and telephone number of the mediator selected by the court within thirty (30) days of the referral to mediation.
(Subd. (2) amended and renumbered effective January 1, 2012.)

(Subd (d) amended and relettered effective January 1, 2012; adopted as subd. (a) effective July 1, 1998; previously amended effective July 1, 2005.)

e. **APPEARANCE AT MEDIATION SESSIONS**

(1) For purposes of California Rules of Court 3.894, subsection (a), when a party is other than a natural person, it shall appear at the mediation sessions through a representative, other than the party's attorney, with full authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or legislative body, by a representative with authority to recommend such agreement. Failure of the representative to appear at the mediation session may be cause for sanctions.
(Subd. (1) amended and renumbered effective January 1, 2012.)

(2) "Full authority" to resolve the dispute means the person is empowered to make settlement decisions without telephone consultation with others.
(Subd. (2) adopted effective January 1, 2012.)

(Subd (e) amended and relettered effective January 1, 2012; adopted as subd. (b) effective July 1, 1998; previously amended effective July 1, 2005; prior subd. (e) relettered as subd. (j) effective January 1, 2012.)

f. **RELATED, COORDINATED, AND CONSOLIDATED CASES**
Counsel in cases that have been related, coordinated, or consolidated shall inform the court of all pending mediation proceedings in the related, coordinated, or consolidated cases.
(Subd. (f) adopted effective January 1, 2012.)

g. **INTERPRETERS**
Any party desiring to use an interpreter during mandatory mediation must notify the ADR Administrator, all other parties, and the mediator at least 10 days prior to the first mediation session at which the interpreter will be used. Unless otherwise ordered by the court, the party seeking the use of the interpreter shall make all arrangements directly with the interpreter and shall assume the costs of the service.
(Subd. (g) adopted effective January 1, 2012.)

h. **EX PARTE COMMUNICATIONS**
Ex parte communications refers to communications with the mediator outside the presence of the opposing counsel or self-represented party. Ex parte communications with the mediator are not prohibited.
(Subd. (h) adopted effective January 1, 2012.)

i. **CONFIDENTIALITY**

(1) Mediations are confidential and subject to the confidentiality privilege set forth in Evidence Code sections 703.5 and 1115 through 1128. No communications or writings made in connection with the mediation may be disclosed to the assigned judge or to any other person not involved in the mediation, unless disclosure is agreed to by all parties or permitted by subsection (2), infra. The mediator shall require the parties and all persons attending the mediation to sign a confidentiality agreement at the first mediation session.
(Subd. (1) adopted effective January 1, 2012.)

(2) The following disclosures are permitted:
(a) A dislosure stipulated in writing by all parties and the mediator, or orally in compliance with Evidence Code section 1118;
(b) A report to or inquiry by the ADR Administrator concerning a complaint against a mediator;
(c) A disclosure made by any participant or the mediator in responding to an appropriate request for information made by persons authorized by the ADR Administrator to monitor or evaluate the

court's mediation program;

(d) A disclosure required by law;

(e) A settlement agreement signed by all parties waiving the confidentiality provision of Evidence Code section 1122 et seq., and containing a provision explicitly rendering the agreement enforceable per Code of Civil Procedure section 664.6; or,

(f) A disclosure made in connection with a request for sanctions for a party's noncompliance with mediation. This disclosure shall be limited to the minimum facts needed to support the motion.

(Subd. (2) adopted effective January 1, 2012.)

(Subd. (i) adopted effective January 1, 2012.)

j. **MEDIATION COMPLAINT PROCEDURE**

Per California Rules of Court, rule 3.868, the court adopts the following mediator complaint procedure:

(1) Complaints are only accepted from a party to the action or the party's attorney.

(2) The complainant must register his or her complaint in writing with the ADR Administrator. The written complaint must include the following information:

(a) The names of the parties in the case and their attorneys;

(b) The case number;

(c) The most recent court date;

(d) The name(s) of any mediation personnel (i.e. mediators or mediation clerks) with whom the complainant had contact; and,

(e) A statement explaining the reasons for the complaint.

(3) Upon receiving the complaint, the ADR Administrator will notify the complainant in writing that the court has received the complaint.

(4) The ADR Administrator shall review the complaint and determine whether the complaint can be informally resolved or closed, or whether the complaint warrants investigation. If the complaint warrants an investigation, the ADR Administrator shall take the following steps:

(a) The ADR Administrator shall give notice of the complaint to the mediator and provide a reasonable opportunity to respond.

(b) The complaint shall be investigated and a recommendation made concerning court action. The investigation shall be conducted by an investigator designated by the ADR Administrator or the Presiding Judge. The investigator shall provide his or her recommendation to the Presiding Judge or his or her designee.

(c) The final decision shall be made by the Presiding Judge or his or her designee. Notice of the final action taken shall be sent by the court to the complainant and, if the complaint was not resolved during the preliminary review by the ADR Administrator, to the mediator.

(Subd (j) relettered effective January 1, 2012; adopted effective January 1, 2010, as subd. (e); previously amended effective July 1, 2011.)

k. **SANCTIONS**

Upon noticed motion and an opportunity to be heard, the court may impose sanctions for failure to meaningfully participate in the mediation process. Sanctions may include, but are not limited to, mediator's fees and attorney fees and costs. Willful failure to meaningfully participate includes, but is not limited to, the following:

(1) Non-appearance at the time set for the mediation of any person necessary to proceed to a meaningful conclusion. Telephone calls to the mediator shall not constitute an appearance. However, upon agreement by all parties, a party may appear by telephone or other means of real-time electronic communication if he or she resides or has his or her primary place of business more than 500 miles from the mediation location.

(2) Requests to continue the mediation session less than ten (10) days before the scheduled mediation session, unless good cause is shown.

(3) Failure to complete mediation within the time fixed, unless good cause is shown.

(Subd. (k) adopted effective January 1, 2012.)

(Rule 4.8 amended effective January 1, 2012; adopted effective January 1, 1998; previously amended effective July 1, 2005, January 1, 2010, and July 1, 2011.)

4.9 MANDATORY SETTLEMENT CONFERENCES

a. **REQUIRED PARTICIPANTS**

The lead trial counsel, parties, and persons with full settlement authority shall personally attend the Mandatory Settlement Conference unless excused by the court for good cause. In the case of an insured principal, the authorized representative of the insured's insurance company must be present in lieu of the client, and must have full settlement authority. For purposes of these rules, "full settlement authority" means persons physically present in the courthouse who are empowered to make settlement decisions without telephone consultation with others. In no event will an independent adjuster satisfy the above requirement. In any professional negligence case in which the defendant retains the right to refuse settlement,

participation of that defendant in the settlement conference is mandatory.
(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)

b. **MEET AND CONFER REQUIREMENTS**

No later than ten (10) calendar days before the date set for the mandatory settlement conference, trial counsel and all persons with ultimate authority to settle the case shall meet in person or, if all parties agree, by telephone to discuss settlement of the case.
(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)

c. **ADDITIONAL REQUIREMENTS FOR MANDATORY SETTLEMENT CONFERENCE STATEMENTS**

All settlement conference statements filed and served per California Rules of Court, rule 3.1380, subdivision (c), shall contain the following additional information:

(1) A statement of the factual and legal contentions in dispute;
(2) A list of all special damages claimed;
(3) Copies of pertinent medical reports;
(4) Other reports by experts;
(5) Pictorial or documentary evidence anticipated to be presented at trial;
(6) An estimate of the lowest and highest possible award by a trier of fact;
(7) The highest previous offer and the lowest previous demand;
(8) The date when the last face to face or telephonic settlement discussion was held between all parties;
(9) A statement as to any special problems relating to settlement, such as lack of or disputed insurance coverage; and,
(10) A statement regarding the party's position regarding settlement of the case.

(Subd (c) amended effective July 1, 2011; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005; amended and relettered effective January 1, 2010.)

d. **SANCTIONS**

Failure of any attorney, adjustor, and/or party to prepare for, appear at, or meaningfully participate in a settlement conference, unless good cause is shown for any such failure, is an unlawful interference with the proceedings of the court, and the court may impose sanctions, including but not limited to, any or all of the following: monetary sanctions to be paid to the court; monetary sanctions to be paid

to other parties which may include, among other things, costs, actual expenses, and counsel fees; and the court may order an appropriate change in the calendar status of the action.
(Subd (d) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)

(Rule 4.9 amended effective July 1, 2011; adopted as Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005; amended and renumbered effective January 1, 2010; former Rule 4.9, which concerned other settings of cases, repealed effective January 1, 2010.)

4.10 TRIAL MANAGEMENT CONFERENCES

a. **REQUIRED PARTICIPANTS**
The lead trial counsel shall, unless excused by the court, appear at the Trial Management Conference prepared to respond to any questions the court may pose about the case.
(Subd (a) relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)

b. **TRIAL MANAGEMENT CONFERENCE REPORTS**
On a form designated by the court (local form no. 3006), each counsel shall complete, file and serve on all parties a completed Trial Management Conference Report at least five (5) court days before the date set for the Trial Management Conference. At a minimum, the report shall include the following:

(1) A statement of the nature of the case, with a summary of each party's allegations and supporting facts. Include an agreed-upon statement of the case to be read to the jury panel, if a jury has been requested by any party;

(2) If there have been developments since the trial setting affecting the estimated length of trial, an explanation as to what those developments are and how the estimated length of trial should be changed as a result;

(3) The names of any non-expert witnesses who may be called at trial, except for impeachment or rebuttal. State concisely the anticipated testimony of each non-expert witness and the time estimate for testimony, including direct and cross-examination;

(4) The names and expertise of any expert witnesses who may be called at trial, except for impeachment or rebuttal. State concisely the anticipated testimony of each expert witness and the time estimate for testimony, including direct and cross-examination. In addition, attach any narrative

reports provided by the expert witness;

(5) A list of all witnesses who are unavailable and whose testimony will be presented by deposition, along with the facts supporting that unavailability;

(6) A list of all documents, exhibits, blowups, and/or photographs that the party expects to offer at trial, except for impeachment or rebuttal. Documents shall be identified by page number or Bates-stamp number as applicable (e.g. "Jane Doe's Medical Records, pages 1 through 326"). Photos shall be separately identified;

(7) A specific list in column form of all portions of depositions, answers to interrogatories and responses to request for admissions that the party expects to offer at trial, except for impeachment or rebuttal. All portions of depositions shall be identified by page and line number(s), while responses to written discovery must be identified by the manner of discovery request and the response number (e.g. "Response to Plaintiff's Special Interrogatories, Set One, Interrogatory Number 4"; "Amended Response to Defendant's Request for Admissions, Set Three, Request Number 7");

(8) A specific list of all anticipated evidentiary disputes with citation to authority;

(9) A specific list of all anticipated non-evidentiary disputes with citation to authority;

(10) All requested jury instructions and verdict forms in compliance with the California Rules of Court. Each instruction shall be typed in full and numbered consecutively, with the submitting attorney having filled in all blanks and having made a decision as to all alternatives in the CACI instructions. Two copies of the requested jury instructions shall be submitted to the court. One copy shall have citations to authority and boxes for the court's use regarding whether the instruction is given, refused, or withdrawn, and one copy shall be presented without citations to authority and boxes regarding given, refused, or withdrawn;

(11) Copies of all in limine motions that the party expects to submit at trial. Each in limine motion provided shall be numbered consecutively by the party. (Note that any in limine motions not included will not be considered by the court, unless good cause is presented to the trial court);

(12) All stipulations requested or proposed at trial; and,

(13) A statement as to whether there are any witnesses that need an interpreter. State the name of the interpreter and the language that must be interpreted. (If an interpreter is needed, it is the obligation of the party calling the witness to make arrangements for an interpreter.)

(Subd (b) amended effective January 1, 2012; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005; amended

and relettered effective January 1, 2010; amended effective July 1, 2011.)

c. **EXCLUSION OF EVIDENCE AND TESTIMONY AT TRIAL**
The testimony of witnesses who are not listed in the Trial Management Conference Report, or documents, or other exhibits, portions of depositions, answers to interrogatories or responses to requests for admissions, which are not listed in the Trial Management Conference Report, shall not be admitted at the trial. However, the trial judge, in his or her sole discretion and upon a showing of good cause, may permit the testimony of witnesses who are not listed in the Trial Management Conference Report and may allow the admission of exhibits or portions of discovery which are not listed in the Trial Management Conference Report.
(Subd (c) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)

(Rule 4.10 amended effective January 1, 2012; adopted as Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005; amended and renumbered effective January 1, 2010; amended effective July 1, 2011; former Rule 4.10, which concerned setting short causes for trial, repealed effective January 1, 2010.)

4.11 DISMISSAL OF ACTION OR ENTRY OF JUDGMENT FOLLOWING SETTLEMENT

Dismissals shall be governed by California Rules of Court, rule 3.1385.

(Rule 4.11 amended effective July 1, 2011; adopted as Rule 4.13 effective January 1, 1998; renumbered effective January 1, 2010.)

4.12 MISCELLANEOUS

a. **REQUEST FOR EXTENSION OF TIME**
Any request for extension of time under these rules shall be filed with due diligence and, in addition to being signed by counsel shall be endorsed by the party acknowledging that the extension of time being requested by counsel is concurred in by the party. The request shall be made on the form provided by the court.
(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998.)

b. **KNOWLEDGE OF CASE**
Counsel and parties attending any hearing or conference set pursuant to these rules shall have sufficient knowledge of the case to inform the court as to all matters that are pertinent and relevant to the issues to be heard and have authority to enter into binding stipulations regarding any matters before the court. This rule shall apply equally to attorneys of record and specially appearing counsel.
(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective January 1, 2009.)

c. **REFERENCE TO "ATTORNEY" OR "COUNSEL"**
Any reference in these rules to "attorney" or "counsel" shall apply equally to any person representing himself or herself in a case subject to these rules.
(Subd (c) amended effective January 1, 2009; adopted effective January 1, 1998.)

d. **REMOVAL FROM CIVIL ACTIVE LIST**
A case shall not be removed from the civil active list except by order of the court.
(Subd (d) amended effective January 1, 2009; adopted effective January 1, 1998.)

e. **EXCUSE FROM RULE REQUIREMENT**
Any requirement of these rules may be excused by the court upon a showing of good cause.
(Subd (e) amended effective January 1, 2009; adopted effective January 1, 1998.)

f. **UNINSURED MOTORIST CASE [Repealed]**
(Subd (f) repealed effective July 1, 2011; adopted effective January 1, 1998; amended effective January 1, 2009.)

g. **REMOVAL TO FEDERAL COURT [Repealed]**
(Subd (g) repealed effective July 1, 2011; adopted effective January 1, 1998; amended effective January 1, 2009.)

h. **TELEPHONIC APPEARANCES**
Litigants wishing to appear by telephone per California Rules of Court, rule 3.670, shall do so through CourtCall LLC, a private telephonic appearance provider with whom the court has contracted, unless the court has designated a different provider. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888. Counsel wishing to avail themselves of this service shall note and follow the rules and schedule of the individual department concerning the use of CourtCall, and shall be solely responsible for all fees and costs charged by CourtCall for this service.

(Subd (h) amended effective January 1, 2010; adopted effective January 1, 2009.)

i. **BENCH COPIES OR CHAMBERS COPIES**
At the discretion of the judicial officer assigned to the case, parties may be required to deposit an additional copy of specific documents directly with the assigned judicial department.
(Subd (i) adopted effective July 1, 2014.)

(Rule 4.12 amended effective July 1, 2014; previously amended effective July 1, 2011; adopted as Rule 4.14 effective January 1, 1998; previously amended effective January 1, 2009; amended and renumbered effective January 1, 2010.)

4.13 SANCTIONS

a. **SANCTIONS GENERALLY**
Upon the motion of a party or on the court's own motion, the court may impose sanctions for non-compliance with these rules. Sanctions will not be imposed without prior notice to, and an opportunity to be heard by, the party or attorney against whom the sanction or penalty is sought to be imposed. Available sanctions include, but are not limited to:
(1) Monetary sanctions;
(2) Evidentiary sanctions prohibiting the introduction of designated matters into evidence;
(3) Striking out all or any part of any pleading;
(4) Dismissal of an action, proceeding, or any part thereof;
(5) Entering judgment by default against a party; and,
(6) Contempt sanctions.
(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)

b. **ATTORNEY FEES AND COSTS**
In addition to any sanction, the court may order a party or his or her counsel to pay to a party moving for compliance with these rules the reasonable expenses in making the motion, including reasonable attorney fees.
(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)

c. **SANCTIONS RELATED TO REQUESTS TO EXTEND TIME FOR FILING**
Monetary sanctions and, in the court's discretion, more severe sanctions, will be imposed upon counsel or his or her party who in bad faith or without good cause request an extension of time for the filing of any pleading or document as required by these rules.
(Subd (c) relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)

d. **SANCTIONS AGAINST ATTORNEYS**
If the court determines that the failure to comply with the rules is the responsibility of a party's attorney or counsel, the penalty shall be imposed on the attorney or counsel personally and shall not adversely affect the party's cause of action or defense thereto.
(Subd (d) adopted effective January 1, 2010.)

(Rule 4.13 amended and renumbered effective January 1, 2010; adopted as Rule 4.15 effective January 1, 1998.)

4.14 ELECTRONIC FILING AND SERVICE OF PLEADINGS AND DOCUMENTS

The court does not permit electronic filing as defined in California Rules of Court, rule 2.250. However, nothing in this rule shall be construed as prohibiting or otherwise limiting service of documents electronically as provided elsewhere in the California Rules of Court.

(*Rule 4.14 adopted effective July 1, 2010; previous Rule 4.14 renumbered as Rule 4.12 effective January 1, 2010*.)

Superior Court of California
County of Solano

Rule 4 – Administration of Civil Litigation
(Trial Court Delay Reduction Act)

APPENDICES: Standing Orders for the Civil Division

Standing Order	Title
2015-001-CV	Amended Standing Order for Electronic Service of Documents in Complex Litigation

FILED
Clerk of the Superior Court
DEC - 5 2014
By DEPUTY CLERK

IN THE SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF SOLANO

In re Complex Litigation	Standing Order No. 2015-001-CV **AMENDED STANDING ORDER FOR ELECTRONIC SERVICE OF DOCUMENTS IN COMPLEX LITIGATION**

A. FINDINGS

The court finds that entry of a standing order requiring mandatory electronic service of all pleadings and documents in all cases that it identifies as "complex" per California Rules of Court, rule 3.403 will benefit the court, attorneys, and litigants, and will further the orderly conduct and management of complex litigation in this jurisdiction. The court further finds that electronic service will not cause undue hardship or significant prejudice to any party.

B. ELECTRONIC SERVICE OF DOCUMENTS

1. Effective January 1, 2015, the court orders that all documents shall be served electronically as set forth in this order and in California Rules of Court, rule 2.251. This standing order shall apply to all cases pending on January 1, 2015, and to all cases filed on or after January 1, 2015. Unless otherwise agreed by the parties, this order does not apply to any documents filed or served prior to January 1, 2015.

2. Original documents must be filed with the court as required by the Code of Civil Procedure, the California Rules of Court, or the local rules of the Superior Court of California, County of Solano. Nothing in this standing order shall be construed to require or permit electronic filing of documents with the court.

3. Per California Rules of Court, rule 2.253(b)(1)(F), this standing order shall apply only to cases designated as complex per California Rules of Court, rules 3.400 through 3.403.

4. This standing order shall apply to all attorneys in a complex matter. This standing order shall apply to self-represented litigants only if they elect to participate in electronic service. Unrepresented litigants who do not elect to participate in electronic service shall serve and shall be served documents in the manner required by the Code of Civil Procedure, the California Rules of Court, and/or the local rules of the Superior Court of California, County of Solano.

5. The following documents shall not be served electronically:

a. Documents filed under seal or subject to a pending motion to seal, unless electronic service is permitted or required by specific court order.

b. Documents directed to an unrepresented party who has not elected to participate in electronic service.

c. A summons, complaint, or cross-complaint.

6. The documents enumerated in (B)(5), *supra*, shall be served pursuant to the applicable provisions of the Code of Civil Procedure, California Rules of Court, and/or the local rules of the Superior Court of California, County of Solano.

C. DEFINITIONS

1. The definitions in California Rules of Court, rule 2.250(b) shall apply to this standing order.

2. The term "plaintiff" includes a cross-complainant or an intervenor.

3. The term "initial complaint" includes a cross-complaint or a complaint in intervention.

4. The term "amended complaint" includes an amended cross-complaint or an amended complaint in intervention.

D. DESIGNATION OF ELECTRONIC SERVICE PROVIDER

1. The court designates File & ServeXpress as the electronic service provider ("the ESP"). File & ServeXpress shall serve as the ESP absent notice by the court that the ESP has been changed or further court order. File & ServeXpress may be contacted by visiting http://www.fileandservexpress.com or by calling 888-529-7587.

E. NOTICE OF STANDING ORDER

1. If a plaintiff designates the case as complex on the initial complaint, a copy of this standing order shall be served on all defendants concurrently with the summons and complaint. If a plaintiff does not designate the case as complex on the initial complaint but designates it as complex on an amended complaint, a copy of this standing order shall be served on all defendants concurrently with the amended complaint.

2. If a defendant designates the case as complex on the initial answer, a copy of this standing order shall be served on all plaintiffs concurrently with the answer. If a defendant does not designate the case as complex on the initial answer but designates it as complex on an amended answer, a copy of this standing order shall be served on all plaintiffs concurrently with the amended answer.

3. If neither party designates the case as complex but the court determines the case is complex per California Rules of Court, rule 3.403(b), the plaintiff shall serve a copy of this standing order on all defendants within 5 calendar days of being notified by the court of the complex designation.

4. Any party that joins a new party into this action shall serve a copy of this standing order on the new party at the time of initial service.

F. REGISTRATION WITH ELECTRONIC SERVICE PROVIDER

Upon the court designating a civil action as complex per California Rules of Court, rules 3.402 and 3.403, the following registration procedures shall apply:

1. Within 15 days of the court's designation of the case as complex, the plaintiff's attorney, or the plaintiff if self-represented, shall submit to the ESP and to the court a complete and current list of the parties, party types, and counsel representing each party. The list shall include the names of any lead and other associated attorneys, together with addresses, telephone and facsimile numbers, and e-mail addresses. All lists shall be sent to the following e-mail address: eservice@fileandservexpress.com. The ESP shall promptly notify all Registered Users of any changes to this e-mail address.

2. If an unrepresented party affirmatively consents to electronic service, the plaintiff's attorney, or the plaintiff if self-represented, shall submit to the ESP and to the court the unrepresented party's address, telephone number, facsimile number, and e-mail address in the same manner and within the same time limits as for attorneys.

3. All attorneys, and any unrepresented parties who consent to electronic service, shall register with the ESP in the manner designated by the ESP.

4. Each attorney and unrepresented party registered with the ESP shall keep his or her service information current and accurate with the ESP, all other attorneys and unrepresented parties, and the court.

5. Each attorney and unrepresented party registered with the ESP shall be referred to in this order as a "Registered User."

G. ESTABLISHMENT AND STRUCTURE OF COMPLEX LITIGATION WEBSITE

1. For each complex litigation case subject to this standing order, the ESP shall establish and maintain an Internet website ("the Website"). The ESP shall post to the Website

all documents submitted to the ESP by any Registered User and shall serve each document pursuant to the service list provided to the ESP in accordance with the procedures herein.

2. Access to the Website will be limited to Registered Users and authorized court personnel. The ESP will provide each Registered User and authorized court personnel with a user name and password to access the Website and the documents served in this action. The ESP personnel will perform all administrative functions for the Website, but all initial data, additions, deletions or changes to the service list must be submitted by the attorneys and/or parties.

3. All documents posted on the Website will be identified by: (1) the name of the serving party or attorney; (2) the caption(s) of the case(s) to which the document belongs; (3) the title of the document set forth on its caption; and (4) the identity of the party on whose behalf the document is being served.

4. The Website shall contain an index of all served documents for the litigation that will be searchable and sortable according to methods that provide useful access to the documents.

H. CONTENT AND FORMAT OF DOCUMENTS SERVED THROUGH THE ESP

1. The document shall be served to the ESP either as a word-processing file or as a scanned image of the document. Each document shall be titled so as to identify the type and purpose of such document and the identity of the attorney or party who is serving such document.

2. Every pleading, document and instrument served electronically shall bear a facsimile or typographical signature of at least one of the serving attorneys and/or parties, along with the typed name, address, telephone number and State Bar of California number, where applicable, of such attorney or party. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the Code of Civil

Procedure. The attorney and/or party serving any document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the names of other signatories by means of a "__s/__" block for each. By submitting such a document, the serving party certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the serving attorney or party has the actual authority to submit the document electronically. The serving attorney or party must maintain any records evidencing this occurrence for subsequent production to the court if so ordered or for inspection upon request by any party.

3. A Registered User's service of any document through the ESP shall be deemed to include an implied warranty that to the best of the Registered User's knowledge, the transmitted document does not contain malware.

I. PROCEDURE FOR SERVICE THROUGH THE ESP

1. A document shall be served through electronic transmission to the ESP over the Internet.

2. After the ESP receives a document, the ESP shall convert such document into Adobe Portable Document Format ("PDF") and post it to the Website within one (1) hour of receipt.

3. Within one (1) hour of the time a document is posted to the Website, the ESP will notify all Registered Users that a document has been posted to the Website. Registered Users will also receive a courtesy e-mail notification of a filing with which they have been served. The email shall contain a hyperlink to the document location(s) on the Website .

5. Each Registered User shall retain an original dated hard copy with hand written signature of all documents served electronically by that Registered User. All such hard copies shall be made available for inspection in the manner set forth in California Rules of Court, rules 2.251(i) and 2.257(a).

J. PROOFS OF SERVICE

1. Written proofs of electronic service shall conform to Code of Civil Procedure section 1013a and California Rules of Court, rule 2.251(i). The ESP's transaction receipt may operate as the proof of service so long as it complies with California Rules of Court, rule 2.251(i), and California Code of Civil Procedure section 1013a.

3. A proof of service page may be attached to the last page of any electronically served document. Neither a separate caption page nor a separate filing of the proof of service is required so long as the proof of service page contains a caption referencing the case name and action number, is attached as the last page of the electronically served document to which it refers, and references the ESP's transaction receipt.

K. EFFECT OF ELECTRONIC SERVICE

1. Each document electronically served pursuant to this standing order shall be presumed to have been served in compliance with the Code of Civil Procedure.

2. The effective date of service shall be governed by California Rules of Court, rule 2.251(h).

L. TECHNICAL PROBLEMS AND ERRORS

1. If electronic service does not occur or is delayed because of (1) an error in the transmission of the document to the ESP or served party which was unknown to the sending party, (2) a failure to process the electronic document when received by the ESP, (3) an erroneous exclusion from the service list, or (4) other technical problems experienced by the ESP, the party or parties affected shall, absent extraordinary circumstances, be entitled to an extension for any response or the period within which any right, duty, or other act must be performed, provided the Registered User demonstrates that he or she attempted to file or complete service on a particular day and time.

2. In the event the technical difficulties described above result in a Registered User being unable to comply with a statutory, court-ordered, or mutually-agreed deadline, the Registered User may obtain an ex parte court order granting an extension of time by following the standard ex parte procedure in the California Rules of Court and the court's local rules. Provided the technical problem has been resolved and the Website is operating normally, notice of the ex parte application may be given through the ESP. In addition to the ex parte application, the Registered User shall file and serve a declaration which describes the attempt(s) made, provides the reason service did not occur or was delayed, states how and when the non-service or delay in service was discovered, details the person's efforts made to rectify the situation, and states with specificity the extension of time sought.

3. If the technical difficulties described above do not prevent a Registered User from meeting a statutory, court-ordered, or mutually-agreed deadline, the Registered User may file and serve a declaration which describes the attempt(s) made to serve the documents, provides the reason(s) service did not occur or was delayed, states how and when the non-service or delay in service was discovered, details the person's efforts made to rectify the situation, and states with specificity the extension of time the party believes appropriate.

M. ELECTRONIC SERVICE OF ORDERS AND OTHER PAPERS BY COURT

The court may serve notices, orders, and other documents electronically subject to the provisions of this order.

N. MODIFICATIONS TO STANDING ORDER

The court may, on a party's motion or on its own motion, order modifications to this standing order in a specific case.

It is so ordered.

Date: 12-4-14

Scott L. Kays
Supervising Judge, Civil Division